

PD CAN SUB

AGENCY FOR INTERNATIONAL DEVELOPMENT
WASHINGTON, D.C. 20523

February 18, 1986

Mr. John Walsh
Vice President - Development
The People-to-People Health Foundation, Inc.
The Project HOPE Health Sciences Education Center
Millwood, VA 22646

Subject: Cooperative Agreement No. ANE-0003-A-00-6022-00

Dear Mr. Walsh:

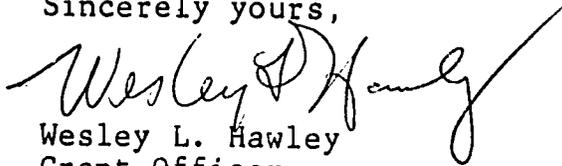
Pursuant to the authority contained in the Foreign Assistance Act of 1961, as amended, the Agency for International Development (hereinafter referred to as "AID" or "Grantor") hereby provides to The People-to-People Health Foundation, Inc. (hereinafter referred to as "Project Hope" or "Recipient") the sum of \$4,000,000 to provide partial assistance and support of a program of Medical Assistance to Hospitals in Poland, as more fully described in Attachment 1 of this Cooperative Agreement entitled "Schedule" and Attachment 2 entitled "Program Description."

This Cooperative Agreement 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 from the period November 20, 1985 and ending on the estimated completion date of November 19, 1988.

This Cooperative Agreement is made to the Recipient on condition that the funds will be administered in accordance with the terms and conditions as set forth in this Cover Letter, Attachment 1 entitled "Schedule", Attachment 2 entitled "Program Description", and Attachment 3 entitled "Standard Provisions", which together constitute the complete Cooperative Agreement document and have been agreed to by your organization.

Please sign the original and eight (8) copies of this letter to acknowledge your acceptance of this Cooperative Agreement, and return the original and seven (7) copies to the undersigned. Please ensure that all copies stamped "Funds Available" are returned.

Sincerely yours,



Wesley L. Hawley
Grant Officer
Overseas Division
Office of Acquisition and
Assistance Management

Attachments:

1. Schedule
2. Program Description
3. Standard Provisions

ACKNOWLEDGED:

THE PEOPLE-TO-PEOPLE HEALTH FOUNDATION, INC.

BY: John T. Walsh

TYPED NAME: John T. Walsh

TITLE: Vice-President

DATE: 2/25/86

FISCAL DATA

Total Estimated Amount: \$4,000,000
Total Obligated Amount: \$4,000,000
Project No.: 181-0003
AID Project Office: ANE/TR/HR, Nicholas Studzinski
Funding Source: AID/W
DUNS Number: 098661135
LOC No.: 72-00-1431

PIO/T No.: 181-0003-3-6636700
Allotment Symbol: 967-63-181-00-69-61
Budget Plan Code: QESX-86-37181-KG13
Appropriation Symbol: 72-11X1037
Amount: \$4,000,000

2

ATTACHMENT 1

SCHEDULE

A. PURPOSE OF COOPERATIVE AGREEMENT

1. The purpose of this Cooperative agreement is to provide assistance and support of a program of medical assistance to hospitals in Poland, as more fully described in Attachment 2 of this Cooperative Agreement entitled "Program Description".

B. PERIOD OF COOPERATIVE AGREEMENT

1. The effective date of this Cooperative Agreement is the date of the Cover Letter and the estimated completion date is November 19, 1988.

C. AMOUNT OF COOPERATIVE AGREEMENT AND PAYMENT

1. AID hereby obligates the amount of \$4,000,000 for the purposes of this Cooperative Agreement.

2. Payment shall be made to the Recipient in accordance with procedures set forth in the Standard Provision of this Cooperative Agreement entitled "Payment - Letter of Credit", as shown in Attachment 3

D. COOPERATIVE AGREEMENT BUDGET

1. The following is the Budget for this Cooperative Agreement. The Recipient may not exceed the grand total of the total estimated amount (see below) or the obligated amount (see Part C above), whichever is less. Except as specified in the Standard Provision of this Cooperative Agreement entitled "Revision of Grant Budget", as shown in Attachment 3, the Recipient may adjust line item amounts within the grand total as may be reasonably necessary for the attainment of program objectives.

2. Notwithstanding the effective date of this Cooperative Agreement, and subject to the Standard Provision entitled "Allowable Costs", costs incurred on or after November 20, 1985 shall be eligible for reimbursement hereunder. Such costs are included in the Cooperative Agreement Budget shown below.

3. Budget

<u>Cost Element</u>	<u>Amount</u>
Program/Administrative Costs	
- Direct Labor	\$ 109,400
- Fringe Benefits	19,100
- Travel	381,000
- Per Diem	3,000
SUBTOTAL - PROGRAM/ADMIN	\$ 512,500
Commodities	3,487,500
TOTAL ESTIMATED COOPERATIVE AGREEMENT AMOUNT	<u>\$2,421,037</u>
	4,000,000 <i>Y.P.</i>

E. REPORTING

1. Financial Reporting

(a) Financial reporting requirements shall be in accordance with the Standard Provision of this Cooperative Agreement entitled "Payment - Letter of Credit", as shown in Attachment 3.

(b) All financial reports shall be submitted to AID, Office of Financial Management, Program Accounting and Finance Division (M/FM/PAFD), Washington, D.C. 20523. In addition, three copies of all financial reports shall be submitted to the AID Project Office specified in the Cover Letter of this Cooperative Agreement.

2. Technical Reporting

(a) Implementation Plan

In accordance with the Program Description set forth as Attachment 2 of this Cooperative Agreement, the Recipient shall prepare and submit annual implementation plans.

(b) Program Performance Reports

(1) The Recipient shall submit quarterly program performance reports, and a final report, which briefly present the following information:

(A) A comparison of actual accomplishments with the goals established for the period, the findings of the investigator, or both. If the output of programs or projects can be readily quantified, such quantitative data should be related to cost data for computation of unit costs.

Y

(B) Reasons why established goals were not met.

(C) Other pertinent information including the status of finances and expenditures and, when appropriate, analysis and explanation of cost overruns or high unit costs.

(2) Between the required performance reporting dates, events may occur that have significant impact upon the program. In such instances, the Recipient shall inform AID as soon as the following types of conditions become known:

(A) Problems, delays, or adverse conditions that will materially affect the ability to attain program objectives, prevent the meeting of time schedules and goals, or preclude the attainment of project work units by established time periods. This disclosure shall be accompanied by a statement of the action taken, or contemplated, and any AID assistance needed to resolve the situation.

(B) Favorable developments or events that enable time schedules to be met sooner than anticipated or more work units to be produced than originally projected.

(3) If any performance review conducted by the Recipient discloses the need for change in the budget estimates in accordance with the criteria established in the Standard Provision of this Cooperative Agreement entitled "Revision of Grant Budget", the Recipient shall submit a request for budget revision.

(4) All technical reports shall be submitted within 90 days from the end of the reporting period.

(e) Distribution

Five copies of each program performance report shall be submitted to the AID Project Office specified in the Cover Letter of this Cooperative Agreement.

F. SUBSTANTIAL INVOLVEMENT UNDERSTANDINGS

It is understood and agreed that the Recipient shall submit annual implementation plans to the AID Project Office indicated in the Cover Letter of this Cooperative Agreement for approval.

5

G. TITLE TO PROPERTY

Title to property acquired hereunder shall vest in the Polish hospitals which are the beneficiaries of the assistance to be provided hereunder. The Standard Provision of this Cooperative Agreement entitled "Title To and Care of Property (Cooperating Country Title)" applies.

H. AUTHORIZED GEOGRAPHIC CODE

1. With respect to the Standard Provisions of this Cooperative Agreement entitled "Air Travel and Transportation", "Ocean Shipment of Goods", "Procurement of Goods and Services", and "AID Eligibility Rules for Goods and Services", the authorized geographic code for source and origin of goods and services, and for nationality of suppliers of goods and services, is as follows:

(a) Goods and services financed by AID under this Cooperative Agreement, except for drug products and ocean shipping, shall have their source and origin in countries included in AID Geographic Code 935, except as AID may otherwise agree in writing. Non-drug pharmaceutical products manufactured outside the United States and financed by AID hereunder shall not infringe on U.S. patent rights. Except for ocean shipping and drug products, the suppliers of goods or services financed by AID hereunder shall have the their place of nationality in countries included in AID Geographic Code 935, except as AID may otherwise agree in writing.

(b) Drug products financed by AID hereunder shall have their source and origin in the United States, except as AID may otherwise agree in writing. Suppliers of drug products financed by AID hereunder shall have the United States as their place of nationality, except as AID may otherwise agree in writing.

(c) While it is not anticipated that AID will finance ocean shipping hereunder, any such ocean shipping financed by AID hereunder shall be financed only on flag vessels of the United States, except as AID may otherwise agree in writing.

2. Source. Source means the country from which a commodity is shipped to the Cooperating Country or the Cooperating Country itself if the commodity is located therein at the time of purchase. However, where a commodity is shipped from a free port or bonded warehouse in the form in which received therein, source means the country from which the commodity was shipped to the free port or bonded warehouse.

6

3. Origin. The origin of a commodity is the country or area in which a commodity is mined, grown, or produced. A commodity is produced when through manufacturing, processing, or substantial and major assembling of components, a commercially recognized new commodity results that is substantially different in basic characteristics, or in purpose or utility, from its components.

4. Componentry. Components are the goods that go directly into the production of a produced commodity. AID componentry rules are as follows:

(a) If a commodity produced in a country or area included in the authorized geographic code set forth above contains no imported component, it is eligible for AID financing.

(b) Unless otherwise specified herein, components from the United States, the Cooperating Country, and any other countries included in AID Geographic Code 941 may always be utilized in unlimited amounts, regardless of the authorized geographic code set forth above.

(c) Unless procurement is authorized from countries included in AID Geographic Code 899 (see above), components from AID Geographic Code 899 countries not included in AID Geographic Code 941 are limited according to the following rules:

(1) They are limited only if acquired by the producer in the form in which they were imported;

(2) The total cost to the producer of such components (delivered at the point of production) may not exceed 50% (unless another percentage is specified herein) of the lowest price (excluding the cost of ocean transportation and marine insurance) at which the supplier makes the commodity available for export sale (whether or not financed by AID).

(d) Any component from a country not included in AID Geographic Code 935 makes the commodity ineligible for AID financing hereunder.

5. Nationality of Supplier. Except as specified in the Standard Provisions of this Cooperative Agreement entitled "Air Travel and Transportation", "Ocean Shipment Of Goods", and "AID Eligibility Rules for Goods and Services", in order to be eligible for AID financing hereunder, the Recipient, and any other supplier of goods or services hereunder, must fit one of the following categories:

7

(a) A privately-owned commercial (i.e., for profit) corporation or partnership supplying services must be incorporated or legally organized under the laws of a country or area included in the authorized geographic code set forth above; must have its principal place of business in a country or area included in the authorized geographic code; and must meet the criteria set forth in subparagraph (1) or (2) below:

(1) The corporation or partnership is more than 50% beneficially owned by individuals who are citizens of a country or area included in the authorized geographic code. In the case of corporations, "more than 50% beneficially owned" means that more than 50% of each class of stock is owned by such individuals; in the case of partnerships, "more than 50% beneficially owned" means that more than 50% of each category of partnership interest (e.g., general, limited) is owned by such individuals. With respect to stock or interest held by companies, funds, or institutions, the ultimate beneficial ownership of individuals is controlling; or

(2) The corporation or partnership:

(A) Has been incorporated or legally organized in the United States for more than 3 years prior to the issuance date of this solicitation; and

(B) Has performed within the United States similar administrative and technical, professional, or construction services under a contract or contracts for services, and derived revenue therefrom in each of the 3 years prior to the issuance date of this solicitation; and

(C) Employs United States citizens in more than half its permanent full-time positions in the United States; and

(D) Has the existing capability in the United States to perform the contract.

(b) A nonprofit organization (e.g., educational institutions, foundations, and associations) supplying services must meet all the criteria in subparagraphs (A), (B), and (C) below. NOTE: International Agricultural Research Centers and such other international research centers as may be, from time to time, formally listed as such by the Senior Assistant Administrator of the AID Bureau of Science and Technology (SAA/S&T), are considered to be of U.S. nationality.

(1) The nonprofit organization must be organized under the laws of a country or area included in the authorized geographic code; and

8

(2) The nonprofit organization must be controlled and managed by a governing body, a majority of whose members are citizens of countries or areas included in the authorized geographic code; and

(3) The nonprofit organization must have its principal facilities and offices in a country or area included in the authorized geographic code.

(c) An individual supplying services must be a citizen of, and have its principal place of business in, a country or area included in the authorized geographic code; or, must be a non-U.S. citizen lawfully admitted for permanent residence in the United States and have its principal place of business in the United States. The foregoing nationality provision for an individual supplying services does not apply to the employees of the Grantee or contractors and subcontractors, but all Grantee, contractor and subcontractor employees engaged in providing services under this contract must be citizens of countries included in Geographic Code 935, or non-U.S. citizens lawfully admitted for permanent residence in the United States.

(d) A joint venture or unincorporated association supplying services must consist entirely of individuals, corporations, partnerships, or nonprofit organizations which are eligible under paragraphs (a), (b), or (c) above.

(e) A supplier of goods must meet any one of the criteria in subparagraphs (1), (1), (3), or (4) below.

(1) The supplier must be an individual who is a citizen or legal resident of a country or area included in the authorized geographic code; or

(2) The supplier must be a corporation or partnership organized under the laws of a country or area included in the authorized geographic code; or

(3) The supplier must be a controlled foreign corporation of which more than 50% of the total combined voting power of all classes of stock is owned by United States shareholders within the meaning of Section 957 et seq. of the Internal Revenue Code (26 USC 957); or

(4) The supplier must be a joint venture or unincorporated association consisting entirely of individuals, corporations, or partnerships which are eligible under any of the foregoing criteria.

9

(f) A Government Owned Organization, i.e. a firm operated as a commercial company or other organizations (including nonprofit organizations other than public educational institutions) which are wholly or partially owned by governments or agencies thereof, are not eligible for AID financing hereunder.

(g) A local supplier of construction services, within the Cooperating Country is an authorized source for services and the estimated cost of the construction services is \$5 million or less, a corporation or partnership which is determined by AID to be an integral part of the local economy is eligible (such AID determination is contingent on first ascertaining that no U.S. construction company with the required capability is currently operating in the Cooperating Country, or, if there is such a company, that it is not interested in bidding for the proposed construction contract). A corporation or partnership is an integral part of the local economy provided:

(1) It has done business in the Cooperating Country on a continuing basis for not less than three years prior to the issuance date for the solicitation (i.e., invitation for bids, request for proposals);

(2) It has a demonstrated capability to undertake the proposed activity;

(3) All, or substantially all, of its directors of local operations, senior staff, and operating personnel are resident in the Cooperating Country;

(4) Most of its operating equipment and physical plant are in the Cooperating Country.

(h) Notwithstanding the foregoing, an AID Geographic Code 941 supplier of construction or engineering services must be approved in advance by the Grant Officer.

6. Eligibility of Commodities Determined by Ineligibility of Carrier and Marine Insurance

(a) Commodities shipped by a transportation medium owned, operated, or under the control of any country not included in AID Geographic Code 935 are ineligible for AID financing hereunder, regardless of whether such transportation costs are financed hereunder.

15

(b) Commodities are ineligible for AID financing hereunder if shipped on a vessel which AID has designated as ineligible, regardless of whether such transportation costs are financed hereunder.

(c) With respect to paragraph (c) of the clause of the Standard Provision of this Grant entitled "AID Eligibility Rules for Goods and Services", if the Cooperating Country discriminates against any marine insurance company authorized to do business in any state of the United States, failure to insure all AID-financed commodities with U.S. insurance companies shall render the commodities ineligible for AID financing hereunder.

(d) Commodities are ineligible for AID financing hereunder if shipped under an ocean or air charter that has not received prior approval of AID/Washington, regardless of whether such transportation costs are financed hereunder.

7. AID Geographic Codes

AID Geographic Codes are defined in Appendix D of AID Handbook 18, which, as from time to time amended, is incorporated herein as a part of this Cooperative Agreement by reference.

8. Approvals

In accordance with paragraph 13 of Attachment B of OMB Circular A-122, which requires prior AID approval of certain equipment and other capital expenditures, the Grant Officer does hereby provide approval for such expenditures; PROVIDED, however, that such purchases must be within the terms and conditions of this Cooperative Agreement, and shall serve to promote the purposes and objectives of this Cooperative Agreement.

9. Automation Equipment

Notwithstanding paragraph 8 above, the Recipient must obtain the approval of the AID Project Office specified in the Cover Letter of this Cooperative Agreement for any purchases of automation equipment (e.g. computers, word processors, etc.), software, or related services made hereunder, if the total cost of such purchases will exceed \$100,000. The AID Project Office must, in turn, have the concurrence of AID/W, M/SER/IRM, before providing any such approvals.

I. SPECIAL PROVISIONS

1. For the purposes of this Cooperative Agreement, references herein to the cost principles of OMB Circular A-122 shall include the AID implementation of such cost principles, as set forth in subpart 731.7 of the AID Acquisition Regulations (48 CFR Chapter 7).

2. With reference to Part H.6(a) of this Schedule, authorization is hereby provided to utilize transportation media not owned, operated, or under the control of a country included in AID Geographic Code 935; PROVIDED, however, that costs of such transportation shall not be financed by AID hereunder. Use of such non-Code 935 transportation media when transportation is not financed by AID hereunder shall not render the commodities ineligible for AID financing hereunder. In the event transportation is financed by AID hereunder, Part H.1(c) of this Schedule shall apply.

3. With reference to Part H.6(d) of this Schedule, prior approval is hereby provided for any full charter flight on U.S. flag air carriers which is used to transport medical supplies and equipment to Poland hereunder. However, prior written approval is required for any charters of other than U.S. flag air carriers, unless the cost of such air charters is not financed by AID hereunder.

4. With reference to paragraph (a)(3) of the Standard Provision of this Cooperative Agreement entitled "AID Eligibility Rules for Goods and Services", prior written authorization of the Grant Officer is hereby provided to purchase Schedule 2, 3, 3N, 4, and 5 pharmaceutical drug products; PROVIDED, however, that the Recipient shall ensure that only safe and efficacious pharmaceuticals are purchased, that they are manufactured in accordance with accepted quality standards, that prices are reasonable, and that they comply with FDA regulations governing U.S. interstate shipment of pharmaceuticals.

5. With reference to paragraph (a)(3)(iii) of the Standard Provision of this Cooperative Agreement entitled "Procurement of Goods and Services", the requirement to notify the AID Office of Small and Disadvantaged Business Utilization (OSDBU) at least 45 days prior to placing an order or contract in excess of \$25,000 is hereby waived, when time does not reasonably permit such prior notification. Prior notification continues to apply when time permits. This does not relieve the Recipient from prudent advance procurement planning, nor does it relieve the Recipient from the requirement of said Standard Provision to make positive efforts to utilize small business and minority-owned business sources of supply.

6. For the purposes of personnel and property, this Cooperative Agreement is considered a continuation of Grant No. NEB-0001-G-SS-2071-00. Property acquired under such Grant is transferred for use under this Cooperative Agreement.

ATTACHMENT 2

PROGRAM DESCRIPTION

A. PURPOSE OF COOPERATIVE AGREEMENT

1. The purpose of this Cooperative Agreement is to provide basic and essential medical supplies, pharmaceuticals, equipment, and training (including limited training materials) to between 16 and 25 hospitals in Poland. Educational courses/training are to be offered in conjunction with the materials sent, to assure effective and efficient utilization of the same.

2. The Recipient shall continue to collect donations and procure commodities for utilization in Polish maternal and child health hospitals or obstetrical and pediatric wards. The AID contribution of \$4,000,000 provided by this Cooperative Agreement shall be used to cover the cost of commodities, international travel and salaries of Recipient personnel and volunteer consultants responsible for administering and supervising the program, and the handling and shipping of commodities within the U.S. and Canada. The government of Poland (GOP) will continue to provide the support as stipulated in their agreement with the Recipient. Additional donations shall be solicited by the Recipient from private U.S. sources. The Catholic Church, through the offices of the Primate of Poland, will assist in the monitoring and verification of the actual receipt of the supplies by the intended hospitals.

B. OBJECTIVE

1. The objective of this Cooperative Agreement is to help stabilize or improve maternal, infant, and child morbidity and mortality in the populations served by the beneficiary hospitals under this program, by delivering the aforesaid commodities and training.

C. IMPLEMENTATION

1. In order to achieve the above purpose and objectives, this Cooperative Agreement will support the activities of the Recipient as described herein and in the Recipient's proposal entitled "Operational Program Grant for Poland", dated August 14, 1985, which is incorporated herein and made a part of this Cooperative Agreement by reference. In the event of any inconsistencies between such proposal and this Cooperative Agreement, the latter shall prevail.

11/

2. Pursuant to the above purpose and objective, the Recipient shall prepare an Annual Implementation Plan, to be submitted to the AID Project Officer (shown in the Cover Letter of this Cooperative Agreement) for approval not later than 60 days following the effective date of this Cooperative Agreement. The second Annual Implementation Plan shall be submitted to the AID Project Officer for approval by the same date of the following calendar year. Prior to the submission of the Implementation Plan, however, the Recipient shall submit to the AID Project Officer for approval a list of recipient-institutions, evidencing concurrence and continuing cooperation of the Ministry of Health, and of the continuing cooperation from the authorized representative for the Catholic Church in Poland. A list of Church representatives responsible for the certification of commodities received at each recipient-institution site shall be provided to the AID Project Officer at this time. Also, prior to the submission of the Implementation Plan, the Recipient shall carry out the following steps in the agreed upon recipient-institutions:

- (a) Baseline information gathering; and
- (b) Definition of the commodities and training needs for institutions as appropriate.

3. Based upon the above, the Implementation Plan will quantify for each hospital a specific annual and six-month target for procurement of commodities in the following categories:

- (a) Pharmaceuticals;
- (b) Disposable and consumable supplies (syringes, needles, catheter systems, I.V. tubing, tape, bandages, surgical gloves and endotracheal tubes);
- (c) Sutures;
- (d) Laboratory and X-ray supplies (X-ray film, developing solutions, laboratory reagents, glass pipettes, test tubes, etc.);
- (e) Spare parts and small equipment (stethoscopes, sphygmomanometers, thermometers, otoscopes, ophthalmoscopes, suction pumps, flashlight batteries, simple operating room instruments, and minor anesthesia equipment);
- (f) Intravenous solutions;

- (g) Sterilization and sanitation (some sterilization equipment, along with detergents, disinfectants, mattress covers, and other similar items); and
- (h) Training supplies, material, and equipment.

4. In order to define Quantifiable Objectives, the Implementation Plan, in addition to proposing annual procurement objectives for each of the above categories, will define those targets in terms of meeting each hospital's needs for the same commodities on a percentage-of-annual-need basis. An "end-of-project status" shall be accordingly articulated for all and for each recipient-institution.

5. Overall, the implementation for the Medical Assistance to Poland Project (181-0003) being assisted hereunder shall include the following functional elements as described briefly below:

(a) Baseline Information Gathering

This effort will be carried out within the first 60 days following the effective date of this Cooperative Agreement, the Recipient shall collect data from each recipient-institution, to include data on dominant problems treated, average lengths of stay, anticipated conditions or discharge for certain conditions, prevailing patient/clinical management practices, cause-specific mortality rates by age and sex, etc. The information and indicators obtained shall be used in the development of the Implementation Plan, and also later for purposes of evaluation of the project.

(b) Definition of Commodity Needs of Recipient-Institutions

Within the first 60 days following the effective date of this Cooperative Agreement, the Recipient (with assistance of hospital personnel and of American consultants) shall prepare estimates of annual needs for each of the 8 commodity categories. Taking into consideration actual Government of Poland (GOP) provision of commodities to each recipient-institution during the same time period, the Recipient shall develop percentage-of-need targets for each commodity category in each recipient-institution (see paragraph 4 above). For example, the project target for delivery of antibiotics to a given hospital may be specified at 70% of annual antibiotic requirements.

(c) Selection of Materials and Shipment

Based on the hospital-specific definition of needs and specified procurement targets, specific lists for procurement of commodities shall be prepared for an annual and for a six-month time frame. Final lists for each annual and six-month period shall be sent to each recipient-institution in order to enable the hospitals to integrate the planned procurements into the hospitals' current budget/procurement cycle. The lists shall advise each hospital of the proportion of the hospital's anticipated need for each item to be supplied by the Recipient.

The Grantee shall conduct semi-annual visits to each recipient-institution, taking care to time the visits following receipt and utilization of previous shipments.

(d) Procurement of Commodities

The procurement process employed by the Recipient in the predecessor to this Cooperative Agreement (Grant No. NEB-0001-G-SS-2071-00) shall be employed. Generic pharmaceuticals shall be procured whenever possible. A written statement providing justification for the non-feasibility of generic purchases shall be submitted to the AID Project Officer each time non-generic pharmaceutical procurement using AID funds provided hereunder is made.

(e) Shipment and Delivery of Commodities

Commodities from individual suppliers shall be received in the Recipient's facility in Herndon, Virginia and repacked/addressed appropriately to each recipient-institution. In accordance with required practice, the Recipient shall certify, in the appropriate documentation related to every shipment, that all crates, large containers, and all non-disposable capital equipment has been clearly and permanently labeled with the AID emblem indicating that the item is a gift from the People of the United States of America. The Polish Ministry of Health shall be responsible for receiving and transporting the sub-shipments to each recipient-institution as addressed. Each hospital shall be promptly provided with an advance airmailed packing list for each shipment in progress, in order to enable appropriate receiving preparations. Each box or first group of boxes shall contain, on the lid, five packing lists addressed (one each) to customs in Poland, MOH, the recipient-institution, the appointed Church representative for the particular hospital, and the Recipient's Office at the American Children's Hospital in Krakow, Poland. The latter packing list shall be signed by

the director of the receiving institution, its director of pharmacy or Medical Stores, and by the Church's representative. They are to be later forwarded to the Recipient's office in the U.S. to be retained in the project files for purposes of review, evaluation, or audit.

(f) Supervision, Verification and Control of Commodities Delivered

The Recipient shall be responsible for assuring supervision and verification of receipt and proper utilization of commodities funded under this Cooperative Agreement. Appointed representatives of the Church in Poland shall cooperate in the verification of receipt of shipments by each recipient-institution. The Recipient's visiting consultant teams shall verify appropriate utilization of commodities received.

(g) Workshop and Courses to assure Effectiveness and Efficiency of Utilization of Commodities

The Recipient shall plan and implement in Poland periodic courses and workshops to assure optimal utilization of relief materials.

6. In carrying out the above elements of project implementation, the Recipient shall develop and maintain a Management Information System consisting, inter alia, of the following:

(a) A rapid information and response system to enable each recipient-institution to advise the Recipient's offices in Krakow and the U.S. concerning shipment shortages, mismatched sets, damages, and excess or unusable commodities. The Recipient shall be responsible for prompt action to correct or remedy the reported problem. Records including the hospitals' observations and actions taken shall be kept on file by the Recipient for external evaluation purposes.

(b) The Recipient's own progress monitoring and internal evaluation system, carried out on an annual basis, with records of the same kept on file. A computerized information system shall maintain, for easy access and retrieval, information concerning the value and quantity of items procured/shipped to each hospital (grouped by authorized commodity category). Records shall also provide information concerning the identity, profession, and institutional application of each attendee of every project workshop conducted during the life of this Cooperative Agreement.

D. INDICATORS

The indicators of achievement of the purpose and objective of this Cooperative Agreement will be as specified in the annual implementation plans.

E. EVALUATION

Evaluation of progress, performance, and achievement of the purpose and objectives shall be conducted internally by the Recipient and provided to the cognizant AID Project Officer. Notwithstanding such internal evaluations, AID reserves the right to conduct its own external evaluation(s), and the Recipient agrees to provide such data as requested by the cognizant AID Project Officer to facilitate such external AID-conducted external evaluation(s).

ATTACHMENT 3

STANDARD PROVISIONS

The Standard Provisions set forth as Attachment 3 of this Grant consist of the following Standard Provisions marked by an "X", which are attached hereto and made a part of this Grant:

1. MANDATORY STANDARD PROVISIONS FOR U.S.,
NONGOVERNMENTAL GRANTEES

- (X) Allowable Costs and Audit (November 1985)
- (X) Accounting, Audit, and Records (November 1985)
- (X) Refunds (November 1985)
- (X) Revision of Grant Budget (November 1985)
- (X) Termination and Suspension (November 1985)
- (X) Disputes (November 1985)
- (X) Ineligible Countries (November 1985)
- (X) Nondiscrimination in Federally Assisted Programs (November 1985)
- (X) U.S. Officials Not to Benefit (November 1985)
- (X) Covenant Against Contingent Fees (November 1985)
- (X) Nonliability (November 1985)
- (X) Amendment (November 1985)
- (X) Notices (November 1985)

2. OPTIONAL STANDARD PROVISIONS FOR U.S.,
NONGOVERNMENTAL GRANTEES

- (X) Payment - Letter of Credit (November 1985)
- () Payment - Periodic Advance (November 1985)
- () Payment - Cost Reimbursement (November 1985)
- (X) Air Travel and Transportation (November 1985)
- (X) Ocean Shipment of Goods (November 1985)
- (X) Procurement of Goods and Services (November 1985)
- (X) AID Eligibility Rules for Goods and Services (November 1985)
- (X) Subagreements (November 1985)
- () Local Cost Financing With U.S. Dollars (November 1985)
- (X) Patent Rights (November 1985)
- (X) Publications (November 1985)
- () Negotiated Indirect Cost Rates - Predetermined (November 1985)
- (X) Negotiated Indirect Cost Rates - Provisional (November 1985)
- (X) Regulations Governing Employees (November 1985)
- (X) Participant Training (November 1985)
- () Voluntary Population Planning (November 1985)

- () Protection of the Individual as a Research Subject (November 1985)
- () Care of Laboratory Animals (November 1985)
- () Government Furnished Excess Personal Property (November 1985)
- () Title To and Use of Property (Grantee Title) (November 1985)
- () Title To and Care of Property (U.S. Government Title) (November 1985)
- (X) Title To and Care of Property (Cooperating Country Title) (November 1985)
- () Cost Sharing (Matching) (November 1985)
- (X) Use of Pouch Facilities (November 1985)
- (X) Conversion of United States Dollars to Local Currency (November 1985)

MANDATORY STANDARD PROVISIONS FOR
U.S., NONGOVERNMENTAL GRANTEEES 1/
INDEX OF
MANDATORY STANDARD PROVISIONS

- | | |
|-----------------------------------|---|
| 1. Allowable Costs | 8. Nondiscrimination in Federally Assisted Programs |
| 2. Accounting, Audit, and Records | 9. U.S. Officials Not to Benefit |
| 3. Refunds | 10. Covenant Against Contingent Fees |
| 4. Revision of Grant Budget | 11. Nonliability |
| 5. Termination and Suspension | 12. Amendment |
| 6. Disputes | 13. Notices |
| 7. Ineligible Countries | |

1. ALLOWABLE COSTS (NOVEMBER 1985)

The grantee shall be reimbursed for costs incurred in carrying out the purposes of this grant which are determined by the grant officer to be reasonable, allocable, and allowable in accordance with the terms of this grant, any negotiated advance understanding on particular cost items, and the applicable* cost principles in effect on the date of this grant.

* NOTE: For Educational Institutions use OMB Circular A-21; for all other non-profits use OMB Circular A-122; and for profit making firms use FAR 31.2. and AIDAR 731.2.

2. ACCOUNTING, AUDIT, AND RECORDS (NOVEMBER 1985)

(a) The grantee shall maintain books, records, documents, and other evidence in accordance with the grantee's usual accounting procedures to sufficiently substantiate charges to the grant. The grantee's financial management system shall provide for the following:

(1) Accurate, current, and complete disclosure for each AID-sponsored project or program in accordance with the reporting requirements of this grant. While AID requires reporting on an accrual basis, the grantee shall not be required to establish an accrual accounting system but shall develop such accrual data for its reports on the basis of an analysis of the documentation on hand.

1/ When these Standard Provisions are used for cooperative agreements, the following terms apply:

"Grantee" means "Recipient"
"Grant" means "Cooperative Agreement," and
"AID Grant Officer" means "AID Agreement Officer"

x
22

(2) Records that identify adequately the source and application of funds for AID-sponsored activities. These records shall contain information pertaining to Federal awards, authorizations, obligations, unobligated balances, assets, outlays, and income.

(3) Effective control over and accountability for all funds, property, and other assets. Grantee shall adequately safeguard all such assets and shall ensure that they are used solely for authorized purposes.

(4) Comparison of actual outlays with budget amounts for each grant. Financial information should be related to performance and unit-cost data whenever appropriate.

(5) Procedures to minimize the time elapsing between the transfer of funds from the U.S. Treasury and the disbursement by the recipient, whenever funds are advanced by the Federal Government.

(6) Procedures for determining the reasonableness, allowability and allocability of costs in accordance with the provisions of the applicable Federal cost principles and the terms of the grant.

(7) Accounting records that are supported by documentation that at a minimum will identify, segregate, accumulate, and record all costs incurred under a grant and which fully disclose (i) the amount and disposition by the grantee of the proceeds of such assistance, (ii) the total cost of the project or undertaking in connection with which such assistance is given or used, (iii) the amount of that portion of the cost of the project or undertaking supplied by other sources, and (iv) such other records as will facilitate an effective audit.

(8) Examinations in the form of audits or internal audits shall be made by qualified individuals that are sufficiently independent of those that authorize the expenditure of AID funds, to produce unbiased opinions, conclusions, or judgments. They shall meet the independence criteria along the lines of Chapter IV, Part B of the U.S. General Accounting Office Publication Standards for Audit of Governmental Organizations, Programs, Activities, and Functions (1981 Revision). These examinations are intended to ascertain the effectiveness of the financial management systems and internal procedures that have been established to meet the terms and conditions of the grant. It is not intended that each grant awarded to the grantee be examined. Generally, examinations should be conducted on an organization-wide basis to test the fiscal integrity of financial transactions, as well as compliance with the terms and conditions of the AID grant. Such tests would include an appropriate sampling of Federal grants and agreements. Examinations will be conducted with reasonable frequency, on a continuing basis or at scheduled intervals, usually annually, but not less frequently than every two years. A copy of the audit report shall be furnished to the AID grant officer who shall submit it to AID's Regional Inspector General for Audit. The frequency of these examinations shall depend upon the nature,

size, and the complexity of the activity. These grantee self-examinations do not relieve AID of its audit responsibilities, but may affect the frequency and scope of such audits.

(9) A systematic method to ensure timely and appropriate resolution of audit findings and recommendations.

(b) The grantee shall preserve and make available such records for examination and audit by AID and the Comptroller General of the United States, or their authorized representatives:

(1) until the expiration of three years from the date of termination of the grant;

(2) for such longer period, if any, as is required to complete an audit to resolve all questions concerning expenditures unless written approval has been obtained from the grant officer to dispose of the records. AID follows generally accepted accounting practices in determining that there has been proper accounting and use of grant funds. The grantee agrees to make available any further information requested by AID with respect to any questions arising as a result of the audit; and

(3) If any litigation, claim, or audit is started before the expiration of the three year period, the records shall be retained until all litigations, claims or audit findings involving the records have been resolved.

(c) The grantee shall require subrecipients to adopt the standards in paragraph (b) above.

3. REFUNDS (NOVEMBER 1985)

(a) The grantee shall remit to AID all interest earned on funds provided by AID.

(b) Funds obligated by AID but not disbursed to the grantee at the time the grant expires or is terminated shall revert to AID, except for such funds encumbered by the grantee by a legally binding transaction applicable to this grant. Any funds disbursed to but not expended by the grantee at the time of expiration or termination of the grant shall be refunded to AID.

(c) If, at any time during the life of the grant, or as a result of final audit, it is determined by AID that funds it provided under this grant have been expended for purposes not in accordance with the terms of this grant, the grantee shall refund such amount to AID.

x
24

4. REVISION OF GRANT BUDGET (NOVEMBER 1985)

(a) The approved grant budget is the financial expression of the grantee's program as approved during the grant award process.

(b) The grantee shall immediately request approval from the grant officer when there is reason to believe that within the next 30 calendar days a revision of the approved grant budget will be necessary for the following reasons:

(1) Changes in the scope or the objectives of the program and/or revisions in the funding allocated among program objectives.

(2) The need for additional funding.

(3) The grantee expects the amount of AID authorized funds to exceed its needs by more than \$5,000 or five percent of the AID award, whichever is greater.

(4) The grantee plans to transfer funds budgeted for indirect costs to absorb increases in direct costs or vice versa.

(5) The grantee intends to contract or subgrant any of the substantive programmatic work under this grant, and such contracts or subgrants were not included in the approved grant budget.

(6) The grantee plans to incur an expenditure which would require advance approval in accordance with the applicable Federal cost principles and was not included in the approved grant budget.

(7) The grantee plans to transfer funds allotted for training allowances to other categories of expense.

(c) When requesting approval for budget revisions, the grantee shall use the budget formats that were used in the application unless a letter request will suffice.

(d) Within 30 calendar days from the date of the receipt of the request for budget revisions, the grant officer shall review the request and notify the grantee whether the budget revisions have been approved. If the revisions are still under consideration at the end of 30 calendar days, the grant officer shall inform the grantee in writing of the date when the grantee may expect the decision. The grant officer shall obtain the project officer's clearance on all such requests prior to communication with the grantee.

(e) If the requested budget revision requires the obligation of additional funding, and, if after notification pursuant to this standard provision, AID determines not to provide additional funds, the AID grant officer will, upon written request of the grantee, terminate this grant

pursuant to the standard provision of this grant, entitled "Termination and Suspension."

(f) Except as required by other provisions of this grant specifically stated to be an exception from this provision, the Government shall not be obligated to reimburse the grantee for costs incurred in excess of the total amount obligated under the grant. The grantee shall not be obligated to continue performance under the grant (including actions under the "Termination and Suspension" provision) or otherwise to incur costs in excess of the amount obligated under the grant, unless and until the grant officer has notified the grantee in writing that such obligated amount has been increased and has specified in such notice the new obligated grant total amount.

5. TERMINATION AND SUSPENSION (NOVEMBER 1985)

(a) For Cause. This grant may be terminated for cause at any time, in whole or in part, by the grant officer upon written notice to the grantee, whenever it is determined that the grantee has failed to comply with the conditions of the grant.

(b) For Convenience. This grant may be terminated for convenience at any time by either party, in whole or in part, if both parties agree that the continuation of the grant would not produce beneficial results commensurate with the further expenditure of funds. Both parties shall agree upon termination conditions, including the effective date and, in the case of partial terminations, the portion to be terminated. The agreement to terminate shall be set forth in a letter from the grant officer to the grantee.

(c) Termination Procedures. Upon receipt of and in accordance with a termination notice as specified in either paragraph (a) or (b) above, the grantee shall take immediate action to minimize all expenditures and obligations financed by this grant and shall cancel such unliquidated obligations whenever possible. Except as provided below, no further reimbursement shall be made after the effective date of termination. The grantee shall within 30 calendar days after the effective date of such termination repay to the Government all unexpended AID funds which are not otherwise obligated by a legally binding transaction applicable to this grant. Should the funds paid by the Government to the grantee prior to the effective date of the termination of this grant be insufficient to cover the grantee's obligations in the legally binding transaction, the grantee may submit to the Government within 90 calendar days after the effective date of such termination a written claim covering such obligations. The grant officer shall determine the amount(s) to be paid by the Government to the grantee under such claim in accordance with the applicable cost principles.

26

(d) Suspension: Termination for Changed Circumstances. If at any time AID determines that continuation of funding for a program should be suspended or terminated because such assistance is not in the national interest of the United States or that it would be in violation of an applicable law, then AID may, following notice to the grantee, suspend this grant and prohibit the grantee from incurring additional obligations chargeable to this grant other than necessary and proper costs in accordance with the terms of this grant during the period of suspension. If the situation causing the suspension continues for 60 days or more, then AID may terminate this grant on written notice to the grantee and cancel that portion of this grant which has not been disbursed or irrevocably committed to third parties. Financial settlement of this grant shall be governed by the termination procedures specified in paragraph (c) above.

6. DISPUTES (NOVEMBER 1985)

(a) Any dispute under this grant shall be decided by the AID grant officer. The grant officer shall furnish the grantee a written copy of the decision.

(b) Decisions of the AID grant officer shall be final unless, within 30 days of receipt of the decision of the grant officer, the grantee appeals the decision to the Administrator of AID. Any appeal made under this provision shall be in writing and addressed to the Administrator, Agency for International Development, Washington, D.C. 20523. A copy of the appeal shall be concurrently furnished to the grant officer.

(c) In connection with any appeal proceeding under this provision, the grantee shall be given an opportunity to be heard and to offer evidence in support of its appeal.

(d) A decision under this provision by the Administrator or an authorized representative shall be final unless overruled by a court of competent jurisdiction.

7. INELIGIBLE COUNTRIES (NOVEMBER 1985)

Unless otherwise approved by the AID grant officer, no funds will be expended for costs incurred in countries ineligible for assistance under the Foreign Assistance Act of 1961, as amended, or under acts appropriating funds for foreign assistance.

8. NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS (NOVEMBER 1985)

No person in the United States, consistent with the laws of the United States, shall be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity funded by this grant on the basis of race, color, national origin, age, handicap, or sex.

9. U.S OFFICIALS NOT TO BENEFIT (NOVEMBER 1985)

No member of or delegate to the U.S. Congress or resident U.S. Commissioner shall be admitted to any share or part of this grant or to any benefit that may arise therefrom; but this provision shall not be construed to extend to this grant if made with a corporation for its general benefit.

10. COVENANT AGAINST CONTINGENT FEES (NOVEMBER 1985)

The grantee certifies that no person or selling agency has been employed or retained to solicit or secure this grant upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee except bona fide employees or bona fide established commercial or selling agencies maintained by the grantee for the purpose of securing business. For breach or violation of this certification, AID shall have the right to cancel this grant without liability or, to deduct from the grant amount, or otherwise recover, the full amount of each commission, percentage, brokerage, or contingent fee.

11. NONLIABILITY (NOVEMBER 1985)

AID does not assume liability for any third party claims for damages arising out of this grant.

12. AMENDMENT (NOVEMBER 1985)

The grant may be amended by formal modifications to the basic grant document or by means of an exchange of letters between the grant officer and an appropriate official of the grantee.

13. NOTICES (NOVEMBER 1985)

Any notice given by AID or the grantee shall be sufficient only if in writing and delivered in person, mailed, or cabled as follows:

To the AID grant officer, at the address specified in the grant.

To grantee, at grantee's address shown in the grant or to such other address designated within the grant.

Notices shall be effective when delivered in accordance with this provision, or on the effective date of the notice, whichever is later.

(END OF MANDATORY STANDARD PROVISIONS).

OPTIONAL STANDARD PROVISIONS FOR
U.S., NONGOVERNMENTAL GRANTEEES 1/
INDEX OF
OPTIONAL STANDARD PROVISIONS

1. Payment - Letter of Credit
2. Payment - Periodic Advance
3. Payment - Cost Reimbursement
4. Air Travel and Transportation
5. Ocean Shipment of Goods
6. Procurement of Goods and Services
7. AID Eligibility Rules for Goods and Services
8. Subagreements
9. Local Cost Financing With U.S. Dollars
10. Patent Rights
11. Publications
12. Negotiated Indirect Cost Rates - Predetermined
13. Negotiated Indirect Cost Rates - Provisional
14. Regulations Governing Employees
15. Participant Training
16. Voluntary Population Planning
17. Protection of the Individual as a Research Subject
18. Care of Laboratory Animals
19. Government Furnished Excess Personal Property
20. Title To and Use of Property (Grantee Title)
21. Title To and Care of Property (U.S. Government Title)
22. Title To and Care of Property (Cooperating Country Title)
23. Cost Sharing (Matching)
24. Use of Pouch Facilities
25. Conversion of United States Dollars to Local Currency

Only the optional Standard Provisions designated on the first page of Attachment 3 are applicable hereto and included herein.

1/ When these Standard Provisions are used for cooperative agreements, the following terms apply:

"Grantee" means "Recipient"
"Grant" means "Cooperative Agreement" and
"AID Grant Officer" means "AID Agreement Officer"

Payment - Letter of Credit (NOVEMBER 1985)

(This provision is applicable only when the following conditions are met: (i) the total advances under all the grantee's cost-reimbursement contracts and assistance instruments with AID exceed \$120,000 per annum, (ii) AID has, or expects to have, a continuing relationship with the grantee for at least one year; (iii) the grantee has the ability to maintain procedures that will minimize the time elapsing between the transfer of funds and the disbursement thereof; (iv) the grantee's financial management system meets the standards for fund control and accountability required under the standard provision of this grant, entitled "Accounting, Audit, and Records" and, either (v) the foreign currency portion of the total advance under this grant is less than 50% or (vi) the foreign currency portion of the total advance under this grant is more than 50% but more than one foreign currency country is involved.)

(a) Payment under this grant shall be by means of a Letter of Credit (LOC) in accordance with the terms and conditions of the LOC and any instructions issued by AID's Office of Financial Management, Program Accounting and Finance Division (M/FM/PAFD).

(b) As long as the LOC is in effect, the terms and conditions of the LOC and any instructions issued by M/FM/PAFD constitute payment conditions of this grant, superseding and taking precedence over any other provision of this grant concerning payment.

(c) Reporting:

(1) A "Financial Status Report" SF-269, shall be prepared on an accrual basis and submitted quarterly no later than 30 days after the end of the period, in an original and two copies to AID/M/FM/PAFD, Washington, D.C. 20523. If the grantee's accounting records are not normally kept on the accrual basis, the grantee shall not be required to convert its accounting system, but shall develop such accrual information through best estimates based on an analysis of the documentation on hand. The final report must be submitted within 90 days after the conclusion of the grant to M/FM/PAFD. In cases where grants are Mission funded, the Grantee will forward an information copy to the AID Mission accounting station at the same time the original and one copy are mailed to M/FM/PAFD, AID/Washington.

(2) The grantee shall submit an original and one copy of SF-272, "Federal Cash Transactions Report," within 15 working days following the end of each quarter to M/FM/PAFD. Grantees receiving advances totaling more than \$1 million per year shall submit the SF-272 on a monthly basis within 15 working days following the close of the month. Grantees shall report all cash advances in the remarks section of SF-272. Those cash advances in excess of immediate disbursement requirements in the hands of subrecipients or the grantee's field organizations shall be supported by short narrative explanations of actions taken by the grantee to reduce the excess balances.

X
30

(d) Revocation of the LOC is at the discretion of the authorized LOC certifying officer of M/FM/PAFD after consultation with the grant officer. Notification of revocation must be in writing and must specify the reason for revocation. M/FM/PAFD shall provide the grant officer a copy of the revocation notice and a recommendation for an alternative method of payment (periodic advance or cost reimbursement) based upon the reasons for the revocation. The grant officer shall immediately amend this agreement to provide for an appropriate alternative method of payment. The recipient may appeal any such revocation to the grant officer.

(END OF STANDARD PROVISION)

AIR TRAVEL AND TRANSPORTATION (NOVEMBER 1985)

(This provision is applicable when any costs for air travel or transportation are included in the budget.)

- (a) The grantee is required to present to the project officer for written approval an itinerary for each planned international trip financed by this grant, which shows the name of the traveler, purpose of the trip, origin/destination (and intervening stops), and dates of travel, as far in advance of the proposed travel as possible, but in no event at least three weeks before travel is planned to commence. At least one week prior to commencement of approved international travel, the grantee shall notify the cognizant U.S. Mission or Embassy, with a copy to the project officer, of planned travel, identifying the travelers and the dates and times of arrival.
- (b) Travel to certain countries shall, at AID's option, be funded from U.S.-owned local currency. When AID intends to exercise this option, AID will, after receipt of advice of intent to travel required above, either issue a U.S. Government S.F. 1169, Transportation Request (GTR) which the grantee may exchange for tickets, or AID will issue the tickets directly. Use of such U.S.-owned currencies will constitute a dollar charge to this grant.
- (c) All air travel and shipments under this grant are required to be made on U.S. flag air carriers to the extent service by such carriers is available. A U.S. flag air carrier is defined as an air carrier which has a certificate of public convenience and necessity issued by the U.S. Civil Aeronautics Board authorizing operations between the United States and/or its territories and one or more foreign countries.
- (d) Use of foreign air carrier service may be deemed necessary if a U.S. flag air carrier otherwise available cannot provide the foreign air transportation needed, or if use of such service will not accomplish the agency's mission. Travel and transportation on non-free world air carriers are not reimbursable under this grant.
- (e) U.S. flag air carrier service is considered available even though:
- (1) Comparable or a different kind of service can be provided at less cost by a foreign air carrier;
 - (2) Foreign air carrier service is preferred by or is more convenient for the agency or traveler; or
 - (3) Service by a foreign air carrier can be paid for in excess foreign currency, unless U.S. flag air carriers decline to accept excess or near excess foreign currencies for transportation payable only out of such monies.

32

(f) Except as provided in paragraph (b) of this section, U.S. flag air carrier service must be used for all Government-financed commercial foreign air travel if service provided by such carriers is available. In determining availability of a U.S. flag air carrier, the following scheduling principles should be followed unless their application results in the last or first leg of travel to or from the United States being performed by foreign air carrier:

(1) U.S. flag air carrier service available at point of origin should be used to destination or in the absence of direct or through service to the farthest interchange point on a usually traveled route;

(2) Where an origin or interchange point is not served by U.S. flag air carrier, foreign air carrier service should be used only to the nearest interchange point on a usually traveled route to connect with U.S. flag air carrier service; or

(3) Where a U.S. flag air carrier involuntarily reroutes the traveler via a foreign air carrier the foreign air carrier may be used notwithstanding the availability of alternative U.S. flag air carrier service.

(g) For travel between a gateway airport in the United States (the last U.S. airport from which the traveler's flight departs or the first U.S. airport at which the traveler's flight arrives) and a gateway airport abroad (that airport from which the traveler last embarks enroute to the U.S. or at which the traveler first debarks incident to travel from the U.S.), passenger service by U.S. flag air carrier will not be considered available:

(1) Where the gateway airport abroad is the traveler's origin or destination airport, and the use of U.S. flag air carrier service would extend the time in a travel status, including delay at origin and accelerated arrival at destination, by at least 24 hours more than travel by foreign air carrier:

(2) Where the gateway airport abroad is an interchange point, and the use of U.S. flag air carrier service would require the traveler to wait six hours or more to make connections at that point, or delayed departure from or accelerated arrival at the gateway airport in the U.S. would extend the time in a travel status by at least six hours more than travel by foreign air carrier.

(h) For travel between two points outside the U.S. the rules in paragraphs (d) through (f) of this section will be applicable, but passenger service by U.S. flag air carrier will not be considered to be reasonably available:

(1) If travel by foreign air carrier would eliminate two or more aircraft changes enroute;

(2) Where one of the two points abroad is the gateway airport (as defined in paragraph (g) of this section) enroute to or from the United States, if the use of a U.S. flag air carrier would extend the time in a travel status by at least six hours more than travel by foreign air carrier

including accelerated arrival at the overseas destination or delayed departure from the overseas origin as well as delay at the gateway airport or other interchange point abroad; or

(3) Where the travel is not part of a trip to or from the United States, if the use of a U.S. flag air carrier would extend the time in a travel status by at least six hours more than travel by foreign air carrier including delay at origin, delay enroute and accelerated arrival at destination.

(i) When travel under either paragraph (g) or (h) of this section involves three hours or less between origin and destination by a foreign air carrier, U.S. flag air carrier service will not be considered available when it involves twice such travel time or more.

(j) Nothing in the above guidelines shall preclude and no penalty shall attend the use of a foreign air carrier which provides transportation under an air transport agreement between the United States and a foreign government, the terms of which are consistent with the international aviation policy goals set forth at 49 U.S.C. 1502(b) and provide reciprocal rights and benefits.

(k) Where U.S. Government funds are used to reimburse the grantee's use of other than U.S. flag air carriers for international transportation, the grantee will include a certification on vouchers involving such transportation which is essentially as follows:

"CERTIFICATION OF UNAVAILABILITY OF U.S. FLAG AIR CARRIERS. I hereby certify that the transportation service for personnel (and their personal effects) or property by certificated air carrier was unavailable for the following reason(s)." (State appropriate reason(s) as set forth above).

(1) International Travel

(1) As used herein, the term "international travel" means travel to all countries other than those within the home country of the traveler. Travel outside the United States includes travel to the U.S. Trust Territories of the Pacific Islands.

(2) The grantee will be reimbursed for travel and the reasonable cost of subsistence, post differentials and other allowances paid to employees in an international travel status in accordance with the grantee's established policies and practices which are uniformly applied to federally financed and other activities of the grantee. The standard for determining the reasonableness of reimbursement for overseas allowance is the Standardized Regulations (Government Civilians, Foreign Areas), published by the U.S.

Department of State, as from time to time amended. The most current subsistence, post differentials, and other allowances may be obtained from the grant officer.

(m) This provision will be included in all subgrants and contracts which require air travel and transportation under this grant.

(END OF STANDARD PROVISION)

OCEAN SHIPMENT OF GOODS (NOVEMBER 1985)

(This provision is applicable when goods purchased with funds provided under this grant are transported to cooperating countries on ocean vessels.)

- (a) At least 50% of the gross tonnage of all goods purchased under this grant and transported to the cooperating countries shall be made on privately owned U.S. flag commercial ocean vessels, to the extent such vessels are available at fair and reasonable rates for such vessels.
- (b) At least 50% of the gross freight revenue generated by shipments of goods purchased under this grant and transported to the cooperating countries on dry cargo liners shall be paid to or for the benefit of privately owned U.S. flag commercial ocean vessels to the extent such vessels are available at fair and reasonable rates for such vessels.
- (c) When U.S. flag vessels are not available, or their use would result in a significant delay, the grantee may request a determination of non-availability from the AID Transportation Division, Office of Acquisition and Assistance Management, Washington, D.C. 20523, giving the basis for the request which will relieve the grantee of the requirement to use U.S. flag vessels for the amount of tonnage included in the determination. Shipments made on non-free world ocean vessels are not reimbursable under this grant.
- (d) Vouchers submitted for reimbursement which include ocean shipment costs shall contain a certification essentially as follows:

"I hereby certify that a copy of each ocean bill of lading concerned has been submitted to the U.S. Department of Transportation, Maritime Administration, Division of National Cargo, 400 7th Street, S.W., Washington, D.C. 20590, and that such bills of lading state all of the carrier's charges including the basis for calculation such as weight or cubic measurement."

(END OF STANDARD PROVISION)

PROCUREMENT OF GOODS AND SERVICES (NOVEMBER 1985)

(This provision is applicable when goods or services are procured under the grant.)

The grantee may use its own procurement policies and practices for the procurement of goods and services under this grant, provided they conform to all of AID's requirements listed below and the standard provision entitled "AID Eligibility Rules for Goods and Services."

(a) General Requirements:

(1) The recipient shall maintain a code or standards of conduct that shall govern the performance of its officers, employees or agents engaged in the awarding and administration of contracts using AID funds. No employee, officer or agent shall participate in the selection, award or administration of a contract in which AID funds are used, where, to that individual's knowledge, the individual or the individual's immediate family, partners, or organization in which the individual or the individual's immediate family or partners has a financial interest or with whom that individual is negotiating or has any arrangement concerning prospective employment. The recipients' officers, employees or agents shall neither solicit nor accept gratuities, favors or anything of monetary value from contractors or potential contractors. Such standards shall provide for disciplinary actions to be applied for violations of such standards by the recipients' officers, employees or agents.

(2) All procurement transactions shall be conducted in a manner to provide, to the maximum extent practical, open and free competition. The recipient should be alert to organizational conflicts of interest or noncompetitive practices among contractors that may restrict or eliminate competition or otherwise restrain trade. In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, invitations for bids and/or requests for proposals should be excluded from competing for such procurements. Awards shall be made to the bidder/offeror whose bid/offer is responsive/responsible to the solicitation and is most advantageous to the recipient, price and other factors considered. Solicitations shall clearly set forth all requirements that the bidder/offeror must fulfill in order to be evaluated by the recipient. Any and all bids/offers may be rejected when it is in the recipient's interest to do so.

(3) All grantees shall establish procurement procedures that provide for, at a minimum, the following procedural requirements:

(i) Proposed procurement actions shall follow a procedure to assure the avoidance of purchasing unnecessary or duplicative items. Where appropriate, an analysis shall be made of lease and purchase alternatives to determine which would be the most economical practical procurement.

(ii) Solicitations for goods and services shall be based upon a clear and accurate description of the technical requirements for the material, product or service to be procured. Such a description shall not, in competitive procurements, contain features which unduly restrict competition. "Brand-name or equal" descriptions may be used as a means to define the performance of other salient requirements of a procurement and when so used the specific features of the named brand which must be met by bidders/offerors shall be clearly specified.

(iii) Positive efforts shall be made by the recipients to utilize small business and minority-owned business sources of supplies and services. Such efforts should allow these sources the maximum feasible opportunity to compete for contracts utilizing AID funds. To permit AID, in accordance with the small business provisions of the Foreign Assistance Act of 1961, as amended, to give United States small business firms an opportunity to participate in supplying commodities and services procured under this grant, the grantee shall to the maximum extent possible provide the following information to the Office of Small Disadvantaged Business Utilization, AID, Washington, D.C. 20523, at least 45 days prior (except where a shorter time is requested of and granted by the Office of Small and Disadvantaged Business Utilization) to placing any order or contract in excess of \$25,000:

- (A) Brief general description and quantity of goods or services;
- (B) Closing date for receiving quotations, proposals, or bids; and
- (C) Address where solicitations or specifications can be obtained.

(iv) The type of procuring instruments used, e.g. fixed price contracts, cost reimbursable contracts, purchase orders, incentive contracts, shall be determined by the recipient but must be appropriate for the particular procurement and for promoting the best interest of the program involved. The "cost-plus-a-percentage-of-cost" method of contracting shall not be used.

(v) Contracts shall be made only with responsible contractors who possess the potential ability to perform successfully under the terms and conditions of a proposed procurement. Consideration shall be given to such matters as contractor integrity, record of past performance, financial and technical resources or accessibility to other necessary resources.

(vi) All proposed sole source contracts or where only one bid or proposal is received in which the aggregate expenditure is expected to exceed \$5,000 shall be subject to prior approval by an appropriate official within the grantee's organization.

(vii) Some form of price or cost analysis should be made in connection with every procurement action. Price analysis may be accomplished in various ways, including the comparison of price quotations submitted, market prices and similar indicia, together with discounts. Cost analysis is the review and evaluation of each element of cost to determine reasonableness, allocability and allowability.

(viii) Procurement records and files for purchases in excess of \$10,000 shall include the following:

(A) Basis for contractor selection;

(B) Justification for lack of competition when competitive bids or offers are not obtained;

(C) Basis for award cost or price.

(ix) A system for contract administration shall be maintained to ensure contractor conformance with terms, conditions and specifications of the contract, and to ensure adequate and timely followup of all purchases.

(b) Each contract shall contain, in addition to provisions to define a sound and complete contract, the following contract provisions, if applicable, as well as any provision within this grant which requires such inclusion of that provision. Whenever a provision is required to be inserted in a contract under this grant, the grantee shall insert a statement in the contract that in all instances where the U.S. Government or AID is mentioned the grantee's name shall be substituted.

(1) Contracts in excess of \$10,000 shall contain contractual provisions or conditions that will allow for administrative, contractual or legal remedies in instances in which contractors violate or breach contract terms, and provide for such remedial actions as may be appropriate.

(2) All contracts in excess of \$10,000 shall contain suitable provisions for termination by the recipient including the manner by which termination will be effected and the basis for settlement. In addition, such contracts shall describe conditions under which the contract may be terminated for default as well as conditions where the contract may be terminated because of circumstances beyond the control of the contractor.

(3) In all contracts for construction or facility improvement awarded for more than \$100,000, recipients shall observe generally accepted bonding requirements.

(4) All contracts awarded by the grantee or subgrantee to be performed in the United States having a value of more than \$10,000, shall contain a provision requiring compliance with Executive Order 11246, entitled "Equal Employment Opportunity," as amended, and as supplemented in Department of Labor Regulations (41 CFR, Part 60).

(5) All contracts and subgrants in excess of \$2,000 for construction or repair to be performed in the United States awarded by the grantee or subgrantee shall include a provision for compliance with the Copeland "Anti-Kick Back" Act (18 U.S.C. 874) as supplemented in Department of Labor Regulations (29 CFR, Part 3). This Act provides that each contractor or subgrantee shall be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which that individual is otherwise entitled. The grantee shall report all suspected or reported violations to AID.

(6) When required by the Federal program legislation, all construction contracts to be performed in the United States awarded by the grantee or subgrantee of more than \$2,000 shall include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 276a to a-7) as supplemented by Department of Labor Regulations (29 CFR, Part 5). Under this Act, contractors shall be required to pay wages to laborers and mechanics at a rate not less than the minimum wages specified in a wage determination made by the Secretary of Labor. In addition, contractors shall be required to pay wages not less than once a week. The grantee shall place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation and the award of a contract shall be conditioned upon the acceptance of the wage determination. The grantee shall report all suspected or reported violations to AID.

(7) Where applicable, all contracts awarded by the grantee or subgrantees in excess of \$2,000 for construction contracts to be performed in the United States and its territories and in excess of \$2,500 for other contracts that involve the employment of mechanics or laborers, shall include a provision for compliance with sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by Department of Labor Regulations (29 CFR, Part 5). Under section 103 of the Act, each contractor shall be required to compute the wages of every mechanic and laborer on the basis of a standard work day of 8 hours and a standard workweek of 40 hours. Work in excess of the standard workday or workweek is permissible provided that the worker is compensated at a rate of not less than 1 1/2 times the basic rate of pay for all hours worked in excess of 8 hours in any calendar day or 40 hours in the workweek. Section 107 of the Act is applicable to construction work and provides that no laborer or mechanic shall be required to work in surroundings or under working conditions that are unsanitary, hazardous, or dangerous to the worker's health and safety as determined under construction safety and health standards promulgated by the Secretary of Labor. These requirements do not apply to the purchases of supplies of materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

(8) Contracts, the principal purpose of which is to create, develop or improve products, processes or methods; or for exploration into fields that directly concern public health, safety or welfare; or contracts in the fields of science or technology in which there has been little significant experience outside of work funded by Federal assistance, shall contain a notice to the effect that matters regarding rights to inventions and materials generated under the contract are subject to the regulations included in these grant provisions. The contractor shall be advised as to the source of additional information regarding these matters.

(9) All negotiated contracts over \$10,000 awarded by the grantee shall include a provision to the effect that the grantee, AID, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers and records of the contractor which are directly pertinent to the specific program for the purpose of making audits, examinations, excerpts and transcriptions.

(10) Contracts in excess of \$100,000 to be performed in the United States shall contain a provision that requires the contractor to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act of 1970 (42 U.S.C. 7401) and the Federal Water Pollution Control Act (40 CFR 15) as amended. Violations shall be reported to AID and the Regional Office of the Environmental Protection Agency.

(11) Contracts which require performance outside the United States shall contain a provision requiring Workmen's Compensation Insurance (42 U.S.C. 1651, et seq.). As a general rule, Department of Labor waivers will be obtained for persons employed outside the United States who are not United States citizens or residents provided adequate protection will be given such persons. The grantee should refer questions on this subject to the AID grant officer.

(END OF STANDARD PROVISION)

AID ELIGIBILITY RULES FOR GOODS AND SERVICES (NOVEMBER 1985)

(This provision is applicable when goods or services are procured under the grant.)

(a) Ineligible and Restricted Goods and Services: If AID determines that the grantee has procured any of the restricted or ineligible goods and services specified below, or has procured goods and services from unauthorized sources, and has received reimbursement for such purpose without the prior written authorization of the grant officer, the grantee agrees to refund to AID the entire amount of the reimbursement. AID's policy on ineligible and restricted goods and services is contained in Chapter 4 of AID Handbook 1, Supplement B, entitled "Procurement Policies".

(1) Ineligible Goods and Services. Under no circumstances shall the grantee procure any of the following under this grant:

- (i) Military equipment,
- (ii) Surveillance equipment,
- (iii) Commodities and services for support of police or other law enforcement activities,
- (iv) Abortion equipment and services,
- (v) Luxury goods and gambling equipment, or
- (vi) Weather modification equipment.

(2) Ineligible Suppliers. Funds provided under this grant used to procure any goods or services furnished by any firms or individuals whose name appears on the AID Consolidated List of Debarred, Suspended, and Ineligible Awardees under AID Regulation 8, entitled "Debarment, Suspension and Ineligibility" (22 CFR 208). AID will provide the grantee with a copy of this list upon request.

(3) Restricted Goods. The grantee shall not procure any of the following goods and services without the prior written authorization of the grant officer:

- (i) Agricultural commodities,
- (ii) Motor vehicles,
- (iii) Pharmaceuticals,
- (iv) Pesticides,
- (v) Rubber compounding chemicals and plasticizers,
- (vi) Used equipment,
- (vii) U.S. Government-owned excess property, or
- (viii) Fertilizer.

X
42

(b) Source, Origin, and Nationality: The eligibility rules for goods and services are based on source, origin, and nationality and are divided into two categories. One applies when the total procurement during the life of the grant is over \$250,000 and the other applies when the total procurement element during the life of the grant is not over \$250,000. The total procurement element includes procurement of all goods (e.g., equipment, materials, supplies) and services. Guidance on the eligibility of specific goods or services may be obtained from the grant officer. AID policies and definitions on source, origin, and nationality are contained in Chapters 4 and 5 of AID Handbook 1, Supplement B, entitled "Procurement Policies".

(1) When the total procurement element during the life of this grant is valued at \$250,000 or less, the following rules apply:

(i) All goods and services, the costs of which are to be reimbursed under this grant and which will be financed with U. S. dollars, shall be purchased in and shipped from only "Special Free World" countries (i.e., AID Geographic Code 935) in accordance with the following order of preference:

- (A) The United States (AID Geographic code 000),
- (B) The Cooperating Country,
- (C) "Selected Free World" countries (AID Geographic Code 941), and
- (D) "Special Free World" countries (AID Geographic Code 935).

(ii) Application of Order of Preference: When the grantee procures goods and services from other than U.S. sources, under the order of preference in paragraph b(1)(i) above, the grantee shall document its files to justify each such instance. The documentation shall set forth the circumstances surrounding the procurement and shall be based on one or more of the following reasons, which will be set forth in the grantee's documentation:

(A) The procurement was of an emergency nature, which would not allow for the delay attendant to soliciting U.S. sources,

(B) The price differential for procurement from U.S. sources exceeded by 50% or more the delivered price from the non-U.S. source,

(C) Impelling local political considerations precluded consideration of U.S. sources;

(D) The goods or services were not available from U.S. sources, or

(E) Procurement of locally available goods and services, as opposed to procurement of U.S. goods and services, would best promote the objectives of the Foreign Assistance program under the grant.

43

(2) When the total procurement element exceeds \$250,000, the following rule applies: Except as may be specifically approved or directed in advance by the grant officer, all goods and services, which will be reimbursed under this grant and financed with U. S. dollars, shall be procured in and shipped from the U. S. (Code 000) and from any other countries within the authorized geographic code as specified in the schedule of this grant.

(c) Marine Insurance: The eligibility of marine insurance is determined by the country in which it is placed. Insurance is placed in a country if payment of the insurance premium is made to, and the insurance policy is issued by an insurance company located in that country. Eligible countries for placement are governed by the authorized geographic code, except that if Code 941 is authorized, the Cooperating Country is also eligible. Section 604(d) of the Foreign Assistance Act requires that if a recipient country discriminates by statute, decree, rule, or practice with respect to AID-financed procurement against any marine insurance company authorized to do business in the U. S., then any AID-financed commodity shipped to that country shall be insured against marine risk and the insurance shall be placed in the U. S. with a company or companies authorized to do marine insurance business in the U. S.

(d) Ocean and air transportation shall be in accordance with the applicable provisions contained within this grant.

(e) Printed or Audio-Visual Teaching Materials: If the effective use of printed or audio-visual teaching materials depends upon their being in the local language and if such materials are intended for technical assistance projects or activities financed by AID in whole or in part and if other funds including U.S.-owned or U.S.-controlled local currencies are not readily available to finance the procurement of such materials, local language versions may be procured from the following sources, in order of preference:

- (1) The United States (AID Geographic Code 000),
- (2) The Cooperating Country,
- (3) "Selected Free World" countries (AID Geographic Code 941), and
- (4) "Special Free World" countries (AID Geographic Code 899).

(f) Special Restrictions on the Procurement of Construction or Engineering Services: Section 604(g) of the Foreign Assistance Act provides that AID funds may not be used for "procurement of construction or engineering services from advanced developing countries, eligible under Geographic Code 941, which have attained a competitive capability in international markets for construction services or engineering services." In order to insure eligibility of a Code 941 contractor for construction or engineering services, the grantee shall obtain the grant officer's prior approval for any such contract.

(END OF STANDARD PROVISION)

44

SUBAGREEMENTS (NOVEMBER 1985)

(This provision is applicable when subgrants or cooperative agreements are financed under the grant.)

(a) Funds provided under this grant shall not be used to support any subrecipient whose name appears on the AID Consolidated List of Debarred, Suspended, or Ineligible Awardees under AID Regulation 8, entitled "Debarment, Suspension and Ineligibility" (22 CFR 208). AID will provide the grantee with a copy of this list upon request.

(b) All subagreements shall as a minimum contain, in addition to provisions to define a sound and complete agreement, the following provisions as well as any that are specifically required by any other provision in this grant. Whenever a provision within this grant is required to be inserted in a subagreement, the grantee shall insert a statement in the subagreement that in all instances where the U.S. Government is mentioned, the grantee's name will be substituted.

(1) Subagreements in excess of \$10,000 shall contain provisions or conditions that will allow for administrative or legal remedies in instances where subrecipients violate subagreement terms and provide for such remedial action as may be appropriate.

(2) All subagreements in excess of \$10,000 shall contain suitable provisions for termination by the recipient including the manner by which termination will be effected and the basis for settlement. In addition, such subagreements shall describe conditions under which the subagreement may be terminated for default as well as conditions where the subagreement may be terminated because of circumstances beyond the control of the subrecipient.

(3) Subagreements, the principal purpose of which is to create, develop or improve products, processes or methods; or for exploration into fields that directly concern public health, safety or welfare; or subagreements in the field of science or technology in which there has been little significant experience outside of work funded by Federal assistance, shall contain a notice to the effect that matters regarding rights to inventions and materials generated under the subagreement are subject to the regulations contained in the provisions of this grant. The subrecipient shall be advised as to the source of additional information regarding these matters.

(4) All subagreements over \$10,000 issued by recipients shall include a provision to the effect that the recipient, AID, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers and records of the subrecipient which are directly pertinent to the specific program for the purpose of making audits, examinations, excerpts and transcriptions.

(END OF STANDARD PROVISION)

45

PATENT RIGHTS (NOVEMBER 1985)

(This provision is applicable whenever patentable processes or practices are financed by the grant.)

(a) Definitions.

(1) Invention means any invention or discovery which is or may be patentable or otherwise protectable under Title 35 of the United States Code.

(2) Subject invention means any invention of the recipient conceived or first actually reduced to practice in the performance of work under this agreement.

(3) Practical application means to manufacture in the case of a composition or product, to practice in the case of a process or method, or to operate in the case of a machine or system; and, in each case, under such conditions as to establish that the invention is being utilized and that its benefits are, to the extent permitted by law or Government regulations, available to the public on reasonable terms.

(4) Made when used in relation to any invention means the conception or first actual reduction to practice of such invention.

(5) Small business firm means a domestic small business concern as defined at Section 2 of Public Law 85-536 (15 U.S.C. 632) and implementing regulations of the Administrator of the Small Business Administration. For the purpose of this clause, the size standards for small business concerns involved in Government procurement and subcontracting at 13 CFR 121.3-8 and 13 CFR 121.3-12, respectively, shall be used.

(6) Nonprofit organization means a domestic university or other institution of higher education or an organization of the type described in Section 501(c)(3) of the Internal Revenue Code of 1954 (26 U.S.C. 501(c)) and exempt from taxation under Section 501(a) of the Internal Revenue Code (26 U.S.C. 501(a)) or any domestic nonprofit scientific or any educational organization qualified under a state nonprofit organization statute.

(b) Allocation of Principal Rights: The recipient may retain the entire right, title, and interest throughout the world to each subject invention subject to the provisions of this clause and 35 U.S.C. 203. With respect to any subject invention in which the recipient retains title, the Federal Government shall have a non-exclusive, non-transferable, irrevocable, paid-up license to practice or have practiced for or on behalf of the United States the subject invention throughout the world.

(c) Invention Disclosure, Election of Title, and Filing of Patent Applications by Recipient:

X
Y6

(1) The recipient shall disclose each subject invention to AID within two months after the inventor discloses it in writing to recipient personnel responsible for patent matters. The disclosure to AID shall be in the form of a written report and shall identify the agreement under which the invention was made and the inventor(s). It shall be sufficiently complete in technical detail to convey a clear understanding, to the extent known at the time of the disclosure, of the nature, purpose, operation, and the physical, chemical, biological or electrical characteristics of the invention. The disclosure shall also identify any publication, on sale or public use of the invention and whether a manuscript describing the invention has been submitted for publication and, if so, whether it has been accepted for publication at the time of disclosure. In addition, after disclosure to AID the recipient shall promptly notify AID of the acceptance of any manuscript describing the invention for publication or of any on sale or public use planned by the recipient.

(2) The recipient shall elect in writing whether or not to retain title to any such invention by notifying AID within twelve months of disclosure to the recipient, provided that in any case where publication, on sale, or public use has initiated the one-year statutory period wherein valid patent protection can still be obtained in the United States, the period of election of title may be shortened by AID to a date that is no more than 60 days prior to the end of the statutory period.

(3) The recipient shall file its initial patent application on an elected invention within two years after election or, if earlier, prior to the end of any statutory period wherein valid patent protection can be obtained in the United States after a publication, on sale, or public use. The recipient shall file patent applications in additional countries within either ten months of the corresponding initial patent application or six months from the date permission is granted by the Commissioner of Patents and Trademarks to file foreign patent applications where such filing has been prohibited by a Secrecy Order.

(4) Requests for extension of the time for disclosure to AID, election, and filing may, at the discretion of AID, be granted.

(d) Conditions When the Government May Obtain Title: The recipient shall convey to AID upon written request, title to any subject invention:

(1) If the recipient fails to disclose or elect the subject invention within the times specified in (c) above, or elects not to retain title. AID may only request title within sixty days after learning of the recipient's failure to report or elect within the specified times.

(2) In those countries in which the recipient fails to file patent applications within the times specified in (c) above; provided, however, that if the recipient has filed a patent application in a country after the times specified in (c) above, but prior to its receipt of the written request of AID the recipient shall continue to retain title in that country.

(3) In any country in which the recipient decides not to continue the prosecution of any application for, to pay the maintenance fees on, or defend in reexamination or opposition proceeding on a patent on a subject invention.

(e) Minimum Rights to Recipient:

(1) The recipient shall retain a nonexclusive, royalty-free license throughout the world in each subject invention to which the Government obtains title except if the recipient fails to disclose the subject invention within the times specified in (c) above. The recipient's license extends to its domestic subsidiaries and affiliates, if any, within the corporate structure of which the recipient is a party and includes the right to grant sublicenses of the same scope to the extent the recipient was legally obligated to do so at the time the agreement was awarded. The license is transferable only with the approval of AID except when transferred to the successor of that party of the recipient's business to which the invention pertains.

(2) The recipient's domestic license may be revoked or modified by AID to the extent necessary to achieve expeditious practical application of the subject invention pursuant to an application for an exclusive license submitted in accordance with applicable provisions in the Federal Property Management Regulations and agency licensing regulations (if any). This license shall not be revoked in that field of use or the geographical areas in which the recipient has achieved practical application and continues to make the benefits of the invention reasonably accessible to the public. The license in any foreign country may be revoked or modified at the discretion of AID to the extent the recipient, its licensees, or its domestic subsidiaries or affiliates have failed to achieve practical application in that foreign country.

(3) Before revocation or modification of the license, AID shall furnish the recipient written notice of its intention to revoke or modify the license, and the recipient shall be allowed thirty days (or such other time as may be authorized by AID for good cause shown by the recipient) after the notice to show cause why the license should not be revoked or modified. The recipient has the right to appeal, in accordance with applicable agency licensing regulations (if any) and the Federal Property Management Regulations concerning the licensing of Government-owned inventions, any decision concerning the revocation or modification of its license.

(f) Recipient Action to Protect the Government's Interest:

(1) The recipient agrees to execute or to have executed and promptly deliver to AID all instruments necessary to (i) establish or conform the rights the Government has throughout the world in those subject inventions to which the recipient elects to retain title, and (ii) convey title to AID when requested under paragraph (d) above, and to enable the Government to obtain patent protection throughout the world in that subject invention.

X
1/8

(2) The recipient agrees to require, by written agreement, its employees, other than clerical and nontechnical employees, to disclose promptly in writing to personnel identified as responsible for the administration of patent matters and in a format suggested by the recipient each subject invention made under agreement in order that the recipient can comply with the disclosure provisions of paragraph (c) above, and to execute all papers necessary to file patent applications on subject inventions and to establish the Government's rights in the subject inventions. This disclosure format should require, as a minimum, the information required by (c)(1) above. The recipient shall instruct such employees through employee agreements or other suitable educational programs on the importance of reporting inventions in sufficient time to permit the filing of patent applications prior to U.S. or foreign statutory bars.

(3) The recipient shall notify AID of any decision not to continue the prosecution of a patent application, pay maintenance fees, or defend in a reexamination or opposition proceeding on a patent, in any country, not less than 30 days before the expiration of the response period required by the relevant patent office.

(4) The recipient agrees to include, within the specification of any United States patent application and any patent issuing thereon covering a subject invention, the following statement: "This invention was made with Government support under (identify the agreement awarded by AID). The Government has certain rights in this invention."

(g) Subagreements and Contracts: The recipient shall include this standard provision suitably modified to identify the parties, in all subagreements and contracts, regardless of tier, for experimental, developmental, or research work to be performed by a small business firm or nonprofit organization. The subrecipient or contractor shall retain all rights provided for the recipient in this standard provision, and the recipient shall not, as part of the consideration for awarding the contract or subagreement, obtain rights in the contractor's or subrecipient's subject inventions.

(h) Reporting Utilization of Subject Inventions: The recipient agrees to submit on request periodic reports no more frequently than annually on the utilization of a subject invention or on efforts at obtaining such utilization that are being made by the recipient or its licensees or assignees. Such reports shall include information regarding the status of development, date of first commercial sale or use, gross royalties received by the recipient, and such other data and information as AID may reasonably specify. The recipient also agrees to provide additional reports as may be requested by AID in connection with any march-in proceedings undertaken by AID in accordance with paragraph (j) of this provision. To the extent data or information supplied under this section is considered by the recipient, its licensee or assignee to be privileged and confidential and is so marked, AID agrees that, to the extent permitted by law, it shall not disclose such information to persons outside the Government.

(i) Preference for United States Industry: Notwithstanding any other provision of this clause, the recipient agrees that neither it nor any assignee will grant to any person the exclusive right to use or sell any subject invention in the United States unless such person agrees that any products embodying the subject invention shall be manufactured substantially in the United States. However, in individual cases, the requirement for such an agreement may be waived by AID upon a showing by the recipient or its assignee that reasonable but unsuccessful efforts have been made to grant licenses on similar terms to potential licensees that would be likely to manufacture substantially in the United States or that under the circumstances domestic manufacture is not commercially feasible.

(j) March-in Rights: The recipient agrees that with respect to any subject invention in which it has acquired title, AID has the right to require the recipient, an assignee or exclusive licensee of a subject invention to grant a non-exclusive, partially exclusive, or exclusive license in any field of use to a responsible applicant or applicants, upon terms that are reasonable under the circumstances, and if the recipient, assignee, or exclusive licensee refuses such a request, AID has the right to grant such a license itself if AID determines that:

(1) Such action is necessary because the recipient or assignee has not taken or is not expected to take within a reasonable time, effective steps to achieve practical application of the subject invention in such field of use;

(2) Such action is necessary to alleviate health or safety needs which are not reasonably satisfied by the recipient, assignee, or their licensees;

(3) Such action is necessary to meet requirements for public use specified by Federal regulations and such requirements are not reasonably satisfied by the recipient, assignee, or licensees; or

(4) Such action is necessary because the agreement required by paragraph (i) of this clause has not been obtained or waived or because a license of the exclusive right to use or sell any subject invention in the United States is in breach of such agreement.

(k) Special Provisions for Agreements with Nonprofit Organizations: If the recipient is a nonprofit organization, it agrees that:

(1) Rights to a subject invention in the United States may not be assigned without the approval of AID, except where such assignment is made to an organization which has as one of its primary functions the management of inventions and which is not, itself, engaged in or does not hold a substantial interest in other organizations engaged in the manufacture or sale of products or the use of processes that might utilize the invention or be in competition with embodiments of the invention provided that such assignee shall be subject to the same provisions as the recipient.

X 50

(2) The recipient may not grant exclusive licenses under the United States patents or patent applications in subject inventions to persons other than small business firms for a period in excess of the earlier of:

(i) Five years from first commercial sale or use of the invention;
or

(ii) Eight years from the date of the exclusive license excepting that time before regulatory agencies necessary to obtain premarket clearance, unless on a case-by-case basis, AID approves a longer exclusive license. If exclusive field of use licenses are granted, commercial sale or use in one field of use shall not be deemed commercial sale or use as to other fields of use and a first commercial sale or use with respect to a product of the invention shall not be deemed to end the exclusive period to different subsequent products covered by the invention.

(3) The recipient shall share royalties collected on a subject invention with the inventor; and

(4) The balance of any royalties or income earned by the recipient with respect to subject inventions, after payment of expenses (including payments to inventors) incidental to the administration of subject inventions, shall be utilized for the support of scientific research or education.

(1) Communications: Communications concerning this provision shall be addressed to the grant officer at the address shown in this agreement.

(END OF STANDARD PROVISION)

PUBLICATIONS (NOVEMBER 1985)

(This provision is applicable when publications are financed under the grant.)

- (a) If it is the grantee's intention to identify AID's contribution to any publication resulting from this grant, the grantee shall consult with AID on the nature of the acknowledgement prior to publication.
- (b) The grantee shall provide the AID project officer with one copy of all published works developed under this grant and with lists of other written work produced under the grant.
- (c) In the event grant funds are used to underwrite the cost of publishing, in lieu of the publisher assuming this cost as is the normal practice, any profits or royalties up to the amount of such cost shall be credited to the grant unless the schedule of the grant has identified the profits or royalties as program income.
- (d) Except as otherwise provided in the terms and conditions of the grant, the author or the recipient is free to copyright any books, publications, or other copyrightable materials developed in the course of or under this grant, but AID reserves a royalty-free nonexclusive and irrevocable right to reproduce, publish, or otherwise use, and to authorize others to use the work for Government purposes.

(END OF STANDARD PROVISION)

NEGOTIATED INDIRECT COST RATES - PROVISIONAL (NOVEMBER 1985)

(This provision is applicable to any organization which does not have predetermined indirect cost rate(s); however, it shall also be included when the NEGOTIATED INDIRECT COST RATES - PREDETERMINED standard provision is used.)

- (a) A provisional indirect cost rate(s) shall be established for each of the grantee's accounting periods during the term of this grant. Pending establishment of a final rate(s), the parties have agreed that provisional payments on account of allowable indirect costs shall be at the rate(s), on the base(s), and for the periods shown in the schedule of this grant.
- (b) Not later than 90 days after the close of the grantee's fiscal year, the grantee shall submit to the cognizant Government Audit Activity in accordance with OMB Circular A-88 proposed final indirect cost rate(s) and supporting cost data. In the event AID is the cognizant agency or no cognizant agency has been designated, the grantee shall submit a copy of the proposed final indirect cost rate(s) and supporting cost data to the AID Inspector General, Washington, D.C. 20523, and to the Overhead and Special Costs - Contract Closeout Branch, Acquisition and Assistance Management, Washington, D.C. 20523. The proposed rate(s) shall be based on the grantee's actual cost experience during that fiscal year. Negotiations of final indirect cost rate(s) shall begin as soon as practical after receipt of the grantee's proposal.
- (c) Allowability of costs and acceptability of cost allocation methods shall be determined in accordance with the applicable cost principles in effect on the date of this grant.
- (d) The results of each negotiation shall be set forth in a written indirect cost rate agreement executed by both parties. Such agreement shall specify (1) the agreed upon final rate(s), (2) the base(s) to which the rate(s) apply, and (3) the period for which the rate(s) apply. The indirect cost rate agreement shall not change any monetary ceiling, grant obligation, or specific cost allowance or disallowance provided for in this grant.
- (e) Pending establishment of final indirect cost rate(s) for any period, the grantee shall be reimbursed either at negotiated provisional rate(s) as provided above or at billing rate(s) acceptable to the grant officer, subject to appropriate adjustment when the final rate(s) for that period are established. To prevent substantial over or under payment, the provisional or billing rate(s) may, at the request of either party, be revised by mutual agreement, either retroactively or prospectively. Any such revision of negotiated provisional rate(s) provided in this standard provision shall be set forth in a modification to this grant.

K 52

(f) Any failure by the parties to agree on final rate(s) under this standard provision shall be considered a dispute within the meaning of the standard provision of this grant entitled "Disputes" and shall be disposed of in accordance therewith.

(END OF STANDARD PROVISION)

REGULATIONS GOVERNING EMPLOYEES (NOVEMBER 1985)

(The following applies to the grantee's employees who are not citizens of the cooperating country.)

- (a) The grantee's employees shall maintain private status and may not rely on local U.S. Government offices or facilities for support while under this grant.
- (b) The sale of personal property or automobiles by grantee employees and their dependents in the foreign country to which they are assigned shall be subject to the same limitations and prohibitions which apply to direct-hire AID personnel employed by the Mission except as this may conflict with host government regulations.
- (c) Other than work to be performed under this grant for which an employee is assigned by the grantee, no employee of the grantee shall engage directly or indirectly, either in the individual's own name or in the name or through an agency of another person, in any business, profession, or occupation in the foreign countries to which the individual is assigned, nor shall the individual make loans or investments to or in any business, profession or occupation in the foreign countries to which the individual is assigned.
- (d) The grantee's employees, while in a foreign country, are expected to show respect for its conventions, customs, and institutions, to abide by its applicable laws and regulations, and not to interfere in its internal political affairs.
- (e) In the event the conduct of any grantee employee is not in accordance with the preceding paragraphs, the grantee's chief of party shall consult with the AID Mission Director and the employee involved and shall recommend to the grantee a course of action with regard to such employee.
- (f) The parties recognize the rights of the U.S. Ambassador to direct the removal from a country of any U.S. citizen or the discharge from this grant of any third country national when, in the discretion of the Ambassador, the interests of the United States so require.
- (g) If it is determined, under either (e) or (f) above, that the services of such employee shall be terminated, the grantee shall use its best efforts to cause the return of such employee to the United States, or point of origin, as appropriate.

(END OF STANDARD PROVISION)

55

PARTICIPANT TRAINING (NOVEMBER 1985)

(This provision is applicable when any participant training is financed under the grant.)

(a) Definition: A participant is any non-U.S. individual being trained under this grant outside of that individual's home country.

(b) Application of Handbook 10: Participant training under this grant is to be conducted according to the policies established in AID Handbook 10, Participant Training, except to the extent that specific exceptions to Handbook 10 have been provided in this grant with the concurrence of the Office of International Training. (Handbook 10 may be obtained by submitting a request to the Office of International Training (S&T/IT), Agency for International Development, Washington, D.C. 20523.) Except for paragraph (h) on orientation, the following paragraphs in this standard provision are not subject to waiver except as specifically stated.

(c) Participant Training Information System: All grantees shall ensure that participants trained in the United States or in a third country are included in the Agency's Participant Training Information System.

The grantee shall fill out form AID 1381-4 entitled "Participant Data" and send it to the addresses indicated on the back of the form. The grantee can obtain a supply of these forms and additional instructions for completing them from the Office of International Training. Data should be submitted prior to the initiation of participant travel. If this is not possible, the forms should be prepared and submitted immediately after arrival of the participant(s). The grantee shall also submit to the Office of International Training a blue copy of the form when subsequent changes in the participant's training program are made and at termination of participant's training program, ensuring that the original participant number (pre-printed on the form) is used.

(d) Visa Requirements for Training Within The United States:

(1) Under the authority of Section 635(f) of the Foreign Assistance Act, AID-sponsored participants are admitted to the United States under the Department of State/USIA Exchange Visitor Program and are issued J-1 visas. The program identification number is G-2-0263.

(2) J-1 visas are issued by the U.S. Embassy or Consulate for AID-sponsored participants upon submission by the participant of Form IAP-66A which may be obtained only from the AID Mission. The Mission retains one copy of the IAP-66A and forwards one copy to AID/S&T/IT.

x
56

(3) Holders of J-1 visas are subject to the Immigration and Nationality Act, as amended, and may not apply for an immigrant or an H or L nonimmigrant visa until 2 years' residency is completed in their home country, after completion of training.

(4) Participant passports and visas should normally be valid for six months beyond the duration of the proposed program to allow for program readjustments if necessary. This may not be regarded as an opportunity to encourage program extensions.

(e) Maintenance and Other Allowances: Grantees must observe the maintenance and other allowances for AID-sponsored participants in the United States and third countries as set forth in Handbook 10. No exceptions or variations are permissible except with the advance concurrence of the Office of International Training.

(f) Health and Accident Coverage (HAC) Program For Training Within The United States: The grantee shall enroll all participants training in the United States in AID's HAC Program. HAC Program coverage for an enrolled participant begins at the moment of departure from the host country to the United States until the moment of return to the host country providing, however, that there is not substantial unapproved delay between completion of training under this grant and the return, and that there is no layover at any point to or from the United States except the minimal amount necessary for plane connections.

(1) The HAC Program enables the participant, or the provider of medical services, to submit bills for medical costs resulting from illness and accident to the HAC Claims Office which pays all reasonable and necessary medical charges for covered services not otherwise covered by other insurance programs (see paragraph 6 below), in accordance with the standard coverage established by AID under the HAC Program.

(2) The grantee shall, as early as possible and no later than the initiation of travel to the United States by each participant financed by AID under this grant, fill out form AID 1381-4 entitled "Participant Data" and mail it to the addressees indicated on the back of the form. The grantee can obtain a supply of these forms and instructions for completing them from the Office of International Training at the address indicated in section (b) above.

(3) Enrollment fees shall be submitted, thirty days prior to the beginning of each new enrollment period. Payments will be made via check made payable to A.I.D. and submitted to:

Agency for International Development
Office of Financial Management
Central Accounting Division-Cashier (FM/CAD)
Washington, D.C. 20523

(i) The enrollment fee shall be accompanied by a letter which lists the names of the participants (identical to that on the Participant Data Form), participant I.D. numbers from the Participant Data Form, period of coverage, fee amount paid, grant number, name of grantee, host country, and the U. S. Government appropriation number as shown on the grant.

(ii) The enrollment fees shall be calculated on the basis of fixed rates per participant per each 30 day period. The enrollment fees may not be prorated for fractional periods of less than 30 days and should cover the current training period for which funds are obligated under the grant. Current rates are found in Handbook 10 Participant Training Notices.

(4) The grantee shall assure that enrollment begins immediately upon the participant's departure for the United States for the purpose of participating in a training program financed or sponsored by AID, and that enrollment continues in full force and effect until the participant returns to his or her country of origin or is released from AID's responsibility, whichever occurs first. The grantee shall continue enrollment coverage for participants whose departure is delayed due to medical or other compelling reasons, with the written concurrence of the grant officer.

(5) The grantee shall provide each participant with a copy of the HAC brochure, copies of which are available from S&T/IT at the address indicated in section (b) above.

(6) If the grantee has a mandatory, nonwaivable health and accident insurance program for participants, the costs of such insurance will be allowable under this grant. Any claims eligible under such insurance will not be payable under AID's HAC plan or under this grant. However, even though the participant is covered by the grantee's mandatory, nonwaivable health and accident insurance program, the participant must be enrolled in AID's HAC Program. In addition, a copy of the mandatory insurance policy must be forwarded to the HAC Claims Office.

(7) Medical costs not covered by the grantee's health service program or mandatory, nonwaivable health and accident insurance program, or AID's HAC Program shall not be reimbursable under this grant unless specific written approval from the grant officer has been obtained.

(g) Participant Counseling For Training Within The United States: Problems involving participants such as serious physical or emotional illness, accident or injury, arrest, death, the voluntary or involuntary early termination of a program, and the refusal of a participant to return to the home country upon completion of the program should be referred to the AID Participant Counselor at the Office of International Training.

The Counselor can be reached by calling the Office of International Training during workdays and the AID Duty Officer (202-632-1512) at other times. In referring cases, give the Counselor the name, country, and current location of

58

the participant as well as a brief description of the problem with names and telephone numbers of hospitals, physicians, attorneys, etc. Following verbal referral, the participant's name, home address, and next of kin, and location of training should be sent to the grant officer, who will transmit the information to the S&T/IT Counselor.

(h) Orientation: In addition to the above mandatory requirements for all participants, grantees are strongly encouraged to provide, in collaboration with the Mission training officer, predeparture orientation (see Chapter 13 of Handbook 10) and orientation in Washington at the Washington International Center (see Chapter 18D of Handbook 10). The latter orientation program also provides the opportunity to arrange for home hospitality in Washington and elsewhere in the United States through liaison with the National Council for International Visitors (NCIV). If the Washington orientation is determined not to be feasible, home hospitality can be arranged in most U.S. cities if a request for such is directed to the grant officer, who will transmit the request to NCIV through S&T/IT.

(END OF STANDARD PROVISION)

TITLE TO AND CARE OF PROPERTY (COOPERATING COUNTRY TITLE) (NOVEMBER 1985)

(This provision is applicable to property titled in the name of the cooperating country or such public or private agency as the cooperating country government may designate.)

(a) Except as modified by the schedule of this grant, title to all equipment, materials and supplies, the cost of which is reimbursable to the grantee by AID or by the cooperating country, shall at all times be in the name of the cooperating country or such public or private agency as the cooperating country may designate, unless title to specified types or classes of equipment is reserved to AID under provisions set forth in the schedule of this grant. All such property shall be under the custody and control of grantee until the owner of title directs otherwise or completion of work under this grant or its termination, at which time custody and control shall be turned over to the owner of title or disposed of in accordance with its instructions. All performance guarantees and warranties obtained from suppliers shall be taken in the name of the title owner.

(b) The grantee shall maintain and administer in accordance with sound business practice a program for the maintenance, repair, protection, and preservation of Government property so as to assure its full availability and usefulness for the performance of this grant. The grantee shall take all reasonable steps to comply with all appropriate directions or instructions which the grant officer may prescribe as reasonably necessary for the protection of the Government property.

(c) The grantee shall prepare and establish a program, to be approved by the appropriate AID Mission, for the receipt, use, maintenance, protection, custody and care of equipment, materials and supplies for which it has custodial responsibility, including the establishment of reasonable controls to enforce such program. The grantee shall be guided by the following requirements:

(1) Property Control: The property control system shall include but not be limited to the following:

(i) Identification of each item of cooperating country property acquired or furnished under the grant by a serially controlled identification number and by description of item. Each item must be clearly marked "Property of (insert name of cooperating country)."

(ii) The price of each item of property acquired or furnished under this grant.

(iii) The location of each item of property acquired or furnished under this grant.

(iv) A record of any usable components which are permanently removed from items of cooperating country property as a result of modification or otherwise.

(v) A record of disposition of each item acquired or furnished under the grant.

(vi) Date of order and receipt of any item acquired or furnished under the grant.

(vii) The official property control records shall be kept in such condition that at any stage of completion of the work under this grant, the status of property acquired or furnished under this grant may be readily ascertained. A report of current status of all items of property acquired or furnished under the grant shall be submitted yearly concurrently with the annual report.

(2) Maintenance Program: The grantee's maintenance program shall be consistent with sound business practice, the terms of the grant, and provide for:

(i) disclosure of need for and the performance of preventive maintenance,

(ii) disclosure and reporting of need for capital type rehabilitation, and

(iii) recording of work accomplished under the program:

(A) Preventive maintenance - Preventive maintenance is maintenance generally performed on a regularly scheduled basis to prevent the occurrence of defects and to detect and correct minor defects before they result in serious consequences.

(B) Records of maintenance - The grantee's maintenance program shall provide for records sufficient to disclose the maintenance actions performed and deficiencies discovered as a result of inspections.

(C) A report of status of maintenance of cooperating country property shall be submitted annually concurrently with the annual report.

(d) Risk of Loss:

(1) The grantee shall not be liable for any loss of or damage to the cooperating country property, or for expenses incidental to such loss or damage except that the grantee shall be responsible for any such loss or damage (including expenses incidental thereto):

(i) Which results from willful misconduct or lack of good faith on the part of any of the grantee's directors or officers, or on the part of any of its managers, superintendents, or other equivalent representatives, who have supervision or direction of all or substantially all of the grantee's business, or all or substantially all of the grantee's operation at any one plant, laboratory, or separate location in which this grant is being performed;

(ii) Which results from a failure on the part of the grantee, due to the willful misconduct or lack of good faith on the part of any of its directors, officers, or other representatives mentioned in (i) above:

(A) to maintain and administer, in accordance with sound business practice, the program for maintenance, repair, protection, and preservation of cooperating country property as required by (i) above, or

(B) to take all reasonable steps to comply with any appropriate written directions of the grant officer under (b) above;

(iii) For which the grantee is otherwise responsible under the express terms designated in the schedule of this grant;

(iv) Which results from a risk expressly required to be insured under some other provision of this grant, but only to the extent of the insurance so required to be procured and maintained, or to the extent of insurance actually procured and maintained, whichever is greater; or

(v) Which results from a risk which is in fact covered by insurance or for which the grantee is otherwise reimbursed, but only to the extent of such insurance or reimbursement;

(vi) Provided, that, if more than one of the above exceptions shall be applicable in any case, the grantee's liability under any one exception shall not be limited by any other exception.

(2) The grantee shall not be reimbursed for, and shall not include as an item of overhead, the cost of insurance, or any provision for a reserve, covering the risk of loss of or damage to the cooperating country property, except to the extent that AID may have required the grantee to carry such insurance under any other provision of this grant.

(3) Upon the happening of loss or destruction of or damage to the cooperating country property, the grantee shall notify the grant officer thereof, shall take all reasonable steps to protect the cooperating country property from further damage, separate the damaged and undamaged cooperating country property, put all the cooperating country property in the best possible order, and furnish to the grant officer a statement of:

62

- (i) The lost, destroyed, or damaged cooperating country property;
 - (ii) The time and origin of the loss, destruction, or damage;
 - (iii) All known interests in commingled property of which the cooperating country property is a part; and
 - (iv) The insurance, if any, covering any part of or interest in such commingled property.
- (4) The grantee shall make repairs and renovations of the damaged cooperating country property or take such other action as the grant officer directs.
- (5) In the event the grantee is indemnified, reimbursed, or otherwise compensated for any loss or destruction of or damage to the cooperating country property, it shall use the proceeds to repair, renovate or replace the cooperating country property involved, or shall credit such proceeds against the cost of the work covered by the grant, or shall otherwise reimburse AID, as directed by the grant officer. The grantee shall do nothing to prejudice AID's right to recover against third parties for any such loss, destruction, or damage, and upon the request of the grant officer, shall, at the Government's expense, furnish to AID all reasonable assistance and cooperation (including assistance in the prosecution of suits and the execution of instruments or assignments in favor of the Government) in obtaining recovery.
- (e) Access: AID, and any persons designated by it, shall at all reasonable times have access to the premises wherein any cooperating country property is located, for the purpose of inspecting the cooperating country property.
- (f) Final Accounting and Disposition of Cooperating Country Property: Within 90 days after completion of this grant, or at such other date as may be fixed by the grant officer, the grantee shall submit to the grant officer an inventory schedule covering all items of equipment, materials and supplies under the grantee's custody, title to which is in the cooperating country or public or private agency designated by the cooperating country, which have not been consumed in the performance of this grant. The grantee shall also indicate what disposition has been made of such property.
- (g) Communications: All communications issued pursuant to this provision shall be in writing.

(END OF STANDARD PROVISION)

USE OF POUCH FACILITIES (NOVEMBER 1985)

(This provision is applicable when activities under the grant will take place outside of the United States.)

(a) Use of diplomatic pouch is controlled by the Department of State. The Department of State has authorized the use of pouch facilities for AID grantees and their employees as a general policy, as detailed in items (1) through (6) below. However, the final decision regarding use of pouch facilities rest with the Embassy or AID Mission. In consideration of the use of pouch facilities, the grantee and its employees agree to indemnify and hold harmless, the Department of State and AID for loss or damage occurring in pouch transmission:

(1) Grantees and their employees are authorized use of the pouch for transmission and receipt of up to a maximum of two pounds per shipment of correspondence and documents needed in the administration of assistance programs.

(2) U.S. citizen employees are authorized use of the pouch for personal mail up to a maximum of one pound per shipment (but see (a)(3) below).

(3) Merchandise, parcels, magazines, or newspapers are not considered to be personal mail for purposes of this standard provision and are not authorized to be sent or received by pouch.

(4) Official and personal mail pursuant to (a)(1) and (2) above sent by pouch should be addressed as follows:

Name of individual or organization (followed by
letter symbol "G")
Name of post (USAID/_____))
Agency for International Development
Washington, D.C. 20523

(5) Mail sent via the diplomatic pouch may not be in violation of U.S. Postal laws and may not contain material ineligible for pouch transmission.

(6) AID grantee personnel are not authorized use of military postal facilities (APO/FPO). This is an Adjutant General's decision based on existing laws and regulations governing military postal facilities and is being enforced worldwide. Posts having access to APO/FPO facilities and using such for diplomatic pouch dispatch, may, however, accept the grantee's official and personal mail for pouch, provided of course, adequate postage is affixed.

(b) The grantee shall be responsible for advising its employees of this authorization, these guidelines, and limitations on use of pouch facilities.

X
64

(c) Specific additional guidance on grantee use of pouch facilities in accordance with this standard provision is available from the Post Communication Center at the Embassy or AID Mission.

(END OF STANDARD PROVISION)

CONVERSION OF UNITED STATES DOLLARS TO LOCAL CURRENCY (NOVEMBER 1985)

(This provision is applicable when activities under the grant will take place outside of the United States.)

Upon arrival in the Cooperating Country, and from time to time as appropriate, the grantee's chief of party shall consult with the Mission Director who shall provide, in writing, the procedure the grantee and its employees shall follow in the conversion of United States dollars to local currency. This may include, but is not limited to, the conversion of currency through the cognizant United States Disbursing Officer or Mission Controller, as appropriate.

(END OF STANDARD PROVISION)

rb