

USAID DEVELOPMENT ASSISTANCE GRANT AGREEMENT NO. 615-010

DEVELOPMENT ASSISTANCE GRANT AGREEMENT

BETWEEN THE

UNITED STATES OF AMERICA

AND

THE REPUBLIC OF KENYA

FOR

**STRENGTHENING AND SUSTAINING KENYA'S POST ELECTION
RECOVERY**

DATE: 12 SEP 2009

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USAID DEVELOPMENT ASSISTANCE GRANT AGREEMENT NO. 615-010

Between

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

And

The Government of the Republic of Kenya (hereinafter referred to as the "GOK" or "Grantee") acting through the Office of the Deputy Prime Minister and Ministry of Finance".

Article 1: Purpose.

The purpose of this Development Assistance Grant Agreement is to set out the understanding of the parties named above (the "Parties") about the Special Objective described below. This Agreement supports the Objective that has heretofore been financed under the Special Objective No. 615-010: Strengthening and Sustaining Kenya's Post Election Recovery.

Article 2: Special Objective and Results.

Section 2.1. Special Objective. The Special Objective is Strengthening and Sustaining Kenya's Post Election Recovery.

Section 2.2. Results. In order to achieve that Objective, the Parties agree to work together to achieve the following results in Kenya:

- 1) Improved enabling environment for good governance.
- 2) Economic opportunities expanded.
- 3) Increased use of effective interventions to decrease risks of future civil violence.
- 4) Increased legislative and policy environment to mitigate causes of Conflict.

Within the limits of the definition of the Objective in Section 2.1, this Section 2.2 may be changed by written agreement of the authorized representatives of the Parties without formal amendment to the Agreement.

Section 2.3. Annex 1, Amplified Description. Annex 1, attached, amplifies the above Special Objective and the results to be achieved. Within the limits of the above definition of the Special Objective in Section 2.1, Annex 1 may be changed by written agreement of the authorized representatives of the parties through Implementation Letters 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, hereby provides under the terms of this Agreement an amount not to exceed Thirty Five Million, Eight Fifty One Thousand, One Hundred and Twenty One United States ("U.S.") Dollars (\$35,851,121).

(b) Total Estimated USAID Contribution. USAID's total estimated contribution to the achievement of the Special Objective will be Seventy Four Million Five Hundred and Seventy Six Thousand One Hundred and Twenty One United States ("U.S.") Dollars (\$74,576,121), which will be provided in increments. Subsequent increments of funding will be granted under this Agreement subject to the achievement of satisfactory progress towards the Special Objective; to the availability of funds to USAID for this purpose; and to 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 Special Objective or results or activities during the current or next U.S. fiscal year, USAID may 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).

Section 3.2. The GOK Contribution.

This section applies to the GOK entities receiving funds under the agreement (these entities are named in Section VI of Annex 1 to this Agreement).

(a) The GOK's contribution, based on USAID's contribution in section 3.1(a), will not be less than the equivalent of Eleven Million Nine Hundred and Fifty Thousand, Three Hundred and Seventy Two United States ("U.S.") Dollars (\$11,950,372). The GOK's total estimated planned contribution to the Special Objective will not be less than the equivalent of Twenty Four Million Eight Hundred and Fifty Eight Thousand, Seven Hundred and Five United States Dollars ("U.S.") Dollars (\$24,858,705). The contribution will be in kind support including personnel, office space, and other facilities necessary to successful implementation of the objective. The GOK will report at least annually in a format to be agreed upon with USAID on its in-kind cash equivalent contributions.

Article 4: Completion Date.

(a) This Agreement will come into effect the day the two parties append their signatures thereto. The Completion Date, which is September 30, 2011, is the date by which the Parties estimate that all the activities necessary to achieve the 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 implementing partner 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 GOK will, except as the Parties may otherwise agree in writing, furnish to USAID in form and substance satisfactory to USAID:

(a) An opinion of counsel acceptable to USAID that this Agreement has been duly authorized or ratified by, and executed on behalf of the GOK, and that it constitutes a valid and legally binding obligation of the GOK in accordance with all of its terms; and

(b) A statement of the name of the person holding or acting in the office of the GOK specified in Section 8.2, 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 GOK 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 90 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: Covenants.

Section 6.1. Evaluations. The Parties agree that, if deemed necessary and reasonable, the activities undertaken to achieve the objective, and their impact, may be evaluated before the completion date. If the decision is made to conduct such an evaluation, the Parties will jointly decide on the scope, mechanism and timetable for the evaluation.

Article 7: Financial Requirements and Expenditure Reporting

Section 7.1. Method of Disbursement. It is anticipated that funds under this Agreement will be disbursed by USAID through what is termed the direct payment method under the GOK system of financial administration for donor funds. Under this method, the funds remain with the donor, until a payment claim is made to the donor based on GOK expenditures. Upon signing of this agreement, GOK will reflect funds provided to the GOK entities under this agreement in its budget as Appropriation In AID (A-I-A).

Section 7.2. Expenditure Reporting Requirements. USAID will furnish to the Accounting Officer of the implementing GOK entities the annual expenditure statements certified by the USAID Financial Controller for accounting and expenditure data captured whenever USAID makes procurement or direct payments on behalf of the project. The Accounting Officer will thereafter make a return and forward it to the National Authorized Officer in the Ministry of Finance.

Article 8: Miscellaneous.

Section 8.1. 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: Mission Director
U.S. Agency for International Development
USAID Kenya
P.O. Box 629
Village Market 00621
Nairobi, Kenya

Alternate address for cables: USAID/Kenya, AmEmbassy, Nairobi

Telefax: 8622678

To the Grantee:

Mail Address: Permanent Secretary
Ministry of Finance
P. O. Box 30007
Nairobi

Alternate address for cables: Finance, Nairobi, Kenya

Telefax: 217593

Other addresses may be substituted for the above upon the giving of notice.

Section 8.2. Representatives. For all purposes relevant to this Agreement, the Grantee will be represented by the individual holding or acting in the Office of the Permanent Secretary, Ministry of Finance, and USAID will be represented by the individual holding or acting in the Office of the Mission Director, USAID Kenya, each of whom, by written notice, may designate additional representatives for all purposes other than signing formal amendments to the agreement or exercising the power under Sections 2.2 and 2.3 to revise the results or Annex 1.

The names of the representatives of the GOK entities, 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 8.3. Amplified Description and Standard Provisions Annexes. An Amplified Description Annex (Annex 1) and Standard Provisions Annex (Annex 2) are attached to and form part of this Agreement.

Section 8.4. Amendments. Unless otherwise specified herein, the Parties may amend this Agreement only by a formal written amendment signed by the Authorized Representatives.

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 written below.

**FOR THE GOVERNMENT OF THE
REPUBLIC OF KENYA**

BY: 

NAME: Joseph K. Kiinyo

TITLE: Permanent Secretary

DATE: 12-7-09

**FOR THE GOVERNMENT OF THE
UNITED STATES OF AMERICA**

BY: 

NAME: JAMES M. HOGE

TITLE: Deputy Mission Director

DATE: 9/16/09

