

USAID Grant Agreement No. 497-018

STRATEGIC OBJECTIVE GRANT AGREEMENT  
BETWEEN  
THE GOVERNMENT OF THE UNITED STATES OF AMERICA  
AND  
THE GOVERNMENT OF THE REPUBLIC OF INDONESIA  
TO  
SUPPORT  
IMPROVED QUALITY OF DECENTRALIZED  
BASIC EDUCATION  
IN  
INDONESIA

Dated: August 30, 2004

# Strategic Objective Grant Agreement

## Table of Contents

Article 1: Purpose.

Article 2: Strategic Objective and Results.

Section 2.1. The Strategic Objective.

Section 2.2. Results.

Section 2.3. Annex 1, Amplified Description.

Article 3: Contributions of the Parties.

Section 3.1. USAID Contribution.

Section 3.2. Grantee Contribution.

Article 4: Completion Date.

Article 5: Conditions Precedent to Disbursement.

Section 5.1. First Disbursement.

Section 5.2. Additional Disbursement.

Section 5.3. Notification.

Section 5.4. Terminal Dates for Conditions Precedent

Article 6: Special Covenants.

Article 7: Miscellaneous.

Section 7.1. Communications.

Section 7.2. Representatives.

Section 7.3. Standard Provisions Annex.

Section 7.4. Language of Agreement.

## STRATEGIC OBJECTIVE GRANT AGREEMENT

Dated: August 30, 2004

Between

The Government of the United States of America, acting through the United States Agency for International Development ("USAID")

and

The Government of the Republic of Indonesia, acting through the Coordinating Ministry of People's Welfare (hereinafter referred to as the "Grantee")

**WHEREAS**, the Grantee and USAID (the "Parties") hereby express their commitment to support the improved quality of decentralized basic education in Indonesia as described herein;

**NOW, THEREFORE**, the Parties hereby agree as follows:

**Article 1:** Purpose.

The purpose of this Strategic Objective Grant Agreement ("Agreement") is to set out the understanding of the Parties named above about the Strategic Objective described below.

**Article 2:** Strategic Objective and Results.

Section 2.1. Strategic Objective. The Strategic Objective ("Objective") is to support the improved quality of decentralized basic education in Indonesia.

Section 2.2. Results. In order to achieve this Objective, the Parties agree to work together to strengthen the decentralized management and governance of schools, improve the quality of teaching and learning, and increase the relevance of junior secondary and non-formal education to work and life skills for youth in Indonesia, (the "Results") as described in Annex 1. Within the limits of the definition of the Objective in Section 2.1, this Section 2.2 may only be changed by written agreement of the authorized representatives of the Parties with formal amendment to the Agreement.

Section 2.3. Annex 1, Amplified Program Description. Annex 1, attached, amplifies the above Objective and Results. Annex 1 may be changed by written agreement of the authorized representatives of the Parties without formal amendment of this Agreement.

**Article 3:** Contributions of the Parties.

Section 3.1. USAID Contribution.

(a) The Grant. To help achieve the Objective set forth in this Agreement, USAID, pursuant to the Foreign Assistance Act of 1961, as amended, and in accordance with the budget contained in Annex 1, hereby grants to the Grantee under the terms of the Agreement up to Nineteen Million United States ("U.S.") Dollars (\$19,000,000) (the "Grant").

(b) Total Estimated USAID Contribution. USAID's total estimated contribution to achievement of the Objective will be One Hundred Thirty Three Million U.S. Dollars (\$133,000,000), which will be provided in increments. Subsequent increments will be subject to the availability of funds to USAID for this purpose and the mutual agreement of the Parties, at the time of each subsequent increment, to proceed.

(c) If at any time USAID determines that its contribution under Section 3.1(a) exceeds the amount which reasonably can be committed for achieving the Objective or Results or activities during the current or next U.S. fiscal year, USAID may, upon written notice to the Grantee, withdraw the excess amount, thereby reducing the amount of the Grant as set forth in Section 3.1(a). Actions taken pursuant to this subsection will not revise USAID's total estimated contribution set forth in 3.1(b). USAID will report at least annually in a format to be agreed upon by the Parties on its contribution.

Section 3.2. Grantee Contribution.

(a) The Grantee agrees to provide or cause to be provided all funds, in addition to those provided by USAID and any other donor identified in Annex 1, and all other resources required to complete, on or before the Completion Date, all activities necessary to achieve the Results.

(b) The Grantee's Total Estimated Planned Contributions to the Objective will not be less than the equivalent of Twenty-Five (25%) of USAID's Total Estimated Contribution in section 3.1(b) that is determined by USAID to fund activities that involve substantial Government of Indonesia benefit or involvement. No Government of Indonesia budgetary contributions are required. The Government of Indonesia will meet this requirement through attributions derived from existing nationally-implemented sectoral programs and contributions on an in-kind basis only. Acceptable attributions may include: capital goods, counterpart personnel, services and studies that support attainment of the Objective, rental or purchase of materials for operations or construction, administrative costs, land contributed by the Government of Indonesia to attainment of the Objective, and costs related to the above items, subject to availability of funds to the Grantee for this purpose, the mutual agreement of the Parties, at the time of each subsequent increment, to proceed, and USAID providing the total estimated amount in Section 3.1(b). The Grantee will report at least annually in a format to be agreed upon by the Parties on its cash and "in-kind" contributions.

**Article 4: Completion Date.**

(a) The Completion Date, which is September 30, 2009, or such other date as the two Parties may agree to in writing, is the date by which the two Parties estimate that all the activities necessary to achieve the Objective and Results will be completed.

(b) Except as USAID may otherwise agree to in writing, USAID will not issue or approve documentation which would authorize disbursement of the Grant for services performed or goods furnished after the Completion Date.

(c) Requests for disbursement, accompanied by necessary supporting documentation prescribed in Implementation Letters, are to be received by USAID no later than nine (9) months following the Completion Date, or such other period as USAID agrees to in writing before or after such period. After such period USAID, at any time or times, may give notice in writing to the Grantee and reduce the amount of the Grant by all or any part thereof for which requests for disbursement, accompanied by necessary supporting documentation prescribed in Implementation Letters, were not received before the expiration of such period.

**Article 5: Conditions Precedent to Disbursement.**

Section 5.1. First Disbursement. Prior to the first disbursement under the Grant, or to the issuance by USAID of documentation pursuant to which disbursement will be made, the Grantee will, except as the Parties may otherwise agree in writing, furnish to USAID in form and substance satisfactory to USAID, a statement in the name of the person holding or acting in the office of the Grantee specified in Section 7.2, and of any additional representatives, together with a specimen signature of each person specified in such statement.

Section 5.2. Notification. USAID will promptly notify the Grantee when USAID has determined that a condition precedent has been met.

Section 5.3. Terminal Dates for Conditions Precedent. The terminal date for meeting the conditions specified in Section 5.1 is 30 days from the date of this Agreement or such later date as USAID may agree to in writing before or after the above terminal date. If the conditions precedent in Section 5.1, have not been met by the above terminal date, USAID, at any time, may terminate this Agreement by written notice to the Grantee.

**Article 6: Special Covenants**

Section 6.1. Standard Provisions, Section F.1, F.2, and F.3 of Annex 2. After a thorough review, the Parties have determined that the activities proposed for funding under this Agreement do not in any way relate to the terms of Standard Provisions F.1, F.2, and F.3 of Annex 2. Should potential issues arise in the future under this Agreement, the Parties agree to work together to resolve any concerns

related to Standard Provisions F.1, F.2, and F.3 of Annex 2.

Section 6.2. Implementation. In support of the Objectives of this Agreement, the Parties may conclude implementation arrangements as fully described in Section E.4, Coordination, of Annex 1 and Section A.2, Implementation Letters, of Annex 2.

Section 6.3. Contractors, Grantees and Other Organizations. Funding under this Agreement may be provided directly by USAID in the form of contracts, grants, cooperative agreements and other mechanisms to international and national private voluntary organizations, commercial entities, universities, international and national non-governmental organizations and other U.S. Government agencies that work as USAID partners to implement the Objective through the Amplified Program Description in Annex 1.

Section 6.4. Visas and Assignment Approvals. The Grantee, in conjunction with appropriate Government of the Republic of Indonesia ministries and offices, will ensure the prompt and timely approval and issuance of visas and assignment approvals for the employees, consultants, and experts of any contractor, grantee or other organization carrying out activities financed by USAID under this Agreement through an established procedure agreed to in writing by the Grantee and USAID.

Section 6.5. Taxation Exemption. Any contractor, grantee or other organization and their employees, except citizens of Indonesia, carrying out activities financed by USAID under this Agreement shall be exempt from taxation, including but not limited to custom duties, tariffs, import taxes, income tax, and value added taxes on income, equipment and property financed, leased or imported with USAID funding under this Agreement, as fully described in Section B.4 of the Standard Provisions in Annex 1, through an established procedure agreed to in writing by the Grantee and USAID.

Commodities acquired by USAID and its implementing partners (including contractors, grantees, sub-contractors and sub-grantees) that are financed under this Agreement shall be exempt from taxation including value-added taxes (VAT) and custom duties imposed by Indonesia. The Government of Indonesia shall provide reimbursement in a timely fashion to USAID or its partners for all taxes including VAT and custom duties that are imposed or it may be subject to a U.S. Congressional mandated withholding penalty of future U.S. foreign assistance. Commodities include materials, articles, supplies, goods and equipment.

In the event of a conflict, Section B.4 of the Standard Provisions is the controlling provision of the Agreement.

**Article 7: Miscellaneous.**

Section 7.1. Communications. Any notice, request, document, or other communication submitted by either Party to the other under this Agreement will be in writing or by telegram, telefax or cable, and will be deemed duly given or sent when delivered to such Party at the following address:

To USAID:

Mail Address:

United States Agency for International Development  
American Embassy  
Jl. Medan Merdeka Selatan 3 – 5  
Jakarta 10110, Indonesia  
Attention: Mission Director

Telefax: (62-21) 380-6694  
Tel: (62-21) 3435-9000

To the Grantee:

Mail Address:

Coordinating Ministry for People's Welfare  
Jl. Medan Merdeka Barat 3  
Jakarta 10110, Indonesia  
Attention: Deputy for Education and State Administration

Telefax: (62-21) 345-3675  
Tel: (62-21) 345-3675

All such communications will be in English, unless the Parties otherwise agree in writing. Other addresses may be substituted for the above upon the giving of notice.

Section 7.2. Representatives. For all purposes relevant to this Agreement, the Grantee will be represented by the individual holding or acting in the Office of Deputy for Education and State Administration, and USAID will be represented by the individual holding or acting in the Office of the Mission Director, each of whom, by written notice, may designate additional representatives for all purposes and any conditions governing actions of additional representatives other than signing formal amendments to the Agreement or exercising the power under Sections 2.2 or 2.3 to revise the Results or Annex 1. The names of the representatives of the Grantee, with specimen signatures, will be provided to USAID, which may accept as duly authorized any instrument signed by such representatives in implementation of this Agreement, until receipt of written notice of revocation of their authority.

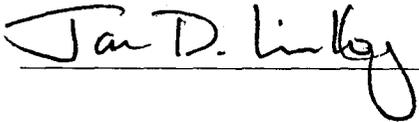
Section 7.3. Standard Provisions Annex. A "Standard Provisions Annex" (Annex 2) is attached to and forms part of this Agreement.

IN WITNESS WHEREOF, the United States of America and the Grantee, each acting through its duly authorized representatives, have caused this Agreement to be signed in their names and delivered as of the day and year first above written.

GOVERNMENT OF  
THE UNITED STATES OF  
AMERICA

GOVERNMENT OF  
THE REPUBLIC OF INDONESIA

By:



Name: Jon D. Lindborg

Title: Acting USAID Mission  
Director to Indonesia

By:



Name: Dr. Jahja Umar

Title: Deputy for Education and  
State Administration, Coordinating  
Ministry for People's Welfare

WITNESSED

By:



Name: Ralph L. Boyce

Title: U.S. Ambassador to  
Indonesia

By:



Name: A. Malik Fajar

Title: Coordinating Minister for  
People's Welfare

## SOAG Annex 1

### Amplified Description

#### A. Purpose

This USAID program is designed to support government and non-governmental actions and priorities to strengthen the management and quality of basic education services in Indonesia. This Annex provides an amplified description of the program and contains an illustrative list of activities. Nothing in this Annex shall be construed as amending any of the definitions or terms of the Strategic Objective Grant Agreement between the Government of the Republic of Indonesia (GOI) and the Government of the United States of America to Support Improved Quality of Decentralized Basic Education in Indonesia (the Agreement).

#### B. Background

The new USAID strategy for 2004 to 2009 is organized around four major program areas: (1) improved quality of decentralized basic education, (2) higher quality basic human services utilized, (3) effective democratic and decentralized governance, and (4) effective systems of economic governance to increase trade and investment and drive new job creation.

The quality of basic education in public and private schools and madrasahs throughout Indonesia is often poor. As a result, many Indonesian children are being deprived of the skills and knowledge required to participate in a global economy. Decentralized education management is mandated but often inadequate. Many teachers do not yet have sufficient expertise in key subject areas. Approximately half the children who start primary school and madrasahs do not complete junior secondary level. With rising drop out rates, Indonesia is unable to meet the demand for nonformal education services.

The USAID/Indonesia program will focus on achieving three results:

- More Effective Decentralized Education Management and Governance
- Improved Quality of Teaching and Learning; and
- Increased Relevance of Junior Secondary school and madrasah and Non-formal Education to Work and Life Skills.

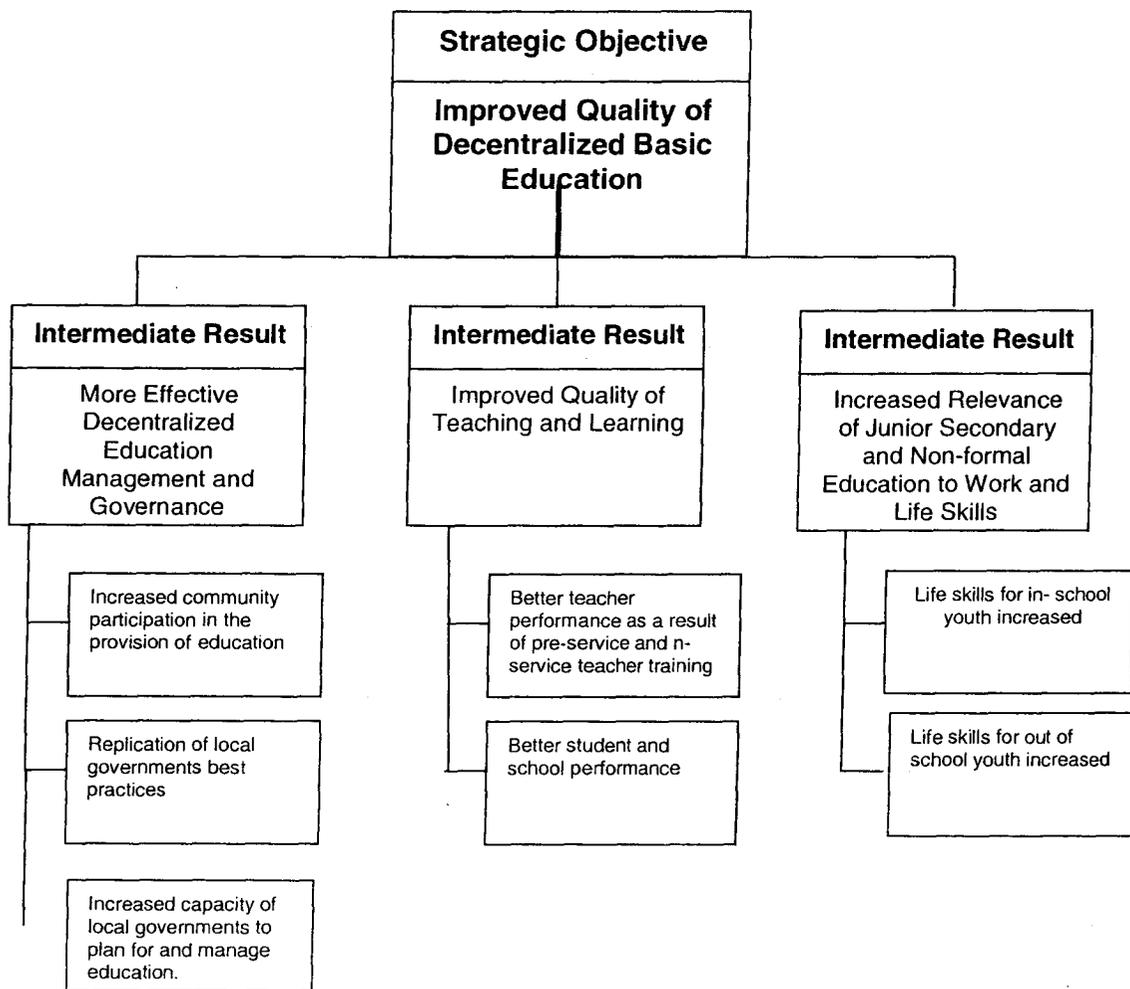
The program will work primarily at the local level, seek to leverage the assistance of other donors, and mobilize private sector support for basic education in Indonesia. The program will also support capacity building at the national, provincial, and district level to support the achievement of the Objective.

## C. Program Description

In line with the GOI's priorities and based on long-standing cooperation in key sectors, USAID's program is designed to achieve the following priorities:

- a) More Effective Decentralized Education Management and Governance;
- b) Improved Quality of Teaching and Learning; and
- c) Increased Relevance of Junior Secondary and Non-formal Education to Work and Life Skills.

### C.1. Illustrative Results Framework



### C.2. IR 1: More Effective Decentralized Education Management and Governance

Interventions will seek to increase the capacity of local governments to plan for and manage education services and increase community participation in the provision of education services, replicating best practices in other districts. During the period covered under this Agreement, illustrative activities may include but not be limited to:

- Technical assistance, training, fellowships and other support to responsible government units at district and sub-district levels to increase effectiveness and transparency in managing and monitoring the education system including: producing education development plans; managing education personnel, school maintenance, and supplies; monitoring and evaluation; and rational allocation of education funding.
- Technical assistance, training, fellowships and other support to communities, responsible government units, education councils, and school committees to increase community participation in and demand for quality education services.

### **C.3. IR 2: Improved Quality of Teaching and Learning.**

The major question facing the GOI and all donors now is how to improve the quality of the education system. These interventions are intended to improve teaching performance in the classroom and elevate the quality of student learning that occurs. During the period covered under this Agreement, illustrative activities may include but not be limited to:

- Technical assistance and training to support in-service training for teachers focusing on Indonesian, Math, Science, and Civics and ensure that primary teachers across the public/private school and madrasah spectrum are prepared to teach the basic subjects using modern teaching and learning techniques.
- Technical assistance and training, and other support to kindergartens, schools and madrasah, and communities to improve student performance, particularly in Basic Literacy, Math, Science, English and Civics, through the provision of better instructional and learning materials, equipment, practices, and multi-media programming and including a focus on early childhood materials and supplies.
- Technical assistance, training, fellowships and other support to work with a targeted group of teacher training institutions to improve pre-service training and build better linkages with schools.

### **C.4. IR 3: Increased Relevance of Junior Secondary and Non-formal Education to Work and Life Skills**

Interventions will enable in-school and out-of-school youth to better compete for jobs and develop the skills needed to contribute to Indonesia's development by ensuring that basic education in school directly relates to the life and work skills needed upon entering the workforce. During the period covered under this Agreement, illustrative activities may include but not be limited to:

- Technical assistance, training, and other support to increase life skills for junior high school level youth by supporting: the participatory development of local content curriculum, English language studies, and employment preparation and awareness programs that encourage positive attitudes about work and entrepreneurship.
- Technical assistance, training, and other support to increase life skills for out-of-school junior high school level youth by supporting community learning centers, local NGO efforts, and the development of equivalence materials and curricula, including collaborative work with the Government of Indonesia on Paket B.

## **D. Funding**

### **D.1. Funds Supporting the Government of Indonesia Program**

Subject to the availability of funds to USAID for this purpose, funding under this Agreement may be provided directly by USAID, in the form of contracts, grants, cooperative agreements and other types of agreements, to international private voluntary organizations, commercial entities, universities, non-governmental organizations, and other U.S. Government agencies that work as USAID partners for the following purposes, including but not limited to:

- Technical Assistance
- Training
- Fellowships
- Research
- Supplies and Commodities
- Assessments, performance monitoring and evaluations
- Audits
- Other purposes as deemed appropriate

### **D.2. Financial Plan**

The financial plan for the Program is set forth in the attached table (Illustrative SOAG Budget). Changes may be made to the financial plan by representatives of the Parties without formal amendment to the Agreement, if such changes do not cause (1) USAID's contribution to exceed the amount specified in Section 3.1 of the Agreement, or (2) the Grantee's contribution to be less than the amount specified in Section 3.2 of the Agreement.

### **D.3. Other USAID Program Support Obligated Outside this Agreement**

In addition to the amount that may be made available under this Agreement, USAID will also contribute additional technical and program support for activities that may be obligated outside of this Strategic Objective Agreement. All funding provided by USAID not obligated in this Agreement for assistance to achieve the Strategic Objective and Results shall be treated as assistance provided to Indonesia under the Economic and Technical Cooperation Agreement between the Government of the

United States of America and the Government of the Republic of Indonesia on October 16, 1950 and its related annex. Funding may be provided by USAID/Washington or USAID/Indonesia through other financial mechanisms.

## **E. Roles and Responsibilities of the Parties**

USAID, the Grantee, international private voluntary organizations, commercial entities, universities, non-governmental organizations, and other U.S. Government agencies will achieve the Strategic Objective together in partnership with the citizens of Indonesia.

### **E.1 The Grantee**

The Grantee will be responsible for facilitating the necessary administrative support for the provision of technical assistance under the Strategic Objective program. The Coordinating Ministry for People's Welfare shall act as the executing agency of the GOI. The Coordinating Ministry for People's Welfare will liaise with other GOI ministries and agencies to ensure that the GOI fulfills its responsibility to facilitate visa and assignment approvals; fee, tariff and tax exemptions; and customs clearances in accordance with this Agreement.

### **E.2 USAID**

USAID will solicit, manage, finance and take overall responsibility for goods and technical services to be procured which contribute to the Strategic Objective of this Agreement. USAID's Basic Education Strategic Objective Team will be responsible for the day-to-day, overall management of the Strategic Objective program and for monitoring progress toward achievement of the Strategic Objective. All recipients of assistance under this Agreement will be selected and funded by USAID in accordance with United States Government rules and regulations. USAID will approve the scopes of work and proposals from the implementing partners. USAID will monitor and supervise all financial and implementation actions of the program.

### **E.3 Implementing Partners**

USAID may use various mechanisms, such as contracts, grants, cooperative agreements, with international private voluntary organization, commercial entities, international and national universities, international and national non-governmental organizations and other U.S. Government agencies in implementing activities under this Strategic Objective with funding provided by USAID. These implementing partners will prepare performance monitoring reports in accordance with the terms of their respective agreements.

### **E.4 Coordination**

USAID will coordinate overall program implementation with the Coordinating Ministry of People's Welfare. Within this framework and given the cross-cutting and integrated nature of the assistance to be provided under this Agreement, the Parties will collaborate closely with the Ministry of Education, the Ministry of Religious

Affairs, Bappenas, and other relevant GOI ministries and institutions on specific areas of assistance. The Parties agree to establish appropriate working-level implementation mechanisms to achieve the Objective.

USAID implementing partners may enter into working groups and memoranda of understanding with appropriate implementing GOI agencies to facilitate program implementation provided such actions do not contravene the terms and conditions of this Agreement nor any contract, grant, cooperative agreement or other type of agreement entered into by USAID and its partners to implement the Objective. USAID and the Grantee acknowledge that such arrangements do not constitute a legally binding commitment on the Governments of the Republic of Indonesia nor on the Government of the United States.

#### E.5 Monitoring and Evaluation

USAID and the Grantee agree to establish a program of reviewing, evaluating and reporting on progress made and results achieved as part of this Agreement. Except as both Parties may otherwise agree in writing, the program will include during the implementation of this Agreement the following: 1) submission of an annual performance report by USAID to the Grantee, in a mutually agreed upon format, on the activities which are addressing the achievement of the overall objective; 2) review of progress on a frequent and continual basis through site visits and other monitoring mechanisms by USAID and the implementing partners.

**Improved Quality of Decentralized Basic Education in Indonesia, SO-18**

FY 2004 - FY 2008  
Budget Summary (August 2004)

USAID			
Components	Obligation under this SOAG FY 2004  (A)	Future Obligation Under SOAG Amendments FY 2005- FY 2008*  (B)	Life of Strategic Objective Activities Funding Under this SOAG  (C) = (A) + (B)
<b>1. Program Implementation</b> Activities: <ul style="list-style-type: none"> <li>* Managing Basic Education</li> <li>* More Effective Decentralized Education Mgt. in Indonesia</li> <li>* Improved Quality of Teaching and Learning</li> <li>* Greater Education Relevance to Life &amp; Employment Skills for Formal and Non-Formal Junior High School Programs.</li> </ul>	17,824,919	108,451,081	126,276,000
<b>2. Administrative and Program Support</b> <ul style="list-style-type: none"> <li>* Evaluation</li> <li>* Staffing &amp; Logistics for Administrative Support</li> </ul>	975,000	5,749,000	6,724,000
<b>Strategic Objective Agreement Total</b>	18,799,919	114,200,081	133,000,000

Notes:

\* Subject to the availability of funds

The GOI has agreed, pursuant to Section 3.2, to provide contribution on an in-kind basis and report on that contributions on an annual basis

USAID anticipates providing up to \$24 million in additional support for this SOAG through the U.S. Embassy Public Affairs Section in FY 2004-2008.

**Annex 2**  
**Standard Provisions**

Table of Contents

Article A: Definitions and Implementation Letters.

- Section A.1. Definitions.
- Section A.2. Implementation Letters.

Article B: General Covenants.

- Section B.1. Consultation.
- Section B.2. Execution of Agreement.
- Section B.3. Utilization of Goods and Services.
- Section B.4. Taxation.
- Section B.5. Reports and Information, Agreement Books and Records, Audits, and Inspections
- Section B.6. Completeness of Information.
- Section B.7. Other Payments.
- Section B.8. Information and Marking.

Article C: Procurement Provisions.

- Section C.1. Source and Origin.
- Section C.2. Eligibility Date.
- Section C.3. Plans, Specifications and Contracts.
- Section C.4. Reasonable Price.
- Section C.5. Notification to Potential Suppliers.
- Section C.6. Shipping.
- Section C.7. Insurance.
- Section C.8. U.S. Government-Owned Excess Property.

Article D: Disbursements.

- Section D.1. Disbursement for Foreign Exchange Costs.
- Section D.2. Disbursement for Local Currency Costs.
- Section D.3. Other Forms of Disbursement.
- Section D.4. Rate of Exchange.

Article E: Termination; Remedies.

- Section E.1. Suspension and Termination.
- Section E.2. Refunds.
- Section E.3. Non-waiver of Remedies.
- Section E.4. Assignment.

Article F: Miscellaneous.

- Section F.1. Investment Promotion.

Section F.2. Prohibition on Assistance to Drug Traffickers.  
Section F.3. Workers' Rights.

## Standard Provisions

### **Article A:** Definitions and Implementation Letters.

Section A.1. Definitions. As used in this Annex, the "Agreement" refers to the Strategic Objective Grant Agreement to which this Annex is attached and of which this Annex forms a part. Terms used in this Annex have the same meaning or reference as in the Agreement.

Section A.2. Implementation Letters. To assist the Grantee in the implementation of the Agreement, USAID, from time to time, will issue Implementation Letters that will furnish additional information about matters stated in this Agreement. The Parties may also issue jointly agreed-upon Implementation Letters to confirm and record their mutual understanding on aspects of the implementation of this Agreement. Implementation Letters can also be issued to record revisions or exceptions which are permitted by the Agreement.

### **Article B:** General Covenants.

Section B.1. Consultation. The Parties will cooperate to assure that the Objective and Results of this Agreement will be accomplished. To this end, the Parties, at the request of either, will exchange views on progress towards the Objective and Results, the performance of obligations under this Agreement, the performance of any consultants, contractors, or suppliers engaged under the Agreement, and other matters relating to the Agreement.

Section B.2. Execution of Agreement. The Grantee will:

(a) Carry out the Agreement or cause it to be carried out with due diligence and efficiency, in conformity with sound technical, financial, and management practices, and in conformity with those documents, plans, specifications, contracts, schedules, or other arrangements, and with any modifications therein, approved by USAID pursuant to this Agreement; and

(b) Provide qualified and experienced management for, and train such staff as may be appropriate for the maintenance and operation of activities financed under the Agreement, and, as applicable for continuing activities, cause those activities to be operated and maintained in such manner as to assure the continuing and successful achievement of the Objective and Results of the Agreement.

Section B.3. Utilization of Goods and Services.

(a) Any goods and services financed under this Agreement, unless otherwise agreed in writing by USAID, will be devoted to the Agreement until the completion or termination of the Agreement, and thereafter (as well as during any period of suspension of the Agreement) will be used to further the Objective of the Agreement and as USAID may direct in Implementation Letters.

(b) Goods or services financed under this Agreement, except as USAID may otherwise agree in writing, will not be used to promote or assist a foreign aid project or activity associated with or financed by a country not included in USAID Geographic Code 935 as in effect at the time of such use.

#### Section B.4. Taxation.

(a) General Exemption. The Agreement and the assistance thereunder are free from any taxes imposed under laws in effect in the territory of the Grantee.

(b) Except as provided otherwise in this provision, the General Exemption in subsection (a) applies to, but is not limited to (1) any activity, contract, grant or other implementing agreement financed by USAID under this Agreement; (2) any transaction or supplies, equipment, materials, property or other goods (hereinafter collectively "goods") under (1) above; (3) any contractor, grantee, or other organization carrying out activities financed by USAID under this Agreement; (4) any employee of such organizations; and (5) any individual contractor or grantee carrying out activities financed by USAID under this Agreement.

(c) Except as provided otherwise in this provision, the General Exemption in subsection (a) applies to, but is not limited to, the following taxes:

(1) Exemption 1. Customs duties, tariffs, import taxes, or other levies on the importation, use and re-exportation of goods or the personal belongings and effects (including personally-owned automobiles) for the personal use of non-national individuals or their family members. Exemption 1 includes, but is not limited to, all charges based on the value of such imported goods, but does not include service charges directly related to services performed to transfer goods or cargo.

(2) Exemption 2. Taxes on the income, profits or property of all (i) non-national organizations of any type, (ii) non-national employees of national and non-national organizations, or (iii) non-national individual contractors and grantees. Exemption 2 includes income and social security taxes of all types and all taxes on the property, personal or real, owned by such non-national organizations or persons. The term "national" refers to organizations established under the laws of the Grantee and citizens of the Grantee, other than permanent resident aliens in the United States.

(3) Exemption 3. Taxes levied on the last transaction for the purchase of goods or services financed by USAID under this Agreement, including sales taxes, value-added taxes (VAT), or taxes on purchases or rentals of real or personal property. The term "last transaction" refers to the last transaction by which the goods or services were purchased for use in the activities financed by USAID under this Agreement.

(d) If a tax has been levied and paid contrary to the provisions of an exemption, USAID may, in its discretion, (1) require the Grantee to refund to USAID or to others as USAID may direct the amount of such tax with funds other than those provided under the Agreement, or (2) offset the amount of such tax from amounts to be disbursed under this or any other agreement between the Parties.

(e) In the event of a disagreement about the application of an exemption, the Parties agree to promptly meet and resolve such matters, guided by the principle that the assistance furnished by USAID is free from direct taxation, so that all of the assistance furnished by USAID will contribute directly to the economic development of the country of the Grantee.

#### Section B.5. Reports and Information, Agreement Books and Records, Audits, and Inspections.

(a) Reports and Information. The Grantee shall furnish USAID accounting records and such other information and reports relating to the Agreement as USAID may reasonably request.

(b) Grantee Agreement Books and Records. If USAID funds are expended directly by the Grantee, it shall maintain accounting books, records, documents and other evidence relating to the Agreement, adequate to show, without limitation, all costs incurred by the Grantee under the Agreement, the receipt and use of goods and services acquired under the Agreement by the Grantee, agreed-upon cost sharing requirements, the nature and extent of solicitations of prospective suppliers of goods and services acquired by the Grantee, the basis of award of Grantee contracts and orders, and the overall progress of the Agreement toward completion ("Agreement books and records"). The Grantee shall maintain Agreement books and records in accordance with generally accepted accounting principles prevailing in the United States, or at the Grantee's option, with approval by USAID, other accounting principles, such as those (1) prescribed by the International Accounting Standards Committee (an affiliate of the International Federation of Accountants) or (2) prevailing in the country of the Grantee. Agreement books and records shall be maintained for at least three years after the date of last disbursement by USAID or for such longer period, if any, required to resolve any litigation, claims or audit findings.

(c) Grantee Audit. If \$300,000 or more of USAID funds are expended directly by the Grantee in its fiscal year under the Agreement, the Grantee shall have financial audits made of the expenditures in accordance with the following terms, except as the Parties may otherwise agree in writing:

(1) With USAID approval, the Grantee shall use its Supreme Audit Institution or select an independent auditor in accordance with the "Guidelines for Financial Audits Contracted by Foreign Recipients" issued by the USAID Inspector General ("Guidelines"), and the audits shall be performed in accordance with the "Guidelines"; and

(2) The audit shall determine whether the receipt and expenditure of the funds provided under the Agreement are presented in accordance with generally accepted accounting principles agreed to in section (b) above and whether the Grantee has complied with the terms of the Agreement. Each audit shall be completed no later than nine months after the close of the Grantee's year under audit.

(d) Sub-recipient Audits. The Grantee, except as the Parties may otherwise agree in writing, shall submit to USAID, in form and substance satisfactory to USAID, a plan for the audit of the expenditures of "covered" sub-recipients, as defined below, that receive funds under this Agreement pursuant to a direct contract or agreement with the Grantee.

(1) A "covered" sub-recipient is one who expends \$300,000 or more in its fiscal year in "USAID awards" (i.e., as recipients of USAID cost reimbursable contracts, grants or cooperative agreements and as sub-recipients under USAID strategic objective and other grant agreements with foreign governments).

(2) The plan shall describe the methodology to be used by the Grantee to satisfy its audit responsibilities for covered sub-recipients. The Grantee may satisfy such audit responsibilities by relying on independent audits of the sub-recipients; expanding the scope of the independent financial audit of the Grantee to encompass testing of sub-recipients' accounts; or a combination of these procedures.

(3) The plan shall identify the funds made available to covered sub-recipients that will be covered by audits conducted in accordance with other audit provisions that would satisfy the Grantee's audit responsibilities. (A nonprofit organization organized in the United States is required to arrange for its own audits. A for-profit contractor organized in the United States that has a direct contract with USAID is audited by the cognizant U.S. Government Agency. A private voluntary organization organized outside the United States with a direct grant from USAID is required to arrange for its own audits. A host-country contractor should be audited by the Grantee's auditing agency.)

(4) The Grantee shall ensure that covered sub-recipients under direct contracts or agreements with the Grantee take appropriate and timely corrective actions; consider whether sub-recipients' audits necessitate adjustment of its own records; and require each such sub-recipient to permit independent auditors to have access to records and financial statements as necessary.

(e) Audit Reports. The Grantee shall furnish or cause to be furnished to USAID an audit report for each audit arranged for by the Grantee in accordance with this Section within 30 days after completion of the audit and no later than nine months after the end of the period under audit.

(f) Other Covered Sub-recipients. For "covered" sub-recipients who receive

funds under the Agreement pursuant to direct contracts or agreements with USAID, USAID will include appropriate audit requirements in such contracts or agreements and will, on behalf of the Grantee, conduct the follow-up activities with regard to the audit reports furnished pursuant to such requirements.

(g) Cost of Audits. Subject to USAID approval in writing, costs of audits performed in accordance with the terms of this Section may be charged to the Agreement.

(h) Audit by USAID. USAID retains the right to perform the audits required under this Agreement on behalf of the Grantee by utilizing funds under the Agreement or other resources available to USAID for this purpose, conduct a financial review, or otherwise ensure accountability of organizations expending USAID funds regardless of the audit requirement.

(i) Opportunity to Audit or Inspect. The Grantee shall afford authorized representatives of USAID the opportunity at all reasonable times to audit or inspect activities financed under the Agreement, the utilization of goods and services financed by USAID, and books, records and other documents relating to the Agreement.

(j) Sub-recipient Books and Records. The Grantee will incorporate paragraphs (a), (b), (d), (e), (g), (h) and (i) of this provision into all sub-agreements with non-U.S. organizations which meet the \$300,000 threshold of paragraph (c) of this provision. Sub-agreements with non-U.S. organizations, which do not meet the \$300,000 threshold, shall, at a minimum, incorporate paragraphs (h) and (i) of this provision. Sub-agreements with U.S. organizations shall state that the U.S. organization is subject to the audit requirements contained in OMB Circular A-133.

Section B.6. Completeness of Information. The Grantee confirms:

(a) that the facts and circumstances of which it has informed USAID, or caused USAID to be informed, in the course of reaching agreement with USAID on the Agreement, are accurate and complete, and include all facts and circumstances that might materially affect the Agreement and the discharge of responsibilities under this Agreement; and

(b) that it will inform USAID in timely fashion of any subsequent facts and circumstances that might materially affect, or that it is reasonable to believe might so affect, the Agreement or the discharge of responsibilities under this Agreement.

Section B.7. Other Payments. Grantee affirms that no payments have been or will be received by any official of the Grantee in connection with the procurement of goods or services financed under the Agreement, except fees, taxes, or similar payments legally established in the country of the Grantee.

Section B.8. Information and Marking. The Grantee will give appropriate publicity to the Agreement as a program to which the United States has contributed, identify Agreement activity sites, and mark goods financed by USAID, as described in Implementation Letters.

**Article C: Procurement Provisions.**

Section C.1. Source and Origin.

C.1. Source and Origin.

(a) Foreign Exchange Costs. Disbursements for Foreign Exchange Costs will be used exclusively to finance the costs of goods and services required for the Agreement having, with respect to goods, their source and origin and, with respect to the suppliers of goods and services, their nationality, in the United States (USAID Geographic Code 000), except as USAID may otherwise agree in writing.

(b) Local Currency Costs. Disbursements for Local Currency Costs will be used exclusively to finance the costs of goods and services required for the Agreement which meet the requirements of USAID's local procurement policy which will be provided in an Implementation Letter.

(c) The source and origin of ocean and air shipping will be deemed to be the ocean vessel's or aircraft's country of registry at the time of shipment.

(d) Provisions concerning restricted and ineligible goods and services may be provided in an Implementation Letter.

(e) Transportation by air of property or persons financed under this agreement will be on carriers holding United States certification, to the extent service by such carriers is available under the Fly America Act. This requirement may be further described by USAID in Implementation Letters.

Section C.2. Eligibility Date. No goods or services may be financed under the Agreement which are procured pursuant to orders or contracts firmly placed or entered into prior to the date of this Agreement, except as the Parties may otherwise agree in writing.

Section C.3. Plans, Specifications and Contracts. In order for there to be mutual agreement on the following matters, and except as the Parties may otherwise agree in writing:

(a) The Grantee will furnish to USAID upon preparation:

(1) any plans, specifications, procurement or construction schedules, contracts, or other documentation between the Grantee and third parties, relating to goods or services to be financed under the Agreement, including documentation relating to the prequalification and selection of contractors and to the solicitation of bids and proposals.

Material modifications in such documentation will likewise be furnished USAID on preparation; and

(2) such documentation will also be furnished to USAID, upon preparation, relating to any goods or services, which, though not financed under the Agreement, are deemed by USAID to be of major importance to the Agreement. Aspects of the Agreement involving matters under this subsection (a)(2) will be identified in Implementation Letters.

(b) Documents related to the prequalification of contractors, and to the solicitation of bids or proposals for goods and services financed under the Agreement will be approved by USAID in writing prior to their issuance, and their terms will include United States standards and measurements;

(c) Contracts and contractors financed under the Agreement for engineering and other professional services, for construction services, and for such other services, equipment, or materials as may be specified in Implementation Letters, will be approved by USAID in writing prior to execution of the contract. Material modifications in such contracts will also be approved in writing by USAID prior to execution; and

(d) Consulting firms used by the Grantee for the Agreement but not financed under the Agreement, the scope of their services and such of their personnel assigned to activities financed under the Agreement as USAID may specify, and construction contractors used by the Grantee for the Agreement but not financed under the Agreement, shall be acceptable to USAID.

Section C.4. Reasonable Price. No more than reasonable prices will be paid for any goods or services financed, in whole or in part, under the Agreement. Such items will be procured on a fair and, to the maximum extent practicable, competitive basis.

Section C.5. Notification to Potential Suppliers. To permit all United States firms to have the opportunity to participate in furnishing goods and services to be financed under the Agreement, the Grantee will furnish USAID such information with regard thereto, and at such times, as USAID may request in Implementation Letters.

Section C.6. Transportation

(a) In addition to the requirements in Section C.1(a), costs of ocean or air transportation and related delivery services may not be financed under the Grant, if the costs are for transportation under an ocean vessel or air charter which has not received prior USAID approval.

(b) Unless USAID determines that privately owned United States-flag commercial ocean vessels are not available at fair and reasonable rates for such vessels, or otherwise agrees in writing:

(1) at least fifty percent (50%) of the gross tonnage of all goods (computed separately for dry bulk carriers, dry cargo liners and tankers) financed by USAID which may be transported on ocean vessels will be transported on privately owned United States-flag commercial vessels; and

(2) at least fifty percent (50%) of the gross freight revenue generated by all shipments financed by USAID and transported to the territory of the Grantee on dry cargo liners shall be paid to or for the benefit of privately owned United States-flag commercial vessels. Compliance with the requirements of (1) and (2) of this subsection must be achieved with respect to both any cargo transported from U.S. ports and any cargo transported from non-U.S. ports, computed separately.

#### Section C.7. Insurance.

(a) Marine insurance on goods financed by USAID which are to be transported to the territory of the Grantee may be financed as a Foreign Exchange Cost under this Agreement provided

(1) such insurance is placed at the most advantageous competitive rate;

(2) such insurance is placed in a country which is authorized under Section C.1(a); and

(3) claims thereunder are payable in U.S. dollars or any freely convertible currency unless USAID agrees otherwise in writing.

If the Grantee (or government of the Grantee), by statute, decree, rule, regulation, or practice discriminates with respect to USAID-financed procurement against any marine insurance company authorized to do business in any State of the United States, then all goods shipped to the territory of the Grantee financed by USAID hereunder shall be insured against marine risks and such insurance shall be placed in the United States with a company or companies authorized to do marine insurance business in the United States.

(b) Except as USAID may otherwise agree in writing, the Grantee will insure, or cause to be insured, goods financed under the Agreement imported for the Agreement against risks incident to their transit to the point of their use under the Agreement; such insurance will be issued on terms and conditions consistent with sound commercial practice and will insure the full value of the goods. Any indemnification received by the Grantee under such insurance will be used to replace or repair any material damage or any loss of the goods insured or will be used to reimburse the Grantee for the replacement or repair of such goods. Any such replacement will be of source and origin of countries listed in USAID Geographic Code 935 as in effect at the time of replacement and, except as the Parties may agree in writing, will be otherwise subject to the provisions of the Agreement.

Section C.8. U.S. Government-Owned Excess Property. The Grantee agrees that wherever practicable United States Government-owned excess personal property, in lieu of new items financed under the Grant, should be utilized. Funds under the Agreement may be used to finance the costs of obtaining such property.

**Article D: Disbursements.**

Section D.1. Disbursement for Foreign Exchange Costs.

(a) After satisfaction of conditions precedent, if any, the Grantee may obtain disbursements of funds under the Agreement for the Foreign Exchange Costs of goods or services required for the Agreement in accordance with its terms, by such of the following methods as may be mutually agreed upon:

(1) by submitting to USAID, with necessary supporting documentation as prescribed in Implementation Letters, (A) requests for reimbursement for such goods or services, or, (B) requests for USAID to procure commodities or services in Grantee's behalf for the Agreement; or,

(2) by requesting USAID to issue Letters of Commitment for specified amounts directly to one or more contractors or suppliers, committing USAID to pay such contractors or suppliers for such goods or services.

(b) Banking charges incurred by the Grantee in connection with Letters of Commitment will be financed under the Agreement unless the Grantee instructs USAID to the contrary. Such other charges as the Parties may agree to may also be financed under the Agreement.

Section D.2. Disbursement for Local Currency Costs.

(a) After satisfaction of conditions precedent, if any, the Grantee may obtain disbursements of funds under the Agreement for Local Currency Costs required for the Agreement in accordance with terms of this Agreement, by submitting to USAID, with necessary supporting documentation as prescribed in Implementation Letters, requests to finance such costs.

(b) The local currency needed for such disbursements may be purchased by USAID with U.S. Dollars. The U.S. Dollar equivalent of the local currency made available hereunder will be the amount of U.S. Dollars required by USAID to obtain the local currency.

Section D.3. Other Forms of Disbursement. Disbursements may also be made through such other means as the Parties may agree to in writing.

Section D.4. Rate of Exchange. If funds provided under the Agreement are introduced into the Cooperating Country by USAID or any public or private agency for purposes of carrying out obligations of USAID hereunder, the Grantee will make

such arrangements as may be necessary so that such funds may be converted into local currency at the highest rate of exchange which, at the time the conversion is made, is not unlawful in the country of the Grantee to any person for any purpose.

**Article E: Termination; Remedies.**

Section E.1. Suspension and Termination.

(a) Either Party may terminate this Agreement in its entirety by giving the other Party 30 days written notice. USAID also may terminate this Agreement in part by giving the Grantee 30 days written notice, and suspend this Agreement in whole or in part upon giving the Grantee written notice. In addition, USAID may terminate this Agreement in whole or in part, upon giving the Grantee written notice, if (i) the Grantee fails to comply with any provision of this Agreement, (ii) an event occurs that USAID determines makes it improbable that the Objective or Results of the Agreement or the assistance program will be attained or that the Grantee will be able to perform its obligations under this Agreement, or (iii) any disbursement or use of funds in the manner herein contemplated would be in violation of the legislation governing USAID, whether now or hereafter in effect.

(b) Except for payment which the Parties are committed to make pursuant to non-cancellable commitments entered into with third parties prior to such suspension or termination, suspension or termination of this entire Agreement or part thereof will suspend (for the period of the suspension) or terminate, as applicable, any obligation of the Parties to provide financial or other resources to the Agreement, or to the suspended or terminated portion of the Agreement, as applicable. Any portion of this Agreement which is not suspended or terminated shall remain in full force and effect.

(c) In addition, upon such full or partial suspension or termination, USAID may, at USAID's expense, direct that title to goods financed under the Agreement, or under the applicable portion of the Agreement, be transferred to USAID if the goods are in a deliverable state.

Section E.2. Refunds.

(a) In the case of any disbursement which is not supported by valid documentation in accordance with this Agreement, or which is not made or used in accordance with this Agreement, or which was for goods or services not used in accordance with this Agreement, USAID, notwithstanding the availability or exercise of any other remedies under this Agreement, may require the Grantee to refund the amount of such disbursement in U.S. Dollars to USAID within sixty (60) days after receipt of a request therefor.

(b) If the failure of Grantee to comply with any of its obligations under this Agreement has the result that goods or services financed or supported under the Agreement are not used effectively in accordance with this Agreement, USAID may require the Grantee to refund all or any part of the amount of the disbursements under this Agreement for or in connection with such goods or

services in U.S. Dollars to USAID within sixty (60) days after receipt of a request therefor.

(c) The right under subsections (a) or (b) to require a refund of a disbursement will continue, notwithstanding any other provision of this Agreement, for three years from the date of the last disbursement under this Agreement.

(d) (1) Any refunds under subsections (a) or (b), or (2) any refund to USAID from a contractor, supplier, bank or other third party with respect to goods or services financed under the Agreement, which refund relates to an unreasonable price for or erroneous invoicing of goods or services, or to goods that did not conform to specifications, or to services that were inadequate, will (A) be made available first for the Agreement, to the extent justified, and (B) the remainder, if any, will be applied to reduce the amount of the Grant.

(e) Any interest or other earnings on funds disbursed by USAID to the Grantee under this Agreement prior to the authorized use of such funds for the Agreement will be returned to USAID in U.S. Dollars by the Grantee, unless USAID otherwise agrees in writing.

**Section E.3. Non-waiver of Remedies.** No delay in exercising any right or remedy accruing to a Party in connection with its financing under this Agreement will be construed as a waiver of such right or remedy.

**Section E.4. Assignment.** The Grantee agrees, upon request, to execute an assignment to USAID of any cause of action which may accrue to the Grantee in connection with or arising out of the contractual performance or breach of performance by a Party to a direct U.S. Dollar contract which USAID financed in whole or in part out of funds granted by USAID under this Agreement.

**Article F: Miscellaneous.**

**Section F.1. Investment Promotion.**

(a) Except as specifically set forth in the Grant or otherwise authorized by USAID in writing, no funds or other support provided hereunder may be used for any activity that involves investment promotion in a foreign country.

(b) In the event the Grantee is requested or wishes to provide assistance in the above area or requires clarification from USAID as to whether the activity would be consistent with the limitation set forth above, the Grantee must notify USAID and provide a detailed description of the proposed activity. The Grantee must not proceed with the activity until advised by USAID that it may do so.

(c) The Grantee must ensure that its employees and subcontractors and sub-recipients providing investment promotion services hereunder are made aware of the restrictions set forth in this clause and must include this clause in

all subcontracts and other sub-agreements entered into hereunder.

Section F.2. Prohibition on Assistance to Drug Traffickers.

(a) USAID reserves the right to terminate this Agreement or take other appropriate measures if a key individual of the Grantee responsible for this program is found to have been convicted of a narcotics offense or to have been engaged in drug trafficking as defined in 22 CFR Part 140 and the Grantee does not take satisfactory legal proceedings against such individual.

(b) USAID reserves the right to terminate assistance to, or take other appropriate measures with respect to, any participant approved by USAID who is found to have been convicted of a narcotics offense or to have been engaged in drug trafficking as defined in 22 CFR Part 140.

(c) The Grantee agrees not to disburse, or sign documents committing the Grantee to disburse, funds to a sub-recipient designated by USAID ("Designated Sub-recipient") until advised by USAID that: (1) any United States Government review of the Designated Sub-recipient and its key individuals has been completed; (2) any related certifications have been obtained; and (3) the assistance to the Designated Sub-recipient has been approved.

(1) The Grantee shall insert the following clause, or its substance, in its agreement with the Designated Sub-recipient:

(2) The Grantee reserves the right to terminate this Agreement or take other appropriate measures if the [Sub-recipient] or a key individual of the [Sub-recipient] is found to have been convicted of a narcotic offense or to have been engaged in drug trafficking as defined in 22 CFR Part 140."

Section F.3. Workers' Rights.

(a) Except as specifically set forth in the Grant or otherwise authorized by USAID in writing, no funds or other support provided hereunder may be used for any activity that involves workers' rights in a foreign country.

(b) In the event the Grantee is requested or wishes to provide assistance in the above area or requires clarification from USAID as to whether the activity would be consistent with the limitation set forth above, the Grantee must notify the USAID and provide a detailed description of the proposed activity. The Grantee must not proceed with the activity until advised by USAID that it may do so.

(c) The Grantee must ensure that all employees and subcontractors and sub-recipients providing employment-related services hereunder are made aware of the restrictions set forth in this clause and must include this clause in all subcontracts and other sub-agreements entered into hereunder.