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**Subject: Request for Applications (RFA) No. Indonesia 10-013
EDUCATING & EQUIPPING TOMORROW'S JUSTICE REFORMERS
(E2J)**

Pursuant to the authority contained in the Foreign Assistance Act of 1961, as amended, the United States Agency for International Development Mission in Indonesia (USAID/Indonesia) is seeking applications from international and U.S. non-governmental organizations (NGOs) for a program to improve the performance of Indonesia's justice system. U.S. universities, including those carrying a "state" in their title, are considered to be U.S. NGOs for purposes of this program.

The program to be implemented is the "Educating & Equipping Tomorrow's Justice Reformers (E2J)" for which the Recipient will be responsible for ensuring achievement of the program objectives. Full program details are provided in the Program Description, Section A of this RFA.

Subject to the availability of funds, USAID/Indonesia intends to award a Cooperative Agreement as a result of this solicitation. Please note that funds are not currently available for this program. USAID/Indonesia fully expects that funds will be available and is proceeding with this RFA; however, should funds not become available, USAID/Indonesia will be unable to enter into a Cooperative Agreement. USAID/Indonesia is not liable for any costs incurred in the preparation and submission of applications.

USAID/Indonesia intends to award one Cooperative Agreement to achieve the objectives identified in this RFA. The Agreement will be in effect for an estimated basic period of four years. The anticipated level of funding for this award is not to exceed \$10.0 million over the life of project. Funding will be made on an incremental basis over the period of the Cooperative Agreement. USAID reserves the right to fund any or none of the applications submitted.

Pursuant to 22 CFR 226.81, it is USAID policy not to award fee or profit under assistance instruments. However, all reasonable, allocable, and allowable expenses, both direct and indirect, which are related to the Grant program and are in accordance with applicable cost standards (22 CFR 226, OMB Circular A-122 for non-profit organization, OMB Circular A-21 for universities, and the Federal Acquisition Regulation (FAR) Part 31 for-profit organizations) may be paid under the agreement.

As a general policy, in designing and negotiating assistance activities, USAID seeks the largest possible financial participation from an assistance recipient. Accordingly, USAID encourages Applicants to include in their proposals a cost share amount of the total program amount

(combined Federal and non-Federal). Cost-sharing in cash is highly encouraged and USAID will favorably consider applications -- all other things being equal -- which plan to use the anticipated funds to leverage other resources for the benefit of the program. Examples of cost sharing include: cash, in-kind contributions or reductions from a ceiling on the Applicant's negotiated cost recovery rate (assuming consistency with the guidelines of the organization's government audit agency).

For purposes of this program, this RFA is being issued and consists of this cover letter and the following:

- (a) Section A Program Description;
- (b) Section B Cooperative Agreement Application Format;
- (c) Section C Selection Criteria;
- (d) Section D Certifications, Assurances, and Other Statements of Applicant/Grantee;
- (e) Section E Draft Cooperative Agreement and applicable Standard Provisions

For the purpose of this RFA, the term "Grant" is synonymous with "Cooperative Agreement"; "Grantee" is synonymous with "Recipient"; and "Grant Officer" is synonymous with "Agreement Officer".

If you decide to submit an application, it must be received by the closing date and time indicated at the top of this cover letter at the place designated below for receipt of applications. Facsimile submissions are not authorized nor will be accepted. USAID/Indonesia requires one original and five (5) copies of the Applicant's Technical Proposal as well as one original and two (2) copies of the Cost Proposal. **The Applicant shall submit the applications both in hard copies and electronically, as follows:**

- (a) Electronically – internet e-mail with attachments compatible with MS Word, Excel, Adobe Acrobat in MS Windows environment to rfa10-013@usaid.gov with copy to Ms. Johanna Gardjito at jgardjito@usaid.gov, and

- (b) Hard Copies -

By U.S. Mail
Mr. Dale Lewis
Office of Procurement
American Embassy Jakarta
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Mark: RFA Indonesia 10-013

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Technical and Cost/Business applications must be kept separate from each other. Technical applications must not make reference to pricing data in order that the technical evaluation may be made strictly on the basis of technical merit. Award will be made to that responsible Applicant whose application is determined to present the best value for the Government.

Issuance of this RFA does not constitute an award commitment on the part of the Government, nor does it commit the Government to pay for costs incurred in the preparation and submission of an application. In addition, final award of any resultant Cooperative Agreement cannot be made until funds have been fully appropriated, allocated, and committed through internal USAID procedures. While it is anticipated that these procedures will be successfully completed, potential Applicants are hereby notified of these requirements and conditions for award. Applications are submitted at the risk of the Applicant; should circumstances prevent award of a Cooperative Agreement, all preparation and submission costs are at the Applicant's expense.

The preferred method of distribution of USAID procurement information is via Grants.gov on the World Wide Web (www). This RFA and any future amendments can be downloaded from the Agency Web Site. The Worldwide Web Address is <http://www.grants.gov>. Click on "Find Grant Opportunities", then click on "Browse by Agency" and choose "Agency for International Development". If you have difficulty registering or accessing the Grants.gov, please contact the Grants.gov Contact Center at 1-800-518-4726 or via e-mail at support@grants.gov for technical assistance. Receipt of this RFA through Grants.gov must be confirmed by written notification to the contact person noted below. It is the responsibility of the recipient of the application document to ensure that it has been received from Grants.gov in its entirety and USAID bears no responsibility for data errors resulting from transmission or conversion processes.

In the event of an inconsistency between the documents comprising this RFA, it shall be resolved by the following descending order of precedence:

- (a) Section C Selection Criteria;
- (b) Section B Cooperative Agreement Application Format;
- (c) Section A Program Description;
- (d) This Cover Letter.

Any questions concerning this RFA should be submitted in writing to Mr. Dale Lewis, via email at rfa10-013@usaid.gov with copy to Ms. Johanna Gardjito at jgardjito@usaid.gov. **Questions and inquiries seeking clarifications must be submitted to the email addresses no later than April 7, 2010.**

Applicants should retain for their records one copy of all enclosures which accompany their application.

Thank you for your consideration of this USAID initiative. We look forward to your participation.

Sincerely,



Dale Lewis
Agreement Officer
USAID Indonesia

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SECTION A - PROGRAM DESCRIPTION

I. INTRODUCTION

The objective of USAID's Rule of Law programs is to improve the performance of Indonesia's justice system, an essential component of democratic governance. USAID Indonesia's Office of Democratic Governance's (USAID/DG) "Educating and Equipping Tomorrow's Justice Reformers (E2J)" program will do so by supporting efforts to:

- I. Provide a new generation with the knowledge, skills, opportunities and incentives to pursue a career in public service and contribute to justice sector reform efforts;
- II. Strengthen the capacity of higher education institutions to provide legal education, research, and service that contributes to justice sector reform efforts;
- III. Strengthen the capacity of Civil Society Organizations (CSOs) to support, advocate and monitor justice sector reform, with a particular emphasis on CSO capacity to conduct research and generate knowledge that advances justice sector reform; and
- IV. Increase collaboration among law schools, CSOs, and key justice sector institutions to advance justice sector reform and develop the next generation of justice sector practitioners and reformers.

The E2J program is predicated on the recognition that the long term success of justice sector reform will depend on:

- a) three sets of institutions (CSOs, law schools, and government institutions like the Attorney General's Office and the Supreme Court);
- b) the people that serve within and receive education, training and support from those institutions; and
- c) the knowledge and expertise that such people develop, share and apply.

The E2J program will leverage and strengthen the capacity of the institutions, particularly law schools and CSOs, to cultivate and develop a generation of lawyers, public servants and scholars who are well-versed in the knowledge and skills needed to foster and sustain justice sector reform.

Illustrative law school activities include curriculum development and reform, policy-oriented legal research, legal clinics, advanced legal education methodology, internship and externship opportunities within the justice sector, and international exchange and degree programs.

Illustrative activities for CSOs, including think tanks and professional groups, are research capacity development; collaborative research projects with law schools and justice sector institutions; improved advocacy and monitoring programs; improved resource development and financial planning and management; training programs; fellowship programs at US CSOs, law schools and research institutes; and development of service opportunities for law school students.

E2J will be closely linked to another separate, but related USAID/Indonesia Rule of Law program: “*C4J – From Reform Agendas to Performance Changes.*” C4J provides support to institutional reform to key justice sector institutions, in particular the Supreme Court and the Attorney General’s Office. It will be implemented through a separate contractual instrument. However, the institutions it targets will be key assets to, and important venues for, various elements of the E2J program.

II. BACKGROUND

A. The Continuing Challenge of Democratic Consolidation in Indonesia.

Indonesia has been navigating its democratic transition in a sometimes slow but generally successful fashion for more than a decade. Over the last ten years Indonesians have successfully institutionalized democratic politics, made multiple improvements to their constitution, reduced the political role of the military and initiated sweeping decentralization. As a result, as the 2008 Democracy and Governance Assessment for Indonesia has pointed out, the institutional structure of democracy in Indonesia is now largely in place¹. Indeed, as of early 2009, Indonesia appears to be one of the most successful and stable “new” democracies in Asia.

While Indonesia’s *transition* to democratic politics has been very successful, there are still a number of problems and shortcomings that constitute significant impediments to the *consolidation* of democracy.² These include the still-weak rule of law, relatively low levels of transparency and accountability, inadequate representation, often dysfunctional inter-governmental relations, and a political system heavily influenced by corruption and money politics. The cases of Thailand and the Philippines demonstrate how vulnerable democratic development can be to erosion and backsliding. It is too soon to declare “victory” in Indonesia; more needs to be done to increase the likelihood of Indonesia’s democratic consolidation.

¹. See “Indonesia - Democracy and Governance Assessment” prepared for USAID by Democracy International, June 2008; available at <http://indonesia.usaid.gov/documents/document/document/260>

². Democratic “consolidation” as used here is defined as a situation characterized by: 1) *essentially* democratic institutions, political processes and norms, 2) the widespread acceptance of these institutions, processes and norms, and 3) the absence of actors or social forces that present a serious threat to democratic institutions, processes and norms.

B. USAID's Strategic Response

In order to address the remaining impediments to democratic consolidation and good governance in Indonesia, USAID/Indonesia's Strategy for 2009-2014 "A Partnership for Prosperity" for DG has as its Assistance Objective (AO): ***Making Democratic Governance Deliver.***

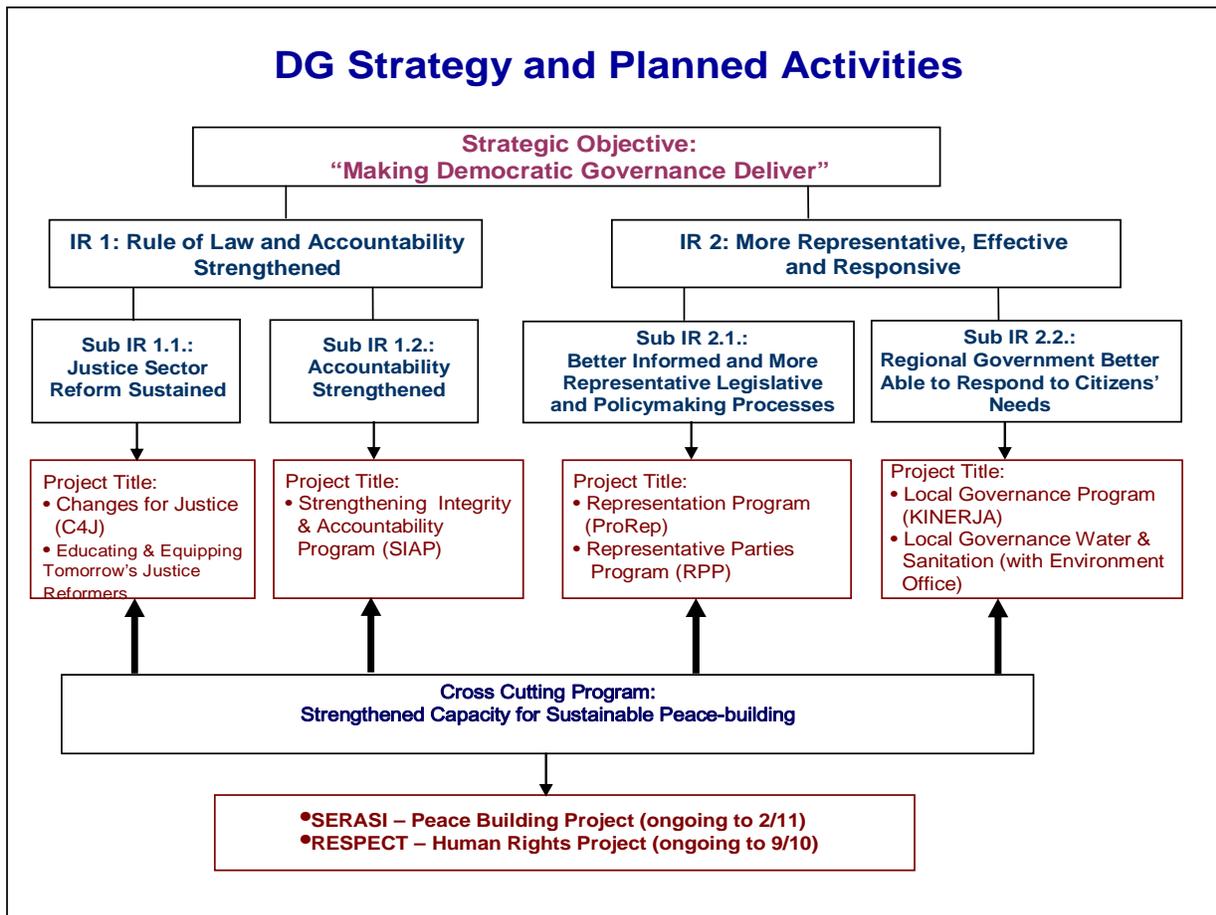
The use of the phrase "making democratic governance deliver," is intended to convey the importance of "delivering" in at least two senses: First, Indonesia's democracy has to do a better job delivering on its promise of producing a more secure, just and prosperous society. Second, democratic governance must do a better job delivering the basic services (including security and justice) needed to improve people's lives.

To contribute in a meaningful way to this Assistance Objective, DG will support activities intended to have the following three outcomes (or Intermediary Results):

- 1. Rule of Law and Accountability Strengthened.*** There are two distinct but related components under this IR: a) sustaining and deepening justice sector reform, and b) strengthening accountability mechanisms at the national level and in selected regions. The first component includes support for efforts to encourage and further reform of the judiciary and AGO, as well as for legal education initiatives in support of a better justice system. The second component includes support for building the capacity of state and non-state promoters of accountability (e.g. KPK, BPK) as well as for transforming behavior and mindsets from a culture of impunity to a culture of accountability.
- 2. Governance Made More Representative, Effective and Responsive.*** Under this IR USAID will support efforts at both the national and regional levels to make governance more representative, effective and responsive to citizen's needs. There will be two components: a) strengthening representative groups and institutions and b) support for efforts at the national and regional levels to enable regional governments to better respond to citizens' needs. Both components will support the development of better practices within government as well as building the capacity of CSOs to more effectively participate in governance.
- 3. Capacity for Sustainable Peace Building Strengthened.*** USAID will continue to support capacity building for peace building and conflict prevention and activities which contribute to sustainable peace. The pursued SERASI and RESPECT programs' support for conflict prevention and management will continue to support efforts to improve democratic governance at both the national and local levels. Consolidating peace and democracy in Aceh –where SERASI and RESPECT are primarily working— will continue to be a major focus of both the local governance and conflict programs.

The US Government (and USAID in particular) has been a supporter of and partner in Indonesian justice sector reform. In recent years USAID and the Millennium Challenge Corporation (MCC) Threshold program have supported most of the major justice sector institutions. USAID and MCC have supported the Supreme Court, selected special courts (including commercial courts and the anti-corruption court), the Constitutional Court and, along with Department of Justice, the Attorney General's Office. The largest share of this assistance has been to support institutional reform and capacity building initiatives within the Supreme Court and, to a lesser degree, the AGO.

The following table provides an overview on USAID's strategic framework for Democratic Governance in Indonesia. This program supports sub-IR 1.1, "Justice Sector Reform Sustained".



III. PROBLEM STATEMENT

Indonesia has a long-standing Constitution and a long history of generating abundant numbers of laws and regulations. However, in practice, the rule of law (RoL) has been weak. For most of Indonesia's post-independence history, RoL has been undermined by authoritarian government, personalistic and hierarchical culture and politics, weak justice sector institutions, and pervasive corruption. As a result, the justice sector, along with the bureaucracy, has proven to be one of the elements of the Indonesian polity most resistant to *reformasi*. Ten years after the beginning of *reformasi*, the Indonesian justice system continues to be viewed as aloof, unpredictable and one of the most corrupt in the region.

It is generally acknowledged that the primary dysfunction of the justice system originates in the main justice institutions, the Supreme Court and the Attorney General's Office. Given the deep-seated authoritarian and hierarchical nature of the institutions, the endemic culture of corruption, and powerful vested interests, these institutions have proven difficult to reform. For example, the AGO and National Police were implicated in efforts to undermine the Corruption Eradication Commission (KPK). This has only increased public concerns about whether the President of Indonesia can deliver on his reform agenda and effectively combat the "legal mafia" that impedes justice sector reform.

Given this situation, effective and sustained justice sector reform will require a combination of ongoing interventions aimed at both human and institutional capacity development. While USAID's C4J program targets institutional reform at the AGO and the Supreme Court, there is also a need to:

1. Improve the knowledge, skills and reform-mindedness of the personnel who will one day work in the AGO, Supreme Court and other justice sector institutions. This will require significant changes in legal education, including improved teaching, research and service; and
2. Strengthen the capacity of Civil Society Organizations (CSOs) to support, advocate and monitor justice sector reform.
3. Enhance collaboration among law schools, CSOs, and key justice sector institutions to advance justice sector reform and develop the next generation of justice sector practitioners and reformers.

A. The Quality of the Justice Sector Workforce and Legal Education

The current justice sector workforce lacks much of the knowledge and skills necessary to ensure more efficient and effective operations and performance, let alone achieve broader, more fundamental reforms. Given this situation, there is a need to steadily infuse the justice sector workforce with a growing cohort of individuals equipped to improve the justice sector's performance AND support reforms.³

³ The recognition that justice sector institutions need more knowledgeable and talented employees is

Unfortunately, the **legal education** system currently does not adequately contribute to the creation of such a cohort, nor does it effectively contribute to solving the broader problems of the justice sector. A recent assessment of the legal education system characterizes and explains the situation as follows:

Since the time it began under Dutch colonialism, Indonesian legal education has been for the most part formal and theoretical, lecture-based, and not practical or skills-oriented. Aside from the inertia of the past, there are several reasons for this. First, Indonesia's legal system is a civil law inheritance from the Dutch, and European civil law puts a premium on the development of comprehensive legal theory and as complete a system of rules as possible. Second, Indonesian culture, particularly on Java, is one that values hierarchy, seniority, and deference, and a formal, lecture-based system fits well in such a culture. Third, most Indonesian law faculty lecturers, at least when young and in the early stages of their careers, have no practice experience. As their own learning was primarily theory- and lecture-based, so too is their own teaching. Lastly, until recently, the Indonesian legal system did not lend itself to case study, case analysis, and problem-based approaches.

At the core of the Indonesian law curriculum and law teaching methods is the Indonesian legal system itself. The trial system is an inquisitorial system based primarily on written documents. Trials are not genuine contests, and advocates do not play significant roles in trials. There is little genuine advocacy such as might be found in common law systems or some European civil law systems. Highly experienced lawyers report that trials are merely events that confirm foregone conclusions, although others dispute this, albeit not with great conviction. In this sense, an Indonesian trial may be more of a ritual ceremony than an event with contestable outcomes. For law curriculum purposes, this means advocacy skills, at least until recently, have not been prized.

In addition, written, published decisions comprise a fairly recent development in Indonesian law, as is also the existence of dissenting opinions. The Indonesian Constitutional Court, the Supreme Court, and the Commercial Court now publish their decisions. While other courts issue written opinions, these are not widely available. As this relates to the Indonesian law school curriculum, this means there

complemented by the recognition that organizational factors and institutional incentives also shape the behavior of such employees and the extent to which they will be able or willing to pursue improved performance or broader reform. The complementary investments in C4J will help address the organizational setting in which new personnel will seek to apply their knowledge and skills. However, one can alter incentives and still not have the personnel capable of effectively delivering on the opportunities created by the changes in the incentives. In addition, if one hopes to alter those organizational factors and incentive structures, the existence of individuals equipped to with the knowledge and skills to perform well under a new situation should help lower resistance to and cultivate support for the proposed changes.

is not a large body of case law to work with. While this is changing, this means that critical legal thinking and analytic skills that depend on case analysis are underdeveloped.⁴

Legal education – including teaching, research and service - is generally acknowledged as having little connection with or relevance to the actual functioning of the justice system. Teaching is too abstract and theoretical and disconnected from the realities of justice sector performance and reform. Research seldom tackles critical justice sector performance or reform issues. Service opportunities are limited and insufficient to help develop, equip and support a cadre of students committed to service in the public justice sector.

For example, with regard to teaching, there is a fundamental and problematic gap between what faculties teach and what students in fact need to learn in order to be effective performers and reformers in the justice sector. This creates a situation in which the justice sector's workforce is repeatedly reconstituted with practitioners who lack the knowledge and skills essential to improving justice sector performance or fostering justice sector reform.⁵

If the bulk of students who enter the justice sector are ill-prepared to perform well or contribute to reform, the outlook for improved justice sector performance and reform is decidedly less bright than might otherwise be the case with quality, relevant legal education institutions and programs. Tomorrow's judges and prosecutors are today's law students; but unless teaching is more relevant to the realities and needs of justice sector reform, tomorrow's judges and prosecutors may not perform much differently than today's.

The situation is further exacerbated by the fact that empiric data indicates that few if any of the best Indonesian law school graduates are pursuing public justice sector opportunities as judges or prosecutors. If Indonesia's best and brightest law students forego the public justice sector, reform efforts may be further constrained by the resulting lack of top-notch talent, knowledge, and leadership.

The inability of the justice sector to attract the best and brightest law school graduates reflects a constellation of incentives, including economic. While altering or offsetting those incentives will be difficult, any technical assistance program aimed at strengthening the capacity of Indonesia's law schools to provide quality, relevant legal education,

⁴ See page 58, Assessment of Higher Education Institutional Capacity in Selected Geographic and Subject Areas, a report produced for USAID/Indonesia under Task Order 25 of the Global Evaluation and Monitoring (GEM II) BPA, EDH-E-25-08-00003-00. It was prepared by the Aguirre Division of JBS International, Inc. Authors are David Evans, Cornelia Flora, Gary Goodpastor, Peter Shepherd, and Kenneth Tolo. See also pp. 53-71 for additional background regarding legal education in Indonesia. Available at <http://indonesia.usaid.gov/documents/document/document/381>

⁵ Research programs and projects, in general, are similarly divorced from the needs of justice sector reformers and justice sector practitioners. This not only limits the value of law school research for the strengthening of legal education and training, it also limits the value of such research to legal institutions and CSOs endeavoring to foster or implement justice sector reforms.

research and service will have to be attentive to and address those incentives. (See discussion under C.1.3 below).

In addition, there appears to be an inadequate understanding of and appreciation for the types of professional rewards and satisfaction that might accrue to people engaged in public sector justice work and public sector justice reform – particularly for people who are provided an education that equips them for success in the public sector. So long as legal education does not provide students with an opportunity to get a better understanding of what professional rewards and satisfaction might exist in public service, and equip them to be effective in such service, it's difficult to expect students to explore such work.

Unfortunately, until recently, there has been little evidence that law schools view their role and mandate in a manner that would be consistent with reforming curriculum, improving instructional methods, conducting more relevant research, ensuring effective service contributions, collaborating with reform advocates, building incentive structures, or leveraging teaching, research and service to fundamentally advance justice sector performance and reform. However, a few key institutions and a select set of law school deans have recognized the problems described above and have initiated some limited legal education reforms. The E2J will leverage and support the expansion of that nascent reform effort.

Currently, Indonesia has at least 303 law schools including 42 at public universities and 261 at private universities. Although comprehensive data on law school performance is not easily available, a moderate estimate is that some 45,000 - 60,000 students earn law bachelors each year.

B. The Capacity, Contributions and Effectiveness of Civil Society Organizations

Historically, CSOs in Indonesia have provided major contributions to justice sector reform. First, their intellectual leadership and analytical capacity has been critical to the conceptualization of reform agendas and strategies. Second, their capacity as service providers has made them vital partners to reform efforts. Third, their independence and relatively strong human and institutional capacity has positioned them as credible monitors of reform implementation and vital assets to transparency and accountability. Finally, as activist organizations, CSOs have effectively identified and advocated the interests of their civil society constituencies vis-à-vis justice sector reform agendas and priorities.

Such contributions have been significant and vital to justice sector reform and performance in Indonesia. However, given the nature and scope of reform that is still needed, as well as the unique value and expertise CSOs provide, much work remains to be done. In particular, CSOs need to play an expanded role with regard to at least 3 key challenges:

1. Research, Knowledge Generation and Knowledge Application are not Keeping Pace with the Needs of Improved Justice Sector Performance and Reform

While CSOs are valuable providers of quality research and knowledge, the level of production relative to the scope of needs remains inadequate. In addition, CSO collaboration with legal education institutions in Indonesia is relatively limited. This further constrains the prospective scope of impact CSOs could have on the generation, application and dissemination of knowledge regarding justice sector performance and justice sector reform. If research, knowledge generation, and knowledge application are going to keep pace with and meet the needs of improved justice sector performance and reform, Indonesia must leverage and expand proven CSO expertise in these areas.

2. A New Generation of Justice Sector Practitioners Lacks Sufficient Opportunities to Develop and Apply their Knowledge and Skills in “Real-Life” Justice Sector Reform Efforts

Given the significant contributions CSOs make to justice sector performance and reforms, and given their critical role in knowledge generation and application, CSOs provide an ideal setting for today's law students to build their knowledge and skills.

However, there is a lack of robust and widespread institutionalized collaboration between CSOs and Indonesian law schools. As a result, future justice sector practitioners are missing out on precisely the sort of practical training and experience that would provide them with the skills, insights and knowledge that are essential to quality performance and reform in the justice sector. In addition, the lack of extensive CSO collaboration with law schools means that law school curriculum not only fail to incorporate lessons learned from CSO experiences, but also fail to provide instruction regarding the skills and knowledge that would help practitioners succeed in such justice sector work.

3. Expanded Justice Sector Reform Requires a Level of CSO Engagement that Exceeds Current CSO Capacity and Might Jeopardize CSO Independence

As justice sector reform efforts expand, the demand for the knowledge, services, monitoring and advocacy that CSOs provide will continue to increase beyond current CSO capacity to respond. In order to reinforce and expand their capacity to meet such demand, CSOs will need to develop reliable resources, revenue, and related financial planning and management practices. Expanded collaboration with other organizations (law schools, justice sector entities like the AGO or Supreme Court, international NGOs, donors, etc.) will be essential. However, to remain effective as they expand their level of involvement and collaboration, CSOs will need to carefully safeguard and ensure the independence that is critical to their role and value in justice sector reform. The development of sustainable resources and financial autonomy must support rather than compromise CSO ability to

play effectively their role of counselors and monitors of justice reform and to represent forcefully in the justice reform debate the interests of underprivileged segments of the population.

C. Collaboration among Law Schools, Civil Society Organizations and Key Justice Sector Entities

As noted above, there is only limited collaboration among law schools, civil society organizations and key justice sector entities such as the AGO and Supreme Court.

The lack of collaboration is especially problematic for the quality of education, research and service provided by law schools. For, example, law school students have very limited access to practical experiences that could better equip them to understand and more effectively contribute to the performance and reform of the justice sector. In addition, law school faculty get little information or ongoing input from key justice sector institutions regarding what graduates need to know, thereby limiting the ability of faculty to tailor curricula to preparing students for their careers.

CSOs also lose valuable opportunities to increase their impact. The lack of collaboration with law schools means that CSOs are unable to effectively infuse law school curriculum and scholarship with the knowledge generated by CSO research and reform efforts.

Finally, the lack of collaboration limits the extent to which institutions like the AGO and Supreme Court can explore new ideas, pilot and test new approaches, and help equip future justice sector practitioners with the skills they will need to perform effectively if they pursue a career in public service.

IV. DEVELOPMENT HYPOTHESIS

Respect for the rule of law is an essential feature of democratic governance. The justice system is the main vehicle for upholding rule of law in a society and, when the system is dysfunctional, it cannot play that role effectively. This erodes citizen confidence in government as well investor confidence in the country. As such, deficits in rule of law have a detrimental impact also on economic growth. USAID's rule of law programs (both the "Changes for Justice Program" and "Educating and Equipping Tomorrow's Justice Reformers") will contribute to the achievement of USAID Indonesia Assistance Objective of "*Making Democratic Governance Deliver*" by improving the delivery of justice. Specifically, the Project will do this by *sustaining and deepening justice sector reform* via two core efforts:

1. Reform of Key Justice Sector Institutions

The Supreme Court (Mahkamah Agung, MA) and the Attorney General's Office (Kejaksaan Agung, KA) are the two pillars of the Indonesian justice system. They represent the apex of the country's courts and prosecutorial services. Because the Supreme Court has control over all of Indonesia's courts and tribunals and because of the hierarchical – quasi military – nature of the Prosecutorial Services, reforms initiated at the top will gradually impact all levels of the justice system infrastructure. If reform is achieved and sustained within these institutions, it will have widespread impact on the delivery of justice throughout the country.

2. Investing in New Generations of Law Reformers

Justice sector reform is a long-term effort that requires not only the restructuring of institutions, but also a reorientation of mindset. Justice sector personnel, as officials of the state, need to see themselves as public servants whose main task is to serve the people. It is our contention that the greatest possibility of success lies in focusing on the new generation of judges, prosecutors, and staff. Changes are less likely to be championed by those who have been in the system for decades, who have benefitted from the current system, and who today have too much at stake to voluntarily modify their practices. As such, we will focus our efforts on a) the training of junior judges, prosecutors and court staff; and b) the education of future lawyers, leading thinkers, judges, prosecutors and other public officials who will ultimately have a positive impact on the Indonesian justice system. The latter effort will entail significant investments in legal education institutions, their research institutions, and the complementary endeavors of justice sector CSOs.

The two approaches are complementary: the organizational restructuring brought about by the bureaucratic reform will only be meaningful and sustained if there are internal champions. Meanwhile, changes of mindset would be wasted if the structure of the organization cannot accommodate the new expectations of reform-minded judges and prosecutors.

Based on our analysis of the current state of the justice sector, reform will require an integrated human and institutional capacity development approach that targets and improves the performance of three sets of institutions: law schools, CSOs, and key justice sector entities like the AGO and the Supreme Court. Institutional capacity development for these institutions will be coupled with specific human capacity development programs aimed at creating mutually reinforcing outcomes.

Developing the skills and knowledge of a new generation of talented and reform-minded justice sector practitioners will provide institutions with the personnel needed to effectively champion, nurture, implement and consolidate justice sector reforms – particularly in the medium and long term. Altering the practices and/or incentive structures within these institutions will accommodate the aspirations and expectations of knowledgeable and well-

educated practitioners who are committed to quality performance and effective reform. It will also help such practitioners more effectively apply their knowledge and skills. The complementary investments yield mutually reinforcing outcomes.

V. PROGRAM DESCRIPTION

A. Program Objectives

The objectives of “**Educating and Equipping Tomorrow's Justice Reformers**” are to:

- Provide a new generation with the knowledge, skills, opportunities and incentives to pursue a career in public service and contribute to justice sector reform efforts;
- Strengthen the capacity of higher education institutions to provide legal education, research, and service that contributes to justice sector reform efforts;
- Strengthen the capacity of Civil Society Organizations (CSOs) to support, advocate and monitor justice sector reform; and
- Increase collaboration among law schools, CSOs, and key justice sector institutions to advance justice sector reform and develop the next generation of justice sector practitioners and reformers.

B. Strategic Principles

Several strategic principles will guide USAID/Indonesia’s efforts to achieve the above objectives. These are described in detail below.

Partnership Approach

USAID/Indonesia recognizes that indigenous Indonesian national CSOs have the experience, networks, and infrastructure to participate in constructive dialogues to improve legal education. CSOs have been critically involved in and vital to drafting reform agendas, advocating reform approaches, and providing knowledge, research and services in support of reform efforts. As a result, the engagement of CSOs has the potential to be a tremendous asset to enhancing the education, knowledge and skills of tomorrow’s justice sector practitioners, scholars and reformers - both inside and outside the government. Collaboration with CSOs will help ensure that the teaching and research at law schools is more relevant to justice sector needs.

However, many of these CSOs do not have appropriate financial and management structures and systems to scale up and receive funds directly from the US government. In recognition of this challenge, and the broad scope and breadth of activities necessary for the successful implementation of effective CSO involvement in improving the quality of legal education and research, USAID/Indonesia encourages a partnership approach to

achieve the objectives. The implementation of E2J will be guided by the development of specific collaborative arrangements with Indonesian CSOs (and law schools) the details of which are to be addressed in the Recipient's application.

Small Grants Mechanism

The Recipient will develop a small grants mechanism to support the engagement and strengthening of CSOs. In light of the demands that will result from the effort to advance justice sector reforms and improve legal education, CSOs will need to improve their capacity in several areas: research, justice reform monitoring, advocacy, and representation of the concerns and interests of disenfranchised segments of the population.

The Recipient will detail in its application the management plan for a significant grants program aimed at coordinating and strengthening Indonesian CSOs capacities as they relate to the objectives of this program. The plan is to reflect USAID regulations governing grant programs found in its Automated Directive System (ADS) and Code of Federal Regulations.

USAID will review and approve the criteria proposed by the Recipient, as well as approve sub-grants, under the substantial involvement provisions.

Cross-cutting Concerns

The Recipient's technical approach will address important concerns that cut across USAID programs, such as gender and equity. Program activities are to be designed and implemented to ensure that the program achieves Agency objectives regarding the reduction of gender disparities.

In addition, program activities should help foster expanded and equitable access to justice and justice sector employment opportunities among under-represented populations.

Building linkages

The recipient's technical approaches should reflect the development of links with other donor initiatives related to support for justice sector reform. These links are to include other USAID projects in Democratic Governance, Education or other strategic objective areas as appropriate.

C. Program Elements

The program elements below provide a framework for specific activities that would permit the achievement of the four objectives of the Program Description, namely:

- Provide a new generation with the knowledge, skills, opportunities and incentives to pursue a career in public service and contribute to justice sector reform efforts;
- Strengthen the capacity of higher education institutions to provide legal education, research, and service that contributes to justice sector reform efforts;
- Increase collaboration among law schools, CSOs, and key justice sector institutions to advance justice sector reform and develop the next generation of justice sector practitioners and reformers.
- Strengthen the capacity of select Civil Society Organizations (CSOs) to generate knowledge and research and support, advocate and monitor justice sector reform; and

Consistent with the problem statement and development hypothesis outlined above, activities developed against the program elements are to focus on two sets of institutions in Indonesia: law schools and CSOs, with approximately 75% of the effort to be dedicated to work with the law schools and 25% dedicated to work with CSOs, inclusive of the CSO activities related to expanded collaboration with Indonesian law schools.

Law schools have the potential to provide the intellectual foundations, knowledge and core technical skills required by individuals working in the justice sector and pursuing justice sector reform, whether they be judges, prosecutors, researchers at think tanks and research centers, members of advocacy groups, or members of parliament and related government Ministries. Today's law schools students are tomorrow's judges and justice sector officials; they are tomorrow's justice reform advocates and monitors; they are tomorrow's justice sector analysts and researchers. The future of justice sector reform hinges on the legal education these individuals receive at Indonesia's law schools.

Therefore, the E2J program will support the efforts of legal education institutions to reform legal education so as to incorporate theoretical knowledge and practical skills needed for graduates to become tomorrow's leaders, advocates and artisans of law and justice reforms. Primary attention will be placed on ensuring that the teaching, curricula, research, and community service programs delivered by Indonesian law schools enable students to develop the knowledge and skills that are critical to effective performance in the justice sector and the effective pursuit of justice sector reform. In addition, the program will support efforts to develop student interest in justice sector employment and to provide incentives to pursue such work. More specifically, E2J will provide assistance to law schools so as foster:

- More Practice-Oriented Teaching of Law
- Increased and Improved Research on Justice Sector Practice and Reform
- Enhanced Incentives for Quality Law Graduates to Pursue Public Service and Work in the Justice Sector

- Institutionalized Arrangements for Collaboration among Law Schools, CSOs and Justice Sector Institutions

CSOs – including advocacy, service and research institutions - are indispensable to justice sector reform. They are the activists that prod reform efforts; the independent entities that contribute intellectual substance and diverse perspectives to the definition and implementation of reform agendas; and the voice and representative of those whose concerns and interests simply cannot be addressed without justice sector reforms. As a result, CSO capacity – for research, advocacy, monitoring, and service provision - is a determining factor in the efficient and effective implementation of justice reforms. In addition, CSOs with a significant focus on research, whether presently affiliated with law schools or not, can be especially important to knowledge generation and application.

An essential element of CSO effectiveness is the level of independence that characterizes such organizations. CSOs are perceived to operate beyond the reach of the vested interests and incentives that undermine the fairness and effectiveness of the justice sector. As a result, the research, recommendations and actions of such organizations are viewed as more balanced, legitimate and transparent. People view CSOs as untarnished actors critical to the development of a people-oriented justice system. Resistance to change is a given in all societies and contexts but when changes are challenging vested interests – as is the case when reform brings about integrity and aims at eradicating corrupt practices— the need for an independent watchdog and champion is even more important.

In light of the critical role CSOs play in Indonesian justice sector performance and reform, this Program Description will support efforts to enhance CSO capacity and independence. Special attention will be given to strengthening the capacity of CSOs to generate knowledge and research and to collaborate with and be assets to law schools and their efforts to improve the quality and value of legal education and justice sector reform more broadly. Accordingly, the Program Description will – at a minimum - support:

- Maintain and Strengthen CSO Intellectual Leadership and Research Programs
- Expanded and Institutionalized Collaboration with Law Schools in Indonesia and Abroad
- Improved Resource Development, Financial Planning and Financial Management Capacity at Select CSOs
- Enhanced Capacity at Select CSOs to Advocate and Monitor Justice Sector Reform

Priority will be given to the first two endeavors. In addition, activities in support of the latter two endeavors will be aimed at supporting and complementing the implementation of the other two. As a result, those activities should target CSOs with pertinent capacity and/or potential as regards research, knowledge generation, and law school collaboration. This will help maximize the impact of the limited resources available for these activities.

Note: The Democracy and Governance office acknowledges that its knowledge regarding the best ways to achieve the above program objectives via interventions at law schools and civil society organizations is still growing. While the program elements developed below are viewed as vital to achieving the program objectives, the Recipient is invited to offer additional ideas and suggestions in its application that can build upon these elements, address gaps, and otherwise increase the prospects of achieving the core objectives of this Program Description.

C.1 Assistance to Indonesian Law Schools

C.1.1 More Practice-Oriented Teaching of Law

Law, including procedural law, tends to be taught as an exclusively theoretical subject, rather than practice-oriented. Curricula and instruction are not focused on imparting the practical skills needed to effectively perform in the justice sector or to productively pursue justice sector reform. As a result, law school graduates who enter the justice sector are ill-equipped to address the needs and challenges that characterize the sector.

Part of the problem stems from the fact that most faculty lack experience as justice sector practitioners or reformers. For example, in most cases, teachers of procedural law are not and have never been practitioners with courtroom litigation experience as judges, prosecutors or attorneys. Lacking practical experience, faculty are ill-positioned to provide the sort of instruction students need to equip themselves to navigate court procedures and criminal trial proceedings, conduct related inquiries, advocate for and monitor reforms, or foster increased access to justice.

Various approaches can be taken to address this challenge. For example, the participation of judges and prosecutors in teaching of court procedures and criminal case investigations could increase the practical relevance of procedural law courses. Likewise, law schools could engage CSO personnel in the development and instruction of courses or clinics specifically focused on justice sector reform, advocacy and monitoring. Schools could also work with justice sector practitioners and CSOs to develop robust clinical programs, skills-oriented clinical courses, internship and externship programs complemented by appropriate courses, and special programs in “lawyering skills.”

Incorporating such changes in methodology and content will require training and support for faculty as well as changes in incentive structures at the law schools. However, such “needs” also present opportunities. For example, training programs and train the trainer programs could involve justice sector practitioners and CSO personnel, thereby building working relationships with the faculty. Faculty could be offered stipends to develop course materials and instructional approaches that could be used with law school students but also adapted and refined to support post-graduate programs (e.g. re court reform) and professional development programs for CSO and justice sector personnel. Faculty that increase the practical relevance and value of their courses might have an opportunity to

compete for consultancy opportunities, perhaps in collaboration with CSO personnel. Law schools could draw upon internal resources or resources from the Directorate General for Higher Education (DIKTI) to support curriculum development or research grants for faculty committed to investigating and incorporating in their courses the practical matters of legal practice and justice sector reform.

Expected Results:

The Recipient shall attain the following results (performance measures provided in C.1.5 “Required Indicators”):

- More practice-oriented teaching of law;
- Enhanced collaboration between law school faculty and key personnel (judges, attorneys, researchers and advocates) in the court system and CSOs;
- Courses on justice sector reform developed and delivered;
- Post-graduate and professional development programs in justice sector reform developed and implemented;
- Law school graduates better trained and able to function effectively in justice sector institutions and endeavors (courts, CSOs, trials, criminal and civil trials, clinics, justice reform monitoring, etc.)

Activities:

Required activities will include the following:

- Training (local and international) of law lecturers to enhance the practical nature of their teaching;
- Approaches developed and implemented that increase participation of court and CSO practitioners (past and present) in teaching and curriculum development at Indonesian law schools;
- Development of clinical courses and programs at Indonesian law schools, including case study-based practical instructional and training materials;
- Development of courses focused on justice sector reform;
- Development of post-graduate and professional development programs in justice sector reform;
- Instructional and training materials based on court and CSO practice distributed to and incorporated at Indonesian law schools throughout the country.

**C.1.2 Increased and Improved Research on Justice
Sector Practice and Reform**

The practical relevance and value of a legal education can also be enhanced by fostering increased and improved research on justice sector practice and reform. Linking faculty

inquiry and knowledge development to the realities and needs of justice sector practice and justice sector reform will not only provide assets to the sector but will equip faculty with knowledge they can incorporate in instruction. Such research also provides a natural arena for collaboration with justice sector institutions and CSOs. Courts and other institutions can leverage faculty inquiry to tackle questions related to improving performance or reform implementation. In addition, CSOs have already demonstrated their capacity to provide valuable research. By working with CSOs, faculty can benefit from that expertise, help expand the research being conducted, and involve current students in the research endeavors. Faculty can also incorporate the research conducted by and with CSOs in their courses and instructional approaches.

The Recipient will support activities that strengthen research capacity at Indonesian law schools; increase the amount and quality of justice sector research being conducted at such institutions; foster research collaboration among law schools, CSOs and justice sector institutions; and engage law school students in practice-oriented research projects.

Expected Results:

The Recipient shall attain the following results (performance measures provided in C.1.5 “Required Indicators”):

- More practice-oriented research conducted by law school faculty;
- Enhanced research collaboration between law school faculty and key personnel (judges, attorneys, researchers and advocates) in the court system and CSOs;
- Research projects on justice sector performance and reform developed and conducted;
- Law school students participate in practice-oriented research projects.

Activities:

Required activities will include the following:

- Help faculty develop skills and expertise in action research, applied research and other research approaches and skills that are particularly well-suited to understanding and enhancing justice sector performance and reform;
- Develop and implement approaches that increase faculty collaboration with court and CSO practitioners (past and present) in the design and conduct of research projects at Indonesian law schools;
- Develop research programs, centers and/or institutes that focus on practice-oriented research on justice sector performance and reform;
- Secure support for research at existing or new research centers and institutes, including institutional research grants, research fellowships, provision of equipment, and/or library resources;

- Establish partnerships with legal research institutions abroad to enhance Indonesia research capacity on practical aspects of justice delivery and judicial governance reform.

C.1.3 Enhanced Incentives for Quality Law Graduates to Pursue Public Service and Work in the Justice Sector

A number of factors limit the degree to which Indonesia's best law best students develop an interest in or pursue careers as judges or public prosecutors. These factors include: poor compensation; the poor reputation of the justice system; scarce opportunities for career advancement based on merit; barriers to entry; and a limited knowledge of how courts function and the ways in which people's lives can be improved by effective action in the justice system. All combine to limit the perception of justice system public service as a potentially satisfying career.

Various approaches can be taken to address this situation. Capacity development efforts aimed at improving legal education and justice sector knowledge could readily incorporate activities and endeavors that might increase interest in a public sector career among all students, including the best and brightest. For example, few programs provide any sort of practical learning experience (internship, externship, clerkship, moot court, clinic positions, etc.) in the public justice sector.⁶ If law schools want their students to consider a public career in the justice sector, law school programs need to provide them with viable opportunities to explore such careers, understand such work, and apply relevant knowledge and skills. Schools need to offer students opportunities to experience the satisfaction (and frustration) that can be found in public service. In addition, they need to help students become members of professional networks and communities that are committed to improved justice sector performance and reform. Otherwise students are likely to feel isolated and unsupported as they consider a career in public service.

Alternative approaches to teaching and revised curriculum could also equip and potentially motivate students to pursue a public service career in the justice sector. As noted above, law school curricula bear little relevance to the way the justice sector actually functions. Law professors seldom incorporate the knowledge requirements of the justice sector in their curricula. For instance, teaching of procedural law is done with a mainly theoretical approach without inputs from actual tribunal experience or the use of simulation activities, clinical style curriculum, or other "participatory and practical" learning approaches. Nor are students equipped with the knowledge and skills that might help them navigate, challenge and overcome the rent-seeking and other practices that undermine the transparency and integrity of the justice sector. This is hardly an effective way of engaging

⁶ Promising exceptions do exist. For example, the University of Indonesia, UI, has introduced and promoted the concept of Moot Court competition and a number of schools have initiated legal clinics. However, such efforts remain limited in scope and impact.

students or demonstrating the interesting problems that can be tackled in the justice sector. Curriculum reform and the adoption of improved teaching methodologies would provide students with a clearer understanding of the justice sector, including the compelling and engaging issues that many students might find interesting to address in their subsequent professional pursuits.

In addition, law schools could also craft incentive structures aimed at increasing the attractiveness of public service. For example, individuals who serve and excel in the public sector for their first two to three years after law school could be eligible for tuition reimbursement, prestigious fellowships and post-graduate opportunities, scholarships for the pursuit of a LLM in the United States, preferential participation in seminars and professional development programs offered by the law schools, grants for and participation in “action-research,” and consultancy opportunities with CSOs. In addition, partial tuition waivers for enrollment in justice sector reform courses or participation in justice sector reform research programs might increase exposure to the positive aspects of working in the justice sector.⁷

A potentially powerful incentive would be if students who successfully complete post-graduate programs on court reform would be automatically accepted in Pusdiklat without having to take the entrance exam or go through a cumbersome administrative process. This would enable qualified and motivated graduates to bypass the Pusdiklat entrance exams selection, which are generally viewed as non transparent and not necessarily merit-based. The number of such “automatically admitted” students would remain marginal and not exceed 5 or 10% of each year Pusdiklat candidates but it would unquestionably enhance the quality of the group by bringing in highly motivated and pre-specialized *Cakim* or *Caksa*⁸ into each year class.

Expected results:

The Recipient shall attain the following results (performance measures provided in C.1.5 “Required Indicators”):

- Creation of incentive structures that increase the attractiveness of public service in the justice sector;

⁷ While the Agency is especially interested in attracting the “best and brightest” to public service careers in the justice sector, applicants are invited to suggest activities that would broaden the level of interest and participation in justice sector service and reform by all law school students. Such approaches might include degree requirements that mandate enrollment in justice sector reform courses; tuition offsets for students who enroll in such classes, participate in clinical programs, or assist in justice sector reform research projects; and awards to students with particularly strong performance in such courses, clinics and research projects.

⁸ The *Calon Hakim* or *Cakim* and the *Calon Jaksa* or *Caksa* are the candidate judges or candidate prosecutors who follow the MA and KA Pusdiklat curricula and internship programs.

- Creation of incentive structures that foster increased enrollment and participation in law school courses, clinics and research projects focused on justice sector performance and reform;
- Increased participation of top students in internship, externship, and clinic programs that provide students with increased exposure to and opportunities to work in the justice sector and justice sector reform;
- Better qualified law graduates are candidates to the Supreme Court and Attorney General's Office;
- Creation of post graduate programs and professional development opportunities regarding justice sector reform, including a program on the practical aspects of court work that would pre-qualify candidates for the Pusdiklat.

Activities:

Required activities will include the following:

- Designing incentive structures that increase the attractiveness of public service in the justice sector;
- Developing incentive structures that foster increased enrollment and participation in law school courses, clinics and research projects focused on justice sector performance and reform;
- Providing training opportunities abroad for high potential student candidates for judges/prosecutors careers;
- Assistance to fostering increased participation in post-graduate programs in law schools focusing on functioning of tribunals that might pre-qualify students for Pusdiklat;
- Developing scholarship and exchange programs (e.g. to earn LLM degrees in the United States) for top students who pursue public service careers in the justice sector.

C.1.4 Institutionalized Arrangements for Collaboration among Law Schools, CSOs and Justice Sector Institutions

The current legal education system does not yet have strong links to the public sector or the justice reform sector more broadly. In an effort to foster such links, and promote the level and type of collaboration that will likely be essential to the success of the other program elements, the E2J will support the development and implementation of a task force or other standing body that can help facilitate the development of institutionalized arrangements for collaboration among law schools, CSOs, and key justice sector institutions (e.g. the Supreme Court and the AGO). Establishment of such collaboration among legal educators, leaders of justice system public service and other stakeholders of law and justice reform will be vital to the development of the improved law curriculum and legal education instructional methodology that is critical to developing a new generation of justice sector practitioners and reformers equipped to achieve justice sector reform. It will

also be a valuable asset to efforts to develop internships, externships, clinic programs, alternative incentive structures, research funding, international collaboration, etc.

By developing and institutionalizing collaborative arrangements, E2J can enable law professors need to better understand the role they can play and the significant impact they could have on the functioning of the Indonesian justice sector, while helping the justice sector shape the development of future employees in a manner that will advance the performance and reform of the sector. Relationships between law academics, CSO personnel, and senior members of the judiciary/prosecutorial services can help reveal and strengthen linkages between their respective mandates. Partnerships with foreign law education institutions might also provide exposure to broader perspectives and experiences. The effort would include the development and delivery of conferences and other forums wherein ideas, lessons learned and new programs could be developed, shared and made available to interested parties.

The success of such an initiative in part depends on the proactive support of the leadership of law education institutions (e.g. at the level of the Law Schools Deans Conference), CSOs, and both Mahkamah Agung and Kejaksaan Agung. In addition, because significant parts of law school curricula are controlled by the Ministry of Education through its Directorate General of Higher Education (DIKTI), it is critical to secure DIKTI's involvement and endorsement in any effort to reform curricula content. Finally, a select set of law school deans have recognized the problems described in this Program Description and have initiated some limited legal education reforms. Securing their participation is important.

Expected results:

The Recipient shall attain the following results (performance measures provided in C.1.5 "Required Indicators"):

- Establishment of a standing body aimed at facilitating institutionalized arrangements for collaboration among law educators, leaders of justice system public service, justice sector institutions (AGO, Supreme Court, etc.) and other stakeholders of law and justice reform with regard to improving the relevance and practical value of law school teaching, curricula, research and service;
- Development of conferences, working groups and/or task forces whereby law educators, leaders of justice system public service and other stakeholders of law and justice reform can develop, strengthen, and expand effective approaches to achieving the objectives of this Program Description and the results set forth in the program elements of this Program Description.

Activities:

Required activities will include the following:

- Assistance to the creation of a standing body to promote the joint effort of concerned law schools academics, CSO personnel, and senior judges/prosecutors to improve the legal education and quality of future civil servants of the justice system;
- Assistance to the development and delivery of conferences, working groups and task forces whereby law educators, leaders of justice system public service and other stakeholders of law and justice reform can develop, strengthen, and expand effective approaches to achieving the objectives of this Program Description and the results set forth in the program elements of this Program Description.

C. 1.5 Required Indicators for Assistance to Indonesian Law Schools:

- A standing body on justice and legal education, convening leading law educators, CSO personnel, justice sector practitioners (e.g. judges/prosecutors or former judges/prosecutors), and other stakeholders of legal education, has been set up and is operational;
- At least 20% increase in number of candidates to SC/AGO from the top 20% of law school graduates from Indonesian law schools receiving assistance under the E2J program;
- At least 20 case-studies and other practical training materials developed with inputs from justice system practitioners (active and former judges and prosecutors and CSO personnel) and employed by faculty at law schools receiving assistance under E2J;
- At least 10 new clinical courses developed with inputs from justice system practitioners (active and former judges and prosecutors and CSO personnel) and delivered by law schools receiving assistance under E2J;
- At least 5 new clinical programs developed with inputs from justice system practitioners (active and former judges and prosecutors and CSO personnel) and delivered by law schools receiving assistance under E2J;
- At least 10 new research projects focused on justice sector performance or reform are developed and initiated by law schools receiving assistance under E2J with input and participation of justice system practitioners (active and former judges and prosecutors and CSO personnel);
- At least three post-graduate and professional development programs in justice sector reform, one of which will be in court reform, established and commenced;
- At least 10 law lecturers have benefited from training abroad with regard to teaching methodology, research design and/or clinical program development as it relates to practice-oriented legal education (legal education aimed at improving justice sector performance and reform);

- At least 5 programs established that provide incentives for law school graduates to pursue public service careers in the justice sector. Program should be available to students (and graduates) from a minimum of 10 Indonesian law schools;
- At least 5 law schools from different provinces in and outside of Java have significantly modified their curricula to incorporate practical aspects of justice delivery including court procedures;
- At least 5 law schools in and outside of Java have initiated process of incorporating justice sector practitioners (e.g. judges/prosecutors, former judges/prosecutors, CSO personnel) as part-time or adjunct faculty;
- A minimum of 10 conferences, workshops and other events have been organized in law schools to promote careers in public sector of justice.

C.2 Assistance to Civil Society Organizations

Civil society organizations (CSOs) play a critical role in the development and implementation of justice reform. They simultaneously act as service providers/partners for justice reform, independent monitors/watchdogs of reform efforts, advocates for particular types of reform, and researchers who expand the body of knowledge about justice reform. Their various efforts help ensure that justice reform is responsive to the needs of the society at large and accountable to the people.

Given such important roles and responsibilities, CSOs have the potential to be vital assets to law schools and the development of a new generation of justice sector practitioners – practitioners with the knowledge and skills needed to pursue a career in public service and contribute to justice sector reform. For example, their research can inform the content of law school curricula and provide opportunities for students to investigate justice sector reform issues. Their efforts as monitors, advocates or service providers can provide students with work and service opportunities wherein they can apply their classroom education to real world challenges.

If justice sector CSOs are going to a) continue to play a critical role in justice sector reform; b) expand that role to meet the growing needs of such reform; and c) emerge as vital partners in the improvement of legal education that is essential to advancing and consolidating such reform over the medium and long term, CSOs will need to increase their capacity, maintain their intellectual excellence, and protect their independence.

The Recipient will therefore support activities that a) maintain and strengthen CSO research programs and intellectual leadership; b) expand CSO collaboration with law schools; c) reinforce and enhance CSO capacity to advocate for and monitor justice sector reform; and d) enable CSOs to develop the resources and financial planning and management necessary to support effective programming and maintain independence.

Note: Special priority will be given to the first two objectives. In addition, efforts regarding the latter two objectives should be pursued in a manner that reinforces the achievement of the first two objectives and focuses on the CSOs involved in those efforts.

C.2.1 Maintain and Strengthen CSO Intellectual Leadership and Research Programs

CSOs have developed a strong reputation as sources of intellectual leadership. CSOs have frequently worked as service providers and consultants to justice institutions; they have been integral contributors to the design of reform agendas and reform programs; and the Reform Team secretariats at both MA and KA are staffed with highly qualified lawyers and consultants originating from CSOs.

However, the level of knowledge, analysis and research needed to support and facilitate the desired pace and scope of justice sector reform exceeds what CSOs can currently provide. While justice sector civil society organizations and university research centers are viewed as the cradles of law and justice reform thinking, most of them lack the resources to develop robust and sustained research programs or research centers. As a result, the bulk of research and publications originates from a very limited number of higher education institutions. Unfortunately, the research at these institutions does not focus on the practical aspects of justice sector reform and very little effort is dedicated to applied research on justice and the functioning of courts.

Given the role of CSOs in representing the concerns and interests of various civil society constituents, it is important that CSOs have ample capacity to investigate and clarify what approaches might best address those concerns and interests. Their enhanced capacity to conduct research will also improve the quality of their analyses of ongoing reforms, the credibility of the publications and reports they issue as independent overseers of changes in the justice system, and the value of the information they provide to the media and public regarding current and prospective reform efforts. In addition, by virtue of their work, CSOs offer an analytical lens and perspective that can help define problems and research agendas in ways that might otherwise escape consideration.

Given this situation and opportunity, Section C.2.1 of this Program Description focuses on strengthening the research capacity of CSOs, the research skills of their personnel, and the research opportunities available to their personnel. Reinforcing research capacity at CSOs, connecting such capacity to the work of other research institutions (including law schools); and creating linkages among CSOs and research institutions both domestically and abroad will improve the level, scope, relevance and quality of justice sector reform research. The resulting knowledge will be a valuable asset to the current and next generation of justice sector practitioners and reformers.

Activities under C.2.1 are designed to help CSOs develop research programs and approaches that are especially valuable and feasible within the context of CSO resources and activities. In keeping with the work being supported under C.2.3, activities are to also help CSOs increase the resources available to conduct research. Additional activities will include training programs aimed at increasing the research skills of CSO personnel and the development of research opportunities. Special attention should be given to linkages with and research program development at universities and research institutes within and beyond Indonesia. The development of such linkages and programs is discussed further under C.2.2.

Expected results:

The Recipient shall attain the following results (performance measures provided in C.2.5 “Required Indicators”):

- Increased numbers of publications of CSO research on reforms in justice system institutions and on actual impact on justice delivery;
- Increased numbers of research projects on justice sector practice, performance and reform being conducted by at least ten CSOs;
- Increased research skills exhibited by personnel at ten CSOs;
- Research fellowship programs (with an emphasis on practice-oriented research) created for Indonesian CSO personnel at research institutes and law schools in Indonesia;
- Research fellowship programs (with an emphasis on practice-oriented research) created for Indonesian CSO personnel at research institutes and universities outside Indonesia;
- Increased number of CSO research projects being conducted within the AGO and Supreme Court;
- Increased operational resources (hardware, software, access to databases, etc.) for research at ten CSOs at least;
- Increased funding for research by CSOs.

Activities:

Required activities will include the following:

- Technical assistance aimed at developing research approaches that leverage and support the program activities of CSOs;
- Development of capacity to secure funding for research endeavors;
- Training programs;
- Development of research projects;
- Establishment of partnerships with legal research institutions abroad to enhance Indonesia research capacity on practical aspects of justice delivery and judicial governance reform;

- Development of fellowship programs;
- Facilitating and to be increased funding for research by CSOs.
- Creation of an integrated journal of Indonesian justice sector reform that publishes all research reports, articles and monitoring reports produced under E2J.

C.2.2 Expanded and Institutionalized Collaboration with Law Schools in Indonesia and Abroad

Collaboration between Indonesian law schools and CSOs is relatively limited. Not only does this limit the effectiveness of both sets of institutions, it also constrains justice sector reform more broadly. Law schools are missing opportunities to work with non-university based CSOs in conducting practice-oriented research on justice sector performance and reform; CSOs are missing opportunities to inform the substance of law school curricula; law school students are missing opportunities to serve as interns and externs at CSOs engaged in justice sector reform or consultancies with the AGO and Supreme Court; CSOs are missing opportunities to increase the impact of their work through the contributions of faculty and students. As a result, valuable assets for justice reform are underutilized. In addition, a new generation of law school students does not develop the knowledge, skills or practical experience that might attract them to and equip them for careers in public service and justice sector reform. In order to address this situation, this P.D. will support activities that develop and institutionalize various types of collaboration between CSOs and law schools.

First and foremost, the program will support activities that develop and institutionalize joint research programs between CSOs, law schools and research institutes that focus on justice sector performance, justice administration, and justice sector reform. Such activities are to complement and leverage activities conducted under C.1.2, C.1.4, and C.2.1.

Second, the program will support endeavors that foster and institutionalize linkages between Indonesian CSOs, law schools and research institutes and foreign CSOs, law schools and research institutes with related research interests and agendas. Such activities are to complement and leverage activities conducted under C.1.2, C.1.4, and C.2.1.

Third, the program will help CSOs and law schools examine ways in which CSO analyses, publications and research can be incorporated in law school instruction and ways in which faculty and students can be engaged in CSO activities.

Fourth, the program will facilitate the development and institutionalization of internships, externships and, where feasible, clinical opportunities for law school students at Indonesian CSOs and within CSO projects (consultancies, research, etc).

Expected results:

The Recipient shall attain the following results (performance measures provided in C.2.5 “Required Indicators”):

- 12 joint research programs established between CSOs, law schools and research institutes that involve at least five different law schools and ten different CSOs, preferably distributed across Indonesia’s regions.
- 6 joint research activities established between US law schools and/or research institutes and Indonesian CSOs, law schools and research institutes – activities should involve at least three different Indonesian law schools and five different CSOs, preferably distributed across Indonesia’s regions.
- New fellowship programs established and existing fellowship programs expanded such that at least five different law schools and five different CSOs (preferably from multiple regions) send at least one individual to the United States for a minimum of one semester;
- Curricula and courses at ten law schools incorporate analyses, publications and research - from at least five CSOs - as core instructional materials and assets;
- Fellowship Support linkages/fellowship programs between Indonesian university research centers and foreign centers of excellence with similar focus;

Activities:

Required activities will include the following:

- Technical assistance to CSOs to develop research programs with law schools and research centers and institutes, with a focus on research related to justice sector performance, justice sector reform, and the functioning of the courts;
- Support linkages/fellowship programs between Indonesian university research centers and foreign centers of excellence with similar focus;
- Establish partnerships with legal research institutions abroad to enhance Indonesia research capacity on practical aspects of justice delivery and judicial governance reform;
- Build internship, externship and clinical opportunities at CSOs for law school students;
- Support to CSOs research centers, including institutional research fellowships or grants, equipment and/or library resources;
- Assist CSOs and law schools in incorporating CSO analyses, publications and research as instructional assets

C.2.3 Improved Resource Development, Financial Planning and Financial Management Capacity at Select CSOs

CSOs are one of the few institutions with the mandate –and intellectual and financial resources— to effectively represent the interests of civil society. Their role is therefore not only to prod reform and monitor effectiveness of reform efforts but also to stand for the interests of traditionally ignored segments of society: the poor, women, and ethnic or other minorities. As the primary and sometimes sole advocates of the destitute, their role and responsibilities are critical.

Effectively performing those responsibilities – and expanding CSO contributions as justice sector reform efforts become more prevalent – requires enhanced capacity and continued independence. One especially daunting challenge is developing the financial resources and viability that are essential to expanded capacity while not compromising the organizational and intellectual independence that is essential to representing civil society interests and advocating and monitoring justice sector reform. For example, if Civil Society Organizations must necessarily and primarily secure operational resources through consultancies, the incentives and constraints surrounding the pursuit of such resources might jeopardize their independence and integrity.

The Recipient will assist support efforts to help a select number of CSOs develop effective approaches to resource development, financial planning and financial management that support the continued delivery and expansion of their advocacy, monitoring and research programs without compromising their independence. Activities will include technical assistance to support the development and incorporation of such approaches; training to equip appropriate personnel with related skills; and assistance in pursuing and securing financial resources.

Note: Activities are to be directed at the CSOs that are the primary partners and beneficiaries of activities implemented under C.2.1 and C.2.2.

Expected results:

The Recipient shall attain the following results (performance measures provided in C.2.5 “Required Indicators”):

- Enhanced CSO capacity to assess organizational and programmatic financial needs;
- Enhanced CSO capacity to develop and implement resource development and financial management plans;
- Enhanced CSO capacity to secure financial resources;
- Enhanced financial viability of targeted CSOs;
- Enhanced CSO capacity to effectively manage financial resources in support of CSO programs.

Activities:

Required activities will include the following:

- Technical assistance to develop and employ effective resource development, financial planning and financial management approaches;
- Training that supports CSO human capacity to employ effective resource development, financial planning and financial management approaches;
- Facilitate and assist the pursuit of financial resources.

C.2.4 Enhanced Capacity of Select CSOs to Advocate and Monitor Justice Sector Reform

As noted above, CSOs are the only institutions with the mandate –and intellectual and financial resources— to effectively represent the interests of civil society. Their role is therefore not only to prod reform and monitor effectiveness of reform efforts but also to stand for the interests of traditionally ignored segments of society: the poor, women, and ethnic or other minorities. As the primary and sometimes sole advocates of the destitute, their role and responsibilities are critical. However, it's clear that CSOs do not have the capacity needed to adequately fulfill their advocacy and monitoring roles – with regard to present or hoped for reform efforts.

While activities under C.2.3 will strengthen the financial capacity of CSOs to support such work, activities supported under C.2.4 will strengthen the advocacy and monitoring capacity of CSOs. Activities are to enhance CSO capacity to apply research and knowledge, participate in defining justice sector reform agendas, monitor the progress of reforms, represent constituencies that are often not well-served by the justice sector, and provide information to the public and media regarding the status of reforms and the situation in the justice sector. Such increased capacity will not only advance justice sector reform, but also provide law school students with expanded service and clinical opportunities, thereby complementing USAID investments made under C.1 of this Program Description.

Note: Activities are to be directed at the CSOs that are the primary partners and beneficiaries of activities implemented under C.2.1 and C.2.2.

Expected results:

The Recipient shall attain the following results (performance measures provided in C.2.5 “Required Indicators”):

- Enhanced CSO capacity to participate in defining justice sector reform agendas (including SC and AGO);
- More access to information regarding implemented reforms as a result of monitoring by CSOs and reporting by media;
- Increased role played by CSOs in advocating concerns of underrepresented segments of the population: the poor, women, minorities and other groups;

- Reinforced institutional capacity of CSOs to provide better and more in depth media reporting on the judiciary.
- Effective advocacy on selected reform issues, as defined by CSOs.

Activities:

Required activities will include the following:

- Identification and prioritization of capacity development needs;
- Provision of technical assistance and training;
- Sub-grants to selected CSOs for advocacy on justice sector reform issues;
- Sub-grants to selected CSOs to monitor justice sector institutions, including but not limited to SC and AGO;
- Facilitate partnerships between CSOs with similar organizations abroad;
- Support to CSOs and/or media organizations to research and publicize findings/independent assessments of justice reform efforts.

C.2.5 Required indicators of support to Civil Society Organizations:

- Number of CSO members have received post graduate training abroad;
- Number of institutional linkages established between domestic and international CSOs;
- Number of papers/articles published on justice sector reform and practical aspects of justice published in CSOs and Indonesian law school journals or other publications;
- Number of CSO activity reports that provide providing evidence of their advocacy activities on behalf of underprivileged segments of the population;
- Degree of media coverage of progress/stalling of reform of the justice sector that is fostered by CSO publications or CSO events;
- Number of joint research programs established and conducted between CSOs and law schools and research institutes in Indonesia;
- Number of joint research programs established and conducted between CSOs and law schools and research institutes in Indonesia that also include law schools and research institutes in the United States;
- Number of targeted CSOs with increased financial stability;
- Number of targeted CSOs with increased financial support;
- Number of targeted CSOs with five year financial plan reviewed and approved by a U.S. organization that assesses financial health and viability of non-profit organizations;
- Year over year increase in number of justice sector reform monitoring reports written and published by CSOs and reported by media;
- Number of justice sector reform programs developed by CSOs and implemented by public sector justice institutions in Indonesia;

- Number of new research projects being conducted by CSOs – in collaboration with law schools - within the AGO and Supreme Court.

VI. KEY PERSONNEL

Throughout the life of the project, the Recipient will be expected to maintain a team of personnel with appropriate technical expertise to provide the management, analysis, research, training and technical assistance as outlined in this Program Description. Each applicant should provide an organizational chart and staffing plan, describing the technical and administrative staff it considers necessary. Where possible, the Applicant is encouraged to minimize the use of expatriate staff. At least one key personnel should be Indonesian national.

The agreement proposed by this solicitation includes a key personnel clause, and the quality of key personnel proposed will be part of the evaluation factor. The Applicant must include as part of its proposal a signed letter of commitment from the candidate proposed as key personnel, confirming his/her present intention to serve in the stated position during the term of the Agreement period.

Curricula Vitae not exceeding four pages should be provided in an annex for candidates for key positions. Timely availability, adequate skills and demonstrated experience are essential. Key considerations include:

- Experience in designing, managing, implementing, monitoring and evaluating programs and projects related to legal education and justice sector reform;
- Experience in designing, managing, implementing, monitoring and evaluating programs and projects related to the development of practice-oriented research programs in the justice sector, preferably involving law schools and CSOs;
- Knowledge of clinical legal education;
- Knowledge of civil society organizations as assets to justice sector reform, legal education, justice sector research, and/or the training of justice sector practitioners;
- Experience in Indonesia, elsewhere in Southeast Asia, or in other countries going through justice sector reforms;
- Experience with and knowledge of USAID policies, program and procedures related to managing projects;
- Proficiency in Bahasa Indonesia (s-3/r-3 or better) or a demonstrated ability to learn a new language.

Particular importance will be given to the number and quality of Indonesian experts included in the team and to their anticipated roles in the project.

The Mission reserves the right to check the references of any and all personnel proposed for this activity. A minimum of three references for each proposed candidate as key personnel will be required

In accordance with the Substantial Involvement clause, these proposed personnel are subject to the approval of the Agreement Officer. The following positions are required for key personnel:

Chief of Party: Responsible for project impacts, external representation and coordination with Project counterparts, USAID, GoI contacts, other donors and other programs while also contributing to technical guidance of the projects and, where appropriate, offering technical assistance to partners. The COP will also be responsible for oversight of project activities to ensure quality work and compliance with agreement results; Minimum of 10 years of progressively responsible experience including experience leading and directing donor-funded Legal, Judicial or Legal Education Technical Assistance projects and work in Indonesia or similar environments. Prior experience with USAID-funded projects preferred. Advance degree in law or related field, political science, international relations or development studies; written and verbal fluency in English, knowledge of Bahasa Indonesia an asset; strong inter-personal and communication skills including public speaking and presentation abilities; team-building and networking.

Legal Education Expert: Responsible for coordinating all aspects of the law schools technical assistance activities, including provision of guidance, Training of Trainers and other technical expertise to the participant law schools. Minimum 10 years of professional experience as law school administrator/professor/lecturer or as a judicial training program manager and trainer. Should have progressively responsible experience in design and implementation of law curricula. Prior experience with technical assistance projects and work with donor-funded project preferred. Demonstrated understanding of Indonesia's justice sector and judicial system is necessary. Written and verbal fluency in English is a prerequisite, knowledge of Bahasa Indonesia an asset; strong inter-personal and communication skills.

Clinical Legal Education Expert: Responsible for leading technical assistance and institutional capacity development efforts in support of developing a)law school clinics and related clinical education programs and b)internship and externship programs for law school students at public sector justice institutions and CSOs. Minimum 7 years of professional experience developing and leading law school clinics, clinical education programs, and internship/externship programs for law students. Prior experience with technical assistance projects and work with donor-funded project preferred. Demonstrated understanding of Indonesia's justice sector and judicial system a plus. Written and verbal fluency in English is a prerequisite, knowledge of Bahasa Indonesia an asset; strong inter-personal and communication skills.

Civil Society Organizations Expert: Responsible for coordinating all technical assistance support to CSOs, providing them with guidance and technical expertise. Minimum 8 years of professional experience as senior advisor/manager of justice sector civil society organization. Prior experience in developing country and work with donor-funded project will be an asset. Demonstrated understanding of Indonesia's justice sector and interaction with civil society is necessary. Written and verbal fluency in English is a prerequisite, knowledge of Bahasa Indonesia an asset; strong inter-personal and communication skills.

The personnel specified above are considered to be essential to the work performed hereunder. Prior to replacing any of the specified individuals, the Recipient shall immediately notify both the Agreement Officer and USAID Agreement Officer Technical Representative (AOTR) reasonably in advance and shall submit written justification (including proposed substitutions) in sufficient detail to permit evaluation of the impact on the project. No replacement of personnel shall be made without the prior written consent of the Agreement Officer.

The Recipient is to outline in its application a project management structure, inclusive or not of a project steering committee and/or management board, which will enhance the ownership of the project and of the project objectives by Indonesian institutional counterparts, selected Law Schools, the Supreme Court and the Attorney General Office, representative CSOs and other justice system stakeholders.

VII. Performance Monitoring Plan (PMP)

The Recipient's application will include specific, detailed plans to monitor and document program performance within its Performance Monitoring Plan (PMP). USAID/ Indonesia will assess progress against selected performance indicators (see above) that measure the achievement of targeted program objectives, as specified in this Program Description. The Recipient's Performance Monitoring Plan will clearly state how proposed activities relate to the program objectives and how data will be tracked, collected, verified and reported to document progress toward these objectives. As part of the PMP, the Recipient should, in consultation with the AOTR, develop applicable indicators and targets on an annual and life of project basis. The Recipient should be prepared for revisions in required program indicators on the basis of USAID assessment of actual reform results during the lifetime of the award.

VIII. Linkages and Synergies with Other Programs

A. Relationship to USAID strategy/portfolio

“Changes for Justice Program – Educating and Equipping Tomorrow's Justice Reformers” is a component of USAID/Indonesia Intermediate Result 1 “Rule of law and accountability

strengthened”⁹. In addition to the rule of law results described above¹⁰, results of this activity will contribute to the goals of the “accountability” activity through the strengthening of CSOs’ capacity to monitor reforms and prod for more transparency, holding justice sector actors and institutions accountable.

“Educating and Equipping Tomorrow's Justice Reformers” will complement other USAID/Indonesia DG activities and contribute to achieving the other Intermediate Results “More effective, representative, and responsive governance,” as justice sector institutions are a part of the governance structure. A more reliable justice system will also contribute to the cross program objective of reinforcing sustainable peace with adequate and trusted formal mechanisms for resolving disputes and ending impunity.

IX. SUBSTANTIAL INVOLVEMENT

USAID/Indonesia anticipates a close working partnership and substantial involvement in the recipient’s program. USAID’s substantial involvement in the program will extend to those items identified below:

- 1) Review and approval of the Recipient's implementation plans;
- 2) Review and approval by the Agreement Officer of key personnel;
- 3) Review and consent by the Agreement Officer of the selection of sub-grants/sub-awards, which the Recipient will have the authority to provide under E2J;
- 4) Review and approval of the Performance Management Plan;
- 5) Provide technical collaboration for specific program interventions.

X. REPORTING REQUIREMENTS

A. Annual Workplan

Within 30 days of award, the recipient will submit an Initial Year work plan. The work plan will be subject to the approval in writing by the Agreement Officer’s Technical Representative (AOTR). For each subsequent year, the recipient will submit a 12-month work plan 60 days prior to the end of the program year thereby allowing sufficient time for review, consultation and approval before the start of the new work plan year.

B. Monitoring and Evaluation

Specific and objective performance measures which meet USAID Indonesia’s strategic objectives and performance monitoring plan will be developed by the selected

⁹ See Draft USAID Indonesia Strategy 2009-2014 “A Partnership for Prosperity” p.27
Available at http://indonesia.usaid.gov/documents/document/document/309/USAID_Country_Program_Strategy_20092014

¹⁰ See above: 2. Background; and 3. Problem Statement

implementers in consultation with USAID. A combination of common and custom indicators will be developed and reported in the Mission's Operational Plan. The Performance Monitoring Plan (PMP) will be in place within three months of the inception of the program.

C. Progress Report

The recipient will submit three fiscal year quarterly performance reports and fourth quarter annual report per fiscal year. These reports will include a data table for indicators and indicate progress achieved towards benchmarks, highlight tangible results and achievements identify any problems encountered in implementation and propose remedial actions as appropriate. Regardless of start date all reporting is based upon the USG fiscal year and quarters. Progress reports are due 30 days after the end of the fiscal quarter.

The annual reports will include progress against work plan projections. Annual report will be submitted 30 days after the end of the U.S. Government fiscal year. Each annual report will cover activities completed during the preceding 12-month period and will be submitted to the AOTR. Annual reports will include data collected to measure progress against the Performance Monitoring Plan (PMP). All reporting should be based upon the U.S. Government fiscal year calendar, and must include relevant Strategic Objective and Immediate result indicators as outlined in USAID/Indonesia's Strategy.

D. Financial Reports

Financial Reports shall be in keeping with 22 CFR 226.52. In accordance with 22 CFR 226.52, the SF 425 "Federal Financial Form" will be required on a quarterly basis, to coincide with USAID's fiscal year calendar. The first quarterly report will cover the period from the award date through March 2010. Subsequent reports will cover the three month periods ending in June, September, December and March.

- (a) The Recipient must submit a signed and electronic copy of the SF 425 "Federal Financial Form" to the Agreement Officer Technical Representative (AOTR) with one copy to the Agreement Officer (AO). Quarterly financial SF 425 reports are due 30 calendar days, after the reporting period.
- (b) In accordance with 22 CFR 226.70-72, the Recipient shall submit the original of the final financial report to Financial Management Office, one copy to the Agreement Officer, one copy to the Agreement Officer Technical Representative.

E. Final Report

Within 60 days after contract completion date, the recipient shall submit a final completion report. Final report should contain summary and discussion of all activities conducted under this Cooperative Agreement; a detailed measurement of the result achieved – measured against the indicators in the Performance Monitoring Plan (PMP); and an assessment of the overall impact of the program on the broader goal of promoting integrity and accountability in Indonesia.

XI. GENDER CONSIDERATION

The selected implementers will be expected to promote the concept of full and open participation of all members of society. In keeping with this the RFA will require that special attention be paid to maximizing the participation of women and to addressing issues of particular importance to women. As part of the technical application the Applicants will be expected to outline a strategy for addressing accountability issues involving women and/or affecting issues of importance to women. The selected implementers also will be expected to include women on their staff, in baseline surveys (disaggregated data), and among beneficiary groups in as representative a manner as possible – understanding that for work with public institutions there may be limited representation of women officials. The selected implementers will be required to report gender disaggregated data.

XII. INITIAL ENVIRONMENTAL EXAMINATION (IEE)

An IEE has been prepared and approved in accordance with 22 CFR 216.2 (c) (2) (i) for education, technical assistance or training programs and in accordance with 22 CFR 216.2 (c) (2) (iii) for analysis, studies, academic or research workshops and meeting activities of the E2J Program. E2J Program is not expected to have a significant direct or indirect adverse impact on the natural or physical environment it will qualify for a categorical exclusion and the IEE will request the exclusion be applied.

[End of Section A]

SECTION B – COOPERATIVE AGREEMENT APPLICATION FORMAT

B.1 PREPARATION AND SUBMISSION GUIDELINES

All applications, in hard copies and electronic, received by the solicitation's specified deadline will be reviewed for responsiveness to the specifications outlined in these guidelines and the application format. Section C addresses the award evaluation procedures for the applications. Applications which are submitted late or are incomplete run the risk of not being considered in the review process. "Late applications will not be considered for award". Facsimile submission is not authorized nor will be accepted.

Applications shall be submitted in two separate parts: (a) technical and (b) cost or business application. Technical portions of applications should be submitted in **one original and five copies** and cost portions of applications in **one original and two copies**.

All applications shall be in English. Applications must be submitted no later than the date and time indicated on the cover page of this RFA, to the location indicated on the cover letter accompanying this RFA.

Technical applications should be specific, complete and presented concisely. The applications should demonstrate the Applicant's capabilities and expertise with respect to achieving the goals of this program. The applications should take into account the evaluation criteria found in Section C.

Applicants should retain for their records one copy of the application and all enclosures which accompany their application. Erasures or other changes must be initialed by the person signing the application. To facilitate the competitive review of the applications, USAID will consider only applications conforming to the format prescribed below.

B.2 GOVERNMENT OBLIGATION

Issuance of this RFA does not constitute a commitment on the part of the U.S. Government to make an award nor does it commit the Government to pay for any costs incurred in the preparation and submission of an application. Further, the U.S. Government reserves the right to reject any or all proposals received.

B.3 TECHNICAL APPLICATION FORMAT

The Technical Application will be the most important item of consideration in selection for award of the proposed activity. It should demonstrate the Applicant's capabilities and expertise with respect to achieving the goals of this program. Therefore, it should be

specific, complete, and presented concisely. It should take into account and be arranged in the order of the technical evaluation criteria specified in Section C. SELECTION CRITERIA.

The Technical Application is limited to 25 pages and shall be written in English. Applicant shall use only 8 ½" x 11" paper, single spaced, 12pt font Times New Roman or similar font with margins no less than one inch on each border. Number each page consecutively.

Note: A page in the Technical Application that contains a table, chart, graph, etc, not otherwise excluded below, is included within the above page limitation.

Not included in this page limitation are the following:

- Cover page;
- Table of Contents;
- Dividers;
- Table summarizing qualifications of proposed personnel;
- Appendix attachments which contain biographical information (i.e., resumes and other documentation provided by the Applicant) for proposed candidates;
- Monitoring and Evaluation Plan;
- Branding Strategy and Marking Plan;
- Applicant/sub-grantee Past Performance Listing; and
- Charts, such as Organizational Chart(s), etc.

All critical information from appendices should be summarized in the Technical Application.

Applicant must organize the Technical Application to follow the information set forth below:

1. Cover Page

A single page with the program title and RFA number, the names of the organizations/institutions involved, and the lead or primary Applicant, clearly identified. Any proposed sub grantees (or implementing partners) should be listed separately. In addition, the Cover Page should provide a contact person for the prime Applicant, including this individual's name (both typed and his/her signature), title or position with the organization/institution, address, telephone and fax numbers, and e-mail address. State whether the contact person is the person with authority to contract for the Applicant, and if not, that person should be also listed with contact information. If applicable, the TIN (Tax Identification Number) and DUNS (Data Universal Numbering System), LOC numbers of the Applicant should also be listed on the Cover Page.

2. Executive Summary

This summary should describe the key elements of the Applicant's strategy, approach, methodologies, personnel and implementation plan. Describe how the overall program will be managed.

3. Technical Proposal

Applicants are encouraged to identify project activities to supplement required activities. Applicants should focus on describing how they propose to achieve the program objective(s). The Technical Proposal should present the Applicant's innovative ideas, approaches, strategies and management plan to achieve the results of the program. Applicants are requested not to merely repeat what is already described in this RFA. The applications should take into account the technical evaluation criteria found in Section C.

At a minimum, the Technical Proposal must include the conceptual approach, methodology and results to be achieved by the Applicant. The rationale for the appropriateness of the suggested approach should be explicit.

Gender integration is an important part of programmatic plan/approach. To the greatest extent possible, the Applicant will seek to include both men and women in all aspects of the program

4. Management Plan

Applicants are required to submit a Management Plan which outlines their overall management approach toward planning and implementation. The Management Plan will:

- Provide position descriptions of core team members;
- Explain the role and responsibilities of resident advisors (if applicable);
- Explain the project core staff roles and organizational structure of project team;
- Explain planned financial management of project including role of each staff member;
- Explain the support capabilities and anticipated role of home office support team (if applicable);
- Provide calendar of mobilization in country of all core team members;
- Provide an implementation calendar for the proposed program and activities;
- Explain methodology used to recruit best qualified international and cooperating country national (Indonesian) STTA (Short Term Technical Assistance).

5. Project Management and Staffing

The application shall name candidates for "Key Personnel" positions. In the annex on personnel, it shall provide a brief biographical sketch and a Curriculum Vitae (no longer than four pages) for each candidate. Applicants are required to comply with the instructions included under the "Key Personnel" requirements.

The Applicant is encouraged to include local personnel as staff members. The Recipient should seek to include both man and woman candidates. Each resume of key personnel shall be accompanied by a signed letter of commitment from the candidate indicating his/her availability to serve in the stated position, in terms of period (i.e., years or months) after award. As references may be checked for proposed key personnel, a minimum of three references is required. Applicants shall provide current telephone, fax and email address of references.

6. Annexes

The Technical Application should contain at the minimum the following annexes:

i. Curriculum vitae/resumes – should be provided for each “Key Personnel” and principal long term - technical and home office personnel. Curriculum vitae are limited to a maximum of four pages per person.

ii. Past Performance References – should present all contracts, grants, and Cooperative Agreements in which the primary Applicant (as well as any partners substantially involved in implementation) has implemented similar or related programs during the past five (5) years. This information is to include project of similar complexity and magnitude involving technical assistance to justice or legal education sectors. Prior experience in the region and in civil law country contexts will be seen as significant additional assets. Applicants must supply a matrix illustrating previous experience which is to include the following for each award listed: name and address of the organization for which the work was performed; current telephone number and e-mail address of the responsible representative of the organization for which the work was performed include the Contractor/Agreement Officer or other contact person; contract/grant name and number (if any); annual amount received for each of the last three years; term of award, i.e., beginning and ending dates; and a brief description of the program.

iii. Signed letters of commitment – should be provided by all proposed implementing partners. Such letters do not have to be exclusive to one Applicant.

7. Sub-agreements – Applicants shall identify and describe potential sub-recipients and/or sub-contractors, where possible, indicating the extent of utilization intended, and the tasks/functions they will perform. Describe how organizations were or will be selected and how they will effectively contribute to the activities under this Cooperative Agreement. Technical Application information for proposed sub-recipients and/or subcontractors should follow the same format as that submitted by the Applicant. Applicants must clearly identify which inputs (especially staff) will be provided by sub-grantees or contractors. Applicants shall describe their plans, systems, resources, and prior experience in coordinating and managing sub-agreements.

B.4 COST/BUSINESS APPLICATION FORMAT

The Cost or Business Application is to be submitted under separate cover from the technical application. Certain documents are required to be submitted by an Applicant in order for the Agreement Officer to make a determination of responsibility. However, it is USAID policy not to burden Applicants with undue reporting requirements if that information is readily available through other sources.

All proposed costs will be evaluated for cost realism, reasonableness, allowability, allocability, and cost effectiveness based on the applicable cost principles.

The following sections describe the documentation that Applicants must submit to USAID. While there is no page limit for this portion, Applicants are encouraged to be as concise as possible and provide the necessary detail to address the following:

1. Include a budget with an accompanying budget narrative which provides **in detail** the total costs for implementation of the program. The budget narrative must provide detailed budget notes and supporting justification of all proposed budget line items. It must clearly identify the basis of all costs, such as price quotations, current salaries, historical experience, etc. A summary of the budget must be submitted using Standard Form 424, 424A and 424B which can be downloaded from http://www.grants.gov/agencies/approved_standard_forms.jsp The full budget must include:
 - a. The breakdown of all costs associated with the program according to costs of, if applicable, headquarters, regional and/or country offices;
 - b. The breakdown of all costs according to each partner organization involved in the program;
 - c. The costs associated with external, expatriate technical assistance and those associated with local in-country technical assistance;
 - d. The breakdown of the financial and in-kind contributions (cost-share) of all organizations involved in implementing this Cooperative Agreement;
 - e. Potential contributions of non-USAID or private commercial donors (cost-share) to this Cooperative Agreement;
 - f. The name, position title, proposed annual salary, and expected level of effort of each person charged to the activity. Provide resumes showing work experience and annual salary history for at least the three most recent years for all principal long-term technical and home office personnel. For CCN

and other Local Staff, the salary information and proposed initial salary should be indicated in Indonesian Rupiah. Please also indicated in the cost application the exchange rate use for the calculation;

- g. If not included in an indirect cost rate agreement negotiated with the U.S. Government, the applicable fringe benefit rates for each category of employees, and an explanation of the benefits included in the rate;
 - h. The same individual information for consultants must be provided as for the Applicant's personnel;
 - i. A breakdown of allowances by specific type and by person, which must be in accordance with the Applicant's policies;
 - j. Travel, per diem and other transportation expenses detailed to include number of international trips, expected itineraries, number of per diem days and per diem rates;
 - k. Financial plans for all proposed sub-grants and subcontract; with the same format and level of detail as those of the Applicant.
 - l. Separate cost line items for other direct costs such as supplies, communication costs, photocopying, visas, passports and other general costs.
2. A current Negotiated Indirect Cost Rate Agreement (NICRA)
Applicants who do not currently have a NICRA from their cognizant government agency shall submit the following information:
 - a. Copies of the Applicant's financial reports for the previous 3-year period, which have been audited by a certified public accountant or other auditor satisfactory to USAID;
 - b. Projected budget, cash flow and organizational chart;
 - c. A copy of the organization's accounting manual.
 3. Required Certifications and Representations, included in Section D – Certifications, Assurances and Other Statements;
 4. Details regarding the level of cost share your organization is proposing for this activity. USAID encourages Applicants to contribute cost sharing. Cost sharing may be proposed from any available and interested local and international funding sources, including but not limited to, government and public institutions, individuals, corporations, NGOs and foundations. While there is no stated minimum required cost share amount, Applicants are encouraged to give serious consideration to the amount they propose as a signal of the Applicant's

commitment to the activity. See also Section C – Selection Criteria, under costs.

5. Applicants that have never received a grant, Cooperative Agreement, or contract from the U.S. Government are required to submit a copy of their accounting manual. If a copy has already been submitted to the U.S Government, the Applicant should advise which Federal Office has a copy.
6. Certificate of Compliance – submit a copy of your Certificate of Compliance if your organization's systems have been certified by the USAID/Washington's Office of Acquisition and Assistance (M/OAA).

The following information should be taken into consideration when developing the budget:

Direct Labor - Direct salaries and wages for each year of the Agreement shall be in accordance with the organization's established personnel policies and the applicable cost principles. To be considered adequate, the policies must be in writing, applicable to all employees of the organization, be subject to review and approval at a high enough organizational level to assure its uniform enforcement, and result in costs which are reasonable and allowable in accordance with applicable cost principles. The narrative should include a level of effort analysis specifying personnel, rate of compensation, and amount of time proposed. Anticipated salary increases during the period of the Agreement should be included.

Additional Requirements For Personnel Compensation

a. Limitations

- (1) Salaries and wages must be reflective of the “market value” for each position. Salaries and wages may not exceed the Applicant's established policy and practice, including the Applicant's established pay scale for equivalent classifications of employees, which shall be certified to by the Applicant. No individual salary or wage may exceed the employee's current salary or wage, or the highest rate of annual salary or wage received during any full year of the immediately preceding three (3) years without the approval of the Agreement Officer .
- (2) Base pay, or base salary, is defined as the employee's basic compensation (salary) for services rendered. Taxes which are a responsibility or liability of the employee are inclusive of, and not additive to, the base pay or salary. The base pay excludes benefit and allowances, bonuses, profit sharing arrangements, commission, consultant fees, extra or overtime payments, overseas differential or quarters, cost of living or dependent education allowances, etc.

- (3) In addition to base pay or salary, the following benefits mandated under Government of Indonesia (GOI) Labor Law are allocable for CCN staff: (a) JAMSOSTEK, which includes medical and life insurance and pension; (b) Lebaran (13th month) bonus; (c) leave mandated under law which is applicable to the individual; and (d) payments made at the conclusion of an employee's employment consistent with law and demonstrated within the employee's employment agreement. Fixed allowances that are not mandated by GOI law are not allocable, e.g., transportation and meals. In addition to the medical benefits provided within the JAMSOSTEK, Applicant may provide reasonable amount for supplemental medical benefits.
- (4) Employee benefits that are not addressed above require the prior written approval of the Agreement Officer (AO).
- (5) This USAID-funded program implemented under the anticipated Grant will be for a specified period of four (4) years; also referred to as the Grant Period. Unless the Applicant/Grantee demonstrates otherwise to the USAID Agreement Officer's satisfaction, Cooperating Country Nationals (CCNs) employed by the Applicant/Grantee solely to work under the USAID-funded program under this Grant are considered by USAID as employed by the Applicant/Grantee for a specified period not to exceed the Grant Period. This provision shall be interpreted in accordance with applicable cost standards including OMB Circular A-122 (Cost Principles for Non-Profit Organizations) and OMB Circular A-21 (Cost Principles for Educational Institutions), as applicable, including, but not limited to Selected Items of Cost - Compensation for Personal Services, and 22 CFR 226.

b. **Annual Salary Increases**

International Staff: One annual salary increase of not more than 5% (including promotional increase) may be granted after the employee's completion of each twelve months of satisfactory services under the USAID award.

CCN Staff: One annual salary increase of not more than 5% (includes promotional increase) may be granted after the employee's completion of each twelve months of satisfactory services under the USAID award.

Fringe Benefits - If accounted for as a separate item of cost, fringe benefits should be based on the Applicant's audited fringe benefit rate, supported by a Negotiated Indirect Cost Rate Agreement (NICRA) or historical cost data. If the latter is used, the narrative should include a detailed breakdown comprised of all items of fringe benefits (e.g. health and life insurance, FICA, etc.) and the costs of each, expressed in dollars and as a percentage of salaries.

Supplies and Equipment - Differentiate between expendable supplies and nonexpendable equipment (NOTE: Equipment is defined as tangible nonexpendable personal property including exempt property charged directly to the award having a useful life of more than one year and an acquisition cost of \$5,000 or more per unit, unless the Applicant's established policy establishes nonexpendable equipment anticipated to be required to implement the program, specifying quantities and unit cost.)

Allowances, if any, must be broken down by specific type and by person and must be in accordance with the Applicant's established policies.

Travel and Per Diem - The narrative should indicate the purpose of each trip, number of trips, domestic and international, and the estimated unit cost of each. Specify the origin and destination for each proposed trip, duration of travel and number of individuals traveling. Proposed per diem rates must be in accordance with the Applicant's established policies and practices that are uniformly applied to federally-financed and other activities of the Applicant.

Other Direct Costs (ODC) - ODC's could include any miscellaneous costs such as communications, report preparation costs, passports, visas, medical exams and inoculations, insurance (other than the Applicant's normal coverage), etc. The narrative, or supporting schedule, should provide a complete breakdown and support for each item of other direct costs.

Proposed (Sub) contracts/agreements - Applicants who intend to utilize sub-contractors or sub recipients should indicate the extent intended and a complete cost breakdown, as well as all the information required herein for the Applicant. Extensive (sub) contract/agreement financial plans should follow the same cost format as submitted by the Applicant.

B.5 RESPONSIBILITY DETERMINATION

Applicants should be prepared to submit any additional evidence of responsibility deemed necessary for the Agreement Officer to make a determination of responsibility. The information submitted should substantiate that the Applicant:

- a. Has adequate financial, management and personnel resources and systems, or the ability to obtain such resources as required during the performance of the award;
- b. Has the ability to comply with the award conditions, taking into account all existing and currently prospective commitments of the Applicant, nongovernmental and governmental.

c. Has a satisfactory record of performance. Past relevant unsatisfactory performance is ordinary sufficient to justify a finding of non-responsibility, unless there is clear evidence of subsequent satisfactory performance.

d. Has a satisfactory record of integrity and business ethics; and

e. Is otherwise qualified and eligible to receive an award under applicable laws and regulations (e.g. EEO).

An award will be made only when the Agreement Officer has made a positive determination that the Applicant possesses, or has the ability to obtain, the necessary management competence in planning and carrying out the assistance program and that it will practice mutually agreed upon methods of accountability for funds and other assets provided by USAID. For the organizations which have had no prior or few USAID awards, or organizations with outstanding audit findings, it may be necessary to perform a pre-award survey prior to Agreement Officer making this determination or establishing conditions under the award.

B.6 PRE-AWARD SURVEYS (GRANT WORTHINESS ASSESSMENT)

The Agreement Officer's responsibility is to ensure that a Recipient has the necessary organization, experience, accounting and operational controls, and technical skills, or the ability to obtain them, in order to achieve the objectives of the program.

(1) For a U.S. organization, the Agreement Officer applies the standards in 22 CFR 226.22, to include 22 CFR 226.20 (Financial and Program Management), 22 CFR 226.30-37 (Property Standards), 22 CFR 226.40-49 (Procurement Standards), and 22 CFR 226.50-53 (Reports and Records).

To establish whether the potential recipient is responsible, the Agreement Officer or a representative will conduct a detailed analysis of the applicant's systems that addresses whether:

- The Applicant's accounting, record-keeping, and overall financial management systems meet the applicable standards in 22 CFR 226;
- The Applicant's system of internal controls, including segregation of duties, handling of cash, contracting procedures, personnel and travel policies, is reasonable and in accordance with the applicable cost principles;
- The Applicant's property management system, if applicable, meets the property standards in 22 CFR 226;
- The Applicant meets the responsibilities in OMB Circular A-133 for the administration and monitoring of subawards; and

- The Applicant's procurement system, if procurement is significant to the award, meets the standards set forth in 22 CFR 226.
- (2) For a non-U.S. applicant, although 22 CFR 226 does not directly apply, the Agreement Officer will use the standards of 22 CFR 226 in determining whether a potential non-U.S. recipient is responsible.

B.7 OTHER GUIDELINES

In addition to the aforementioned guidelines, the Applicant is requested to take note of the following:

1. **Unnecessarily Elaborate Applications** - Unnecessarily elaborate brochures or other presentations beyond those sufficient to present a complete and effective application in response to this RFA are not desired and may be construed as an indication of the Applicant's lack of cost consciousness. Elaborate art work, expensive paper and bindings, and expensive visual and other presentation aids are neither necessary nor wanted.
2. **Acknowledgement of Amendments to the RFA** - Applicants shall acknowledge receipt of any amendment to this RFA by signing and returning the amendment within its application package. The Government must receive the acknowledgement by the time specified for receipt of applications.
3. **Receipt of Applications** - Applications must be received at the place designated and by the date and time specified in the cover letter of this RFA.
4. **Delivery Instructions**
 - a. The Applicant shall submit the application both in hard copies **and** electronically. All applications (hard copies and electronic) must be received at the place designated and by the deadline specified in the Cover Letter of this RFA and must be considered valid for a period of **90 days** from the solicitation closing date. Applications which are submitted late or are incomplete run the risk of not being considered in the review process.
 - b. Hard copies applications (one original and five (5) copies of the Applicant's Technical Proposal as well as one original and two (2) copies of the Cost Proposal) shall be submitted in sealed envelopes addressed to the office specified in the Cover Letter of this RFA, and showing the time specified for receipt, the RFA number, and the name and address of the Applicant.
 - c. Electronic applications shall be submitted by E-mail to **rfa10-013@usaid.gov**

with a copy to Ms. Johanna Gardjito at jgardjito@usaid.gov.

(i) Before sending your documents to USAID as an e-mail attachments, convert them into Microsoft Word (for narrative text), Excel (for tables), and Adobe Acrobat (for scanned document, picture, graphics, etc). Documents requiring signature may be sent as scanned document.

(ii) The attachment should be formatted with a 3MB limit per e-mail. Because of our system restrictions, do not send zipped files as part of the file name.

(iii) Applicants are advised that any risk of loss of information or data a part of or the Applicant's application in its entirety during any electronic transmission (e-mail) is fully assumed by the Applicant and that USAID will only evaluate that which it receives through such transmissions.

5. **Preparation of Applications**

- a. Applicants are expected to review, understand, and comply with all aspects of this RFA. Failure to do so will be at the Applicant's risk.
- b. Applicant should include on the cover page of both technical and cost applications (1) the printed or type name and title of the authorized representative; (2) information regarding the person to be contacted both during the period of evaluation of applications and for negotiations leading to award. This information is to include name, title, address, phone number, internet e-mail and facsimile number.
- c. Each Applicant shall furnish the information required by this RFA. The Applicant shall sign the application and print or type its name on the Cover Page of the technical and cost applications. Erasures or other changes must be initialed by the person signing the application. Applications signed by an agent shall be accompanied by evidence of that agent's authority, unless that evidence has been previously furnished to the issuing office. Similarly, the cost application of the Applicant's applications must identify the individual(s) having authority to bind the Applicant.
- d. Applicants who include data that they do not want disclosed to the public for any purpose or used by the U.S. Government except for evaluation purposes, should:
 - (i) Mark the title page with the following legend:

“This application includes data that shall not be disclosed outside the U.S. Government and shall not be duplicated, used, or disclosed - in whole or in part - for any purpose other than to evaluate this application. If, however, a

grant is awarded to this Applicant as a result of -or in connection with - the submission of this data, the U.S. Government shall have the right to duplicate, use, or disclose the data to the extent provided in the resulting grant. This restriction does not limit the U.S. Government's right to use information contained in this data if it is obtained from another source without restriction. The data subject to this restriction are contained in sheets ____.”; and

(ii) Mark each sheet of data it wishes to restrict with the following legend:

“Use or disclosure of data contained on this sheet is subject to the restriction on the title page of this application.”

6. **Explanation to Prospective Applicants** - Any prospective Applicant desiring an explanation or interpretation of this RFA must request it in writing by the deadline for receipt of questions indicated on the cover letter of this RFA to the e-mail address set forth in the RFA cover letter. Oral explanations or instructions given before award of a Cooperative Agreement will not be binding. Any information given to a prospective recipient concerning this RFA will also be furnished to all other prospective recipients as an amendment to this RFA if that information is necessary in submitting applications or if the lack of it would be prejudicial to any other prospective recipients.

B.8 COOPERATIVE AGREEMENT AWARD

- a. The Government will award one (1) Cooperative Agreements resulting from this RFA to the responsible Applicant whose application conforming to this RFA offers the greatest value (see also Section C of this RFA). The Government may (a) reject any or all applications, (b) accept other than the lowest cost application, (c) accept more than one application, (d) accept alternate applications, and (e) waive informalities and minor irregularities in applications received.
- b. The Government will award the Cooperative Agreement on the basis of initial applications received and may elect not conduct discussions or negotiations. Therefore, each initial application should contain the Applicant's best terms from a cost and technical standpoint.
- c. Neither financial data submitted with an application nor representations concerning facilities or financing will form a part of the resulting Cooperative Agreement unless explicitly stated otherwise in the Agreement or determined to be necessary by the Agreement Officer.

B.9 AUTHORITY TO OBLIGATE THE GOVERNMENT

The Agreement Officer is the only individual who may legally commit the Government to the expenditure of public funds. No costs chargeable to the proposed Agreement may be incurred before receipt of either a fully executed Cooperative Agreement or a specific, written authorization from the Agreement Officer.

B.10 MANDATORY AWARD REQUIREMENTS

B.10.1 IMPLEMENTATION OF E.O.13224 -- EXECUTIVE ORDER ON TERRORISM FINANCING (MAR 2002)

The Recipient/subrecipient(s) is reminded that U.S. Executive Orders and U.S. law prohibits transactions with, and the provision of resources and support to, individuals and organizations associated with terrorism. It is the legal responsibility of the recipient/subrecipient(s) to ensure compliance with these Executive Orders and laws. This provision must be included in all subawards issued under this agreement.

B.10.2 FOREIGN GOVERNMENT DELEGATIONS TO INTERNATIONAL CONFERENCE (JAN 2002)

Funds in this [agreement, amendment] may not be used to finance the travel, per diem, hotel expenses, meals, conference fees or other conference costs for any member of a foreign government's delegation to an international conference sponsored by a public international organization, except as provided in ADS Mandatory Reference "Guidance on Funding Foreign Government Delegations to International Conferences [http://www.info.usaid.gov/pubs/ads/300/refindx3.htm] or as approved by the [AO/AOTR].

B.10.3 USAID DISABILITY POLICY-- ASSISTANCE (DEC 2004)

(a) The objectives of the USAID Disability Policy are (1) to enhance the attainment of United States foreign assistance program goals by promoting the participation and equalization of opportunities of individuals with disabilities in USAID policy, country and sector strategies, activity designs and implementation; (2) to increase awareness of issues of people with disabilities both within USAID programs and in host countries; (3) to engage other U.S. government agencies, host country counterparts, governments, implementing organizations and other donors in fostering a climate of nondiscrimination against people with disabilities; and (4) to support international advocacy for people with disabilities. The full text of the policy paper can be found at the following website: <http://www.usaid.gov/about/disability/DISABPOL.FIN.html>.

(b) USAID therefore requires that the recipient not discriminate against people with disabilities in the implementation of USAID funded programs and that it make every effort to comply with the objectives of the USAID Disability Policy in performing the program under this grant or Cooperative Agreement. To that end and to the extent it can accomplish this goal within the scope of the program objectives, the recipient should demonstrate a comprehensive and consistent approach for including men, women and children with disabilities.”

B.10.4 DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS (JAN 2004)

(1) The recipient agrees to notify the Agreement Officer immediately upon learning that it or any of its principals:

- (a) Are presently excluded or disqualified from covered transactions by any Federal department or agency;
- (b) Have been convicted within the preceding three-years period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, or obstruction of justice; commission of any other offense indicating a lack of business integrity or business honesty that seriously and directly affects your present responsibility;
- (c) Are presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b); and
- (d) Have had one or more public transactions (Federal, State, or local) terminated for cause or default within the preceding three years.

(2) The recipient agrees that, unless authorized by the Agreement Officer, it will not knowingly enter into any subagreements or contracts under this grant with a person or entity that is included on the Excluded Parties List System (<http://epls.arnet.gov>). The recipient further agrees to include the following provision in any subagreements or contracts entered into under this award: DEBARMENT, SUSPENSION, INELIGIBILITY, AND VOLUNTARY EXCLUSION (DECEMBER 2003) The recipient/contractor certifies that neither it nor its principals is presently excluded or disqualified from participation in this transaction by any Federal department or agency.

(3) The policies and procedures applicable to debarment, suspension, and ineligibility under USAID-financed transactions are set forth in 22 CFR Part 208.

B.10.5 DRUG-FREE WORKPLACE (JAN 2004)

(1) The recipient agrees that it will publish a drug-free workplace statement and provide a copy to each employee who will be engaged in the performance of any Federal award. The statement must

- (a) Tell the employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in its workplace;
- (b) Specify the actions the recipient will take against employees for violating that prohibition; and
- (c) Let each employee know that, as a condition of employment under any award, he or she (1) Must abide by the terms of the statement, and (2) Must notify you in writing if he or she is convicted for a violation of a criminal drug statute occurring in the workplace, and must do so no more than five calendar days after the conviction.

(2) The recipient agrees that it will establish an ongoing drug-free awareness program to inform employees about

- (a) The dangers of drug abuse in the workplace;
- (b) Your policy of maintaining a drug-free workplace;
- (c) Any available drug counseling, rehabilitation and employee assistance programs; and
- (d) The penalties that you may impose upon them for drug abuse violations occurring in the workplace.

(3) Without the Agreement Officer's expressed written approval, the policy statement and program must be in place as soon as possible, no later than the 30 days after the effective date of this award, or the completion date of this award, whichever occurs first.

(4) The recipient agrees to immediately notify the Agreement Officer if an employee is convicted of a drug violation in the workplace. The notification must be in writing, identify the employee's position title, the number of each award on which the employee worked. The notification must be sent to the Agreement Officer within ten calendar days after the recipient learns of the conviction.

(5) Within 30 calendar days of learning about an employee's conviction, the recipient must either

- (a) Take appropriate personnel action against the employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973 (29 USC 794), as amended, or
- (b) Require the employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for these purposes by a Federal, State or local health, law enforcement, or other appropriate agency.

(6) The policies and procedures applicable to violations of these requirements are set forth in 22 CFR Part 210.

B.10.6 ORGANIZATIONS ELIGIBLE FOR ASSISTANCE (JUL 2004)

The U.S. Government is opposed to prostitution and related activities, which are inherently harmful and dehumanizing, and contribute to the phenomenon of trafficking in persons. None of the funds made available under this agreement may be used to promote, support or advocate the legalization or practice of prostitution. Nothing in the preceding sentence shall be construed to preclude assistance designed to ameliorate the suffering of, or health risks to, victims while they are being trafficked or after they are out of the situation that resulted from such victims being trafficked. Foreign organizations, whether prime or subrecipients, that receive U.S. Government funds to fight trafficking in persons cannot promote, support or advocate the legalization or practice of prostitution when they are engaged on overseas activities. The preceding sentence shall not apply to organizations that provide services to individuals solely after they are no longer engaged in activities that resulted from such victims being trafficked.

B.10.7 HOMELAND SECURITY PRESIDENTIAL DIRECTIVE-12 (HSPD-12) (SEP 2006) - ASSISTANCE

In response to the general threat of unauthorized access to federal facilities and information systems, the President issued Homeland Security Presidential Directive-12. HSPD-12 requires all Federal agencies to use a common Personal Identity Verification (PIV) standard when identifying and issuing access rights to users of Federally-controlled facilities and/or Federal Information Systems. USAID is applying the requirements of HSPD-12 to applicable assistance awards. USAID will begin issuing HSPD-12 "smart card" IDs to applicable recipients (and recipient employee), using a phased approach. Effective October 27, 2006, USAID will begin issuing new "smart card" IDs to new recipients (and recipient employees) requiring routine access to USAID controlled facilities and/or access to USAID's information systems. USAID will begin issuance of the new smart card IDs to existing recipients (and existing recipient employees) on October 27, 2007. (Exceptions would include those situations where an existing recipient (or recipient employees) loses or damages his/her existing ID and would need a replacement ID prior to October 27, 2007. In those situations, the existing recipient (or recipient employee) would need to follow the PIV process described below and be issued one of the new smart cards.)

Accordingly, before a recipient (including a recipient employee) may obtain a USAID ID (new or replacement) authorizing him/her routine access to USAID facilities, or logical access to USAID's information systems, the individual must provide two forms of identity source documents in original form and a passport size photo. One identity source document must be a valid Federal or state government-issued picture ID. (Overseas foreign nationals must comply with the requirements of the Regional Security Office.) USAID/W recipients (and recipient employee) must contact the USAID Security Office to obtain the list of acceptable forms of documentation, and recipients working in overseas Missions must obtain the acceptable documentation list from the Regional Security

Officer. Submission of these documents, and related background checks, are mandatory in order for the recipient (or employee) to receive a building access ID, and before access will be granted to any of USAID's information systems. All recipients (or employees) must physically present these two source documents for identity proofing at their USAID/W or Mission Security Briefing. The recipient (or employee) must return any issued building access ID and remote authentication token to USAID custody upon termination of the individual's employment with the recipient or completion of the award, whichever occurs first.

The recipient must comply with all applicable HSPD-12 and PIV procedures, as described above, as well as any subsequent USAID or government-wide HSPD-12 and PIV procedures/policies, including any subsequent applicable USAID General Notice, Office of Security Directives and/or Automated Directives System (ADS) policy directives and required procedures. This includes HSPD-12 procedures established in USAID/Washington and those procedures established by the overseas Regional Security Office. In the event of inconsistencies between this clause and later issued Agency or government-wide HSPD-12 guidance, the most recent issued guidance should take precedence, unless otherwise instructed by the Agreement Officer.

The recipient is required to include this clause in any subawards (including subcontracts) that require the subawardee or subawardee's employee to have routine physical access to USAID space or logical access to USAID's Information Systems.

**B.10.8 EQUAL PROTECTION OF THE LAWS FOR FAITH-BASED AND
COMMUNITY ORGANIZATION (February 2004)**

- a. The recipient may not discriminate against any beneficiary or potential beneficiary under this award on the basis of religion or religious belief. Accordingly, in providing services supported in whole or in part by this agreement or in its outreach activities related to such services, the recipient may not discriminate against current or prospective program beneficiaries on the basis of religion, a religious belief, a refusal to hold a religious belief, or a refusal to actively participate in a religious practice;
- b. The Federal Government must implement Federal programs in accordance with the Establishment Clause and the Free Exercise Clause of the First Amendment to the Constitution. Therefore, if the recipient engages in inherently religious activities, such as worship, religious instruction, and proselytization, it must offer those services at a different time or location from any programs or services directly funded by this award, and participation by beneficiaries in any such inherently religious activities must be voluntary.
- c. If the recipient makes subawards under this agreement, faith-based organizations should be eligible to participate on the same basis as other organizations, and should not be discriminated against on the basis of their religious character or affiliation.

[End of Section B]

SECTION C - SELECTION CRITERIA

C.1 APPLICANT ELIGIBILITY/QUALIFICATIONS

International and U.S. non-governmental organizations (NGOs) actively engaged in activities consistent with the program objectives may submit applications based upon this RFA.

C.2 REVIEW PROCESS

All applications which meet the eligibility and program requirements, and conform to the application preparation and submission instructions, will be reviewed and scored by a panel of USAID reviewers in accordance with the evaluation criteria set forth in this section.

The budget narrative of all applications under consideration for award will be reviewed for what are necessary and reasonable costs to support the program. Upon completion of the initial review of applications, USAID may, as it deems necessary and appropriate, conduct written and/or oral discussions with those Applicants whose applications remain in the competitive range. The decision to conduct such discussions should not be considered a reflection of a final decision about which organization will receive an award, but rather would be part of the evaluation process.

C.3 BEST VALUE DECISION

Award will be made to the Applicant whose application offers the best value to the Government. Best value is defined as the expected outcome of a procurement that, in the Government's estimation, provides the greatest overall benefit in response to the requirement.

For this RFA, technical proposal merits are considered significantly more important than cost relative to deciding which Applicant best might perform the work. Cost realism and reasonableness, as well as the amount of cost sharing, will however be important criteria and may be the determining factor in the event that the applications receiving the highest ratings are closely ranked. Therefore, after the final evaluation of the application, the Agreement Officer will make the award to the Applicant whose application offers the best value to the Government considering both technical and cost factors.

C.4 TECHNICAL EVALUATION CRITERIA

The evaluation criteria presented below have been tailored to the requirements of this particular RFA. Applicants should note that these criteria serve to: (a) identify the significant matters which Applicants should address in their applications and (b) set the

standard against which all applications will be evaluated.

Technical, cost and other factors will be evaluated relative to each other, as described herein.

1. The technical application will be scored by a Technical Evaluation Committee (TEC) using the criteria shown in this Section.
2. The cost application will not be scored but will be considered as described in this Section.
3. The selection criteria below are presented by major category, with relative order of importance, so that applications will know which areas require emphasis in the preparation of applications. The criteria below reflect the requirements of this particular RFA. Applicants should note that these criteria: (a) serve as the standard against which all applications will be evaluated, and (b) serve to identify the significant matters which Applicants should address in their applications.
4. Prospective Applicants are forewarned that an application with the lowest estimated cost may not be selected if award to a higher priced application affords the Government a greater overall benefit. All evaluation factors other than cost or price, when combined, are significantly more important than cost. However, estimated cost is an important factor and the estimated cost to the Government increases in importance as competing applications approach equivalence and may become the deciding factor when technical applications are approximately equivalent in merit.
5. Cost estimates will be analyzed as part of the Applicant evaluation process. Proposed costs may be adjusted, for purposes of evaluation, based on results of the cost analysis and its assessment of reasonableness, completeness, and credibility.

TECHNICAL EVALUATION CRITERIA

Technical applications will be evaluated according to the following criteria. The relative importance of each criterion is indicated by approximate weight by points. A total of **100 points** is possible for the complete application. Applicants are advised that the bulleted sub-criteria are intended to broadly inform the scoring process and will not be individually scored or equally weighted.

To facilitate the review of applications, narrative portions of applications should be organized in the same order as the broad evaluation criteria. In evaluating the different components of the technical application, USAID/Indonesia will examine the overall merit and feasibility of the applications, as well as specific criteria relevant to each component as elaborated below.

A summary of technical evaluation criteria follows:

Evaluation Criteria	
1. Technical Approach	35 points
2. Program Indicators	10 points
3. Key Personnel	25 points
4. Management Plan and Institutional Capacity	25 points
3. Past Performance	<u>5 points</u>
TOTAL	100 points

The following are the Technical Application evaluation criteria in descending order of importance against which application will be evaluated:

1. Technical Approach 35 points.

The Applicant will be evaluated based on its demonstrated thorough knowledge and clear understanding of the issues of reform in both the Supreme Court and the Attorney General Office and of the situation of legal education in Indonesia. Furthermore, the Applicant's proposal will be evaluated as to its demonstrated knowledge of the role and of the potential of Civil Society Organizations in Indonesia. Specific consideration will be given to the following in evaluating the Applicant's approach to:

- Initiating reform efforts in legal education and how such would ultimately impact positively on the delivery of justice; and
- Reinforcing capacity and independence of justice sector CSOs, particularly as it relates to their research capacity, ability to apply knowledge they generate, and their collaboration with law schools.

Specifically, elements of the Applicant's proposal's evaluation will include the:

- Approach to determining, prioritizing and effectively addressing the major challenges facing legal education and its ability to meet the needs of justice system practitioners;
- Approach to enabling legal education institutions to reform themselves effectively;

- Approach to enlisting the support of all legal education stakeholders for strategizing law schools curricula and methodology reform;
- Approach to ensuring Indonesian ownership of the chosen strategy;
- Approach to strategically use anticipated level of project funds to achieve the highest impact;
- The proposed method for “Educating and Equipping Tomorrow's Justice Reformers” connecting with and supporting other USAID programs including “C4J - From Reform Agendas to Performance Changes”;
- The types of assistance the proposal will provide and the mechanisms for providing assistance for each of the project elements identified above.

In recognition of the importance USAID attaches to gender considerations, five points out of a total of 35 for the technical approach will be devoted to how well the technical approach is responsive to gender considerations. The Offeror shall promote the concept of access to justice to all members of society and promote career advancement opportunities for female researchers, judges, prosecutors and court and prosecutorial services personnel.

2. Program Indicators **10 points**

Applications will be evaluated as to the proposed technical approach's ability to meet the indicators specified in the Program Description. The Applicant's additional proposed indicators which supplement those prescribed in the Program Description will be evaluated as to their quantitative and qualitative sufficiency and ability to accurately measure the achievement of the program's objectives. Particular emphasis will be placed on the adequacy of the qualitative indicators.

Specific elements of the Applicant's proposal's evaluation will include:

- How the proposed indicators will monitor progress and evaluate overall impact;
- How the impact of training on performance will be measured;
- How efforts to promote careers in the public service of the justice system will be measured to capture changes in quality of recruitment;
- How capacity building of CSOs will be measured to capture the positive impact made in representing disenfranchised groups' interest in justice reform.

3. Key Personnel **25 points**

Key personnel will be evaluated on the appropriateness of their academic background, expertise and years of experience working on project activities similar to their designated duties and responsibilities for this project. They will be assessed on their success in managing similar activities and tasks. The recommended key personnel will include: the Chief of Party, Legal Education Expert, Clinical Legal Education Expert, and Civil Society Organizations Expert. [Required qualifications of key personnel are discussed in the

Section VI “Key Personnel” above. USAID approval is required for key personnel positions.]

Key considerations in this evaluation will include:

- Experience in designing, managing, implementing, monitoring and evaluating programs and projects related to legal education and justice sector reform;
- Experience in designing, managing, implementing, monitoring and evaluating programs and projects related to the development of practice-oriented research programs in the justice sector, preferably involving law schools and CSOs;
- Knowledge of clinical legal education;
- Knowledge of civil society organizations as assets to justice sector reform, legal education, justice sector research, and/or the training of justice sector practitioners;
- Experience in Indonesia, elsewhere in Southeast Asia, or in other countries going through justice sector reforms;
- Experience with and knowledge of USAID policies, program and procedures related to managing projects;
- Proficiency in Bahasa Indonesia (s-3/r-3 or better) or a demonstrated ability to learn a new language.

Preference will be given to the use of Indonesian experts included in the team, their qualifications and their anticipated roles in the project.

Expatriate and Indonesian experts and staff will be evaluated based on the variety of their skills –and how they complement each other— and their appropriateness to the technical approach outlined in the proposal as well as on their academic background, expertise and years of related experience.

4. Management Plan and Institutional Capacity 25 points

The applicant’s Management Plan will be evaluated based on its strategy for establishing institutional capability and successfully affecting:

- Educational reform analysis, design and implementation;
- Work with senior academics and senior members of justice system institutions;
- Provision of guidance and mentoring to government officials, academic personnel, and CSO personnel;
- CSO capacity development;
- Impact evaluation of governance reform initiatives and programs;
- Impact evaluation of education reform initiatives and programs;
- Impact evaluation of CSO capacity development initiatives and programs;
- Involvement and ownership of project objectives by institutional partners outside of Jakarta;

- Design and implementation of legal education curricula, law school clinical education and internship/externship programs, and collaborative research programs involving law schools and justice sector partners (CSOs, courts, etc.);
- Accountable mechanisms for project equipment procurement for all project beneficiaries;
- Monitoring, evaluation and reporting.

5. Past performance

5 points

Past performance will be evaluated as to the Applicant's demonstrated capacity, sound financial and programmatic management practices in implementing programs of similar complexity, breadth and objectives while achieving sustainable results based

This evaluation will consider:

- Quality of product or service, including consistency in meeting goals and targets.
- Cost control, including forecasting costs as well as accuracy in financial reporting.
- Timeliness of performance, including adherence to contract schedules and other time-sensitive project conditions, and effectiveness of home and field office management to make prompt decisions and ensure efficient completion of tasks.
- Business relations, addressing the history of professional behavior and overall business-like concern for the interests of the customer, including coordination among sub-contractors and host country partners, cooperative attitude in remedying problems, and timely completion of all administrative requirements.
- Customer satisfaction with performance, including end user or beneficiary wherever possible.
- Effectiveness of key personnel, including appropriateness of personnel for the job and prompt and satisfactory changes in personnel when problems with clients were identified.

C.5 COST EVALUATION CRITERIA

Evaluation points will not be awarded for cost. Cost will primarily be evaluated for realism, allowability and reasonableness. This evaluation will consist of a review of the cost portion of an Applicant's application to determine if the overall costs proposed are realistic for the work to be performed, if the costs reflect the Applicant's understanding of the requirements, and if the costs are consistent with the Technical Application.

Evaluation of Cost Applications will consider, but not be limited to, the following:

- Cost reasonableness, cost realism and completeness of the cost application and supporting documentation;

- Overall cost control/cost savings evidenced in the application (avoidance of excessive salaries, excessive home office visits, and other costs in excess of reasonable requirements).

Cost realism is an assessment of accuracy with which proposed costs represent the most probable cost of performance, within each Applicant's technical and management approach. A cost realism evaluation shall be performed as part of the evaluation process as follows:

- Verify the Applicant's understanding of the requirements.
- Assess the degree to which the Cost Applications accurately reflect the technical and management approach as well as the risk that the Applicant will be successful in providing the supplies or services for the costs proposed.
- Assess the degree to which the costs included in the Costs Applications accurately represent the work effort included in the respective Technical Applications.

The results of the cost realism analysis will be used as part of the Agency's best value/tradeoff analysis. Although technical evaluation criteria are significantly more important than cost, the closer the technical evaluation scores of the various applications are to one another, the more important cost considerations will become. Therefore, the evaluation of costs proposed may become a determining factor in making the award.

Notes on Cost Sharing:

- a. Cost share is defined by USAID as "contributions, both cash and in-kind, which are necessary and reasonable to achieve program objectives and which are verifiable from the recipient's records." Please take note of the provision on cost-sharing in 22 CFR 226.23.
- b. Although there is no requirement that Applicants propose a specific cost share, USAID policy is that cost sharing is an important element of the USAID-recipient relationship. USAID requires Applicants to demonstrate their commitment to program success by addressing the issue of cost-sharing.

C.6 BRANDING AND MARKING REQUIREMENTS FOR ASSISTANCE AWARDS

USAID policy on the branding and marking of the work products of this program is contained in the USAID Automated Directive System (ADS), Chapter 320.

BRANDING STRATEGY - ASSISTANCE (DEC 2005)

(a) Definitions

Branding Strategy means a strategy that is submitted at the specific request of a USAID Agreement Officer by an Apparently Successful Applicant after evaluation of an application for USAID funding, describing how the program, project, or activity is named and positioned, and how it is promoted and communicated to beneficiaries and host country citizens. It identifies all donors and explains how they will be acknowledged.

Apparently Successful Applicant(s) means the Applicant(s) for USAID funding recommended for an award after evaluation, but who has not yet been awarded a grant, Cooperative Agreement or other assistance award by the Agreement Officer. The Agreement Officer will request that the Apparently Successful Applicants submit a Branding Strategy and Marking Plan. "Apparently Successful Applicant" status confers no right and constitutes no USAID commitment to an award.

USAID Identity (Identity) means the official marking for the Agency, comprised of the USAID logo and new brandmark, which clearly communicates that our assistance is from the American people. The USAID Identity is available on the USAID website and is provided without royalty, license, or other fee to recipients of USAID-funded grants or Cooperative Agreements or other assistance awards or subawards.

(b) Submission.

The Apparently Successful Applicant, upon request of the Agreement Officer, will submit and negotiate a Branding Strategy. The Branding Strategy will be included in and made a part of the resulting grant or Cooperative Agreement. The Branding Strategy will be negotiated within the time that the Agreement Officer specifies. Failure to submit and negotiate a Branding Strategy will make the Applicant ineligible for award of a grant or Cooperative Agreement. The Apparently Successful Applicant must include all estimated costs associated with branding and marking USAID programs, such as plaques, stickers, banners, press events and materials, and the like.

(c) Submission Requirements

At a minimum, the Apparently Successful Applicant's Branding Strategy will address the following:

(1) Positioning

What is the intended name of this program, project, or activity?

Guidelines: USAID prefers to have the USAID Identity included as part of the program or project name, such as a "title sponsor," if possible and appropriate.

It is acceptable to "co-brand" the title with USAID's and the Apparently Successful Applicant's identities. For example: "The USAID and [Apparently Successful Applicant] Health Center."

If it would be inappropriate or is not possible to "brand" the project this way, such as when rehabilitating a structure that already exists or if there are multiple donors, please explain and indicate how you intend to showcase USAID's involvement in publicizing the program or project. *For example: School #123, rehabilitated by USAID and [Apparently Successful Applicant]/ [other donors].*

Note: the Agency prefers "made possible by (or with) the generous support of the American People" next to the USAID Identity in acknowledging our contribution, instead of the phrase "funded by." USAID prefers local language translations.

Will a program logo be developed and used consistently to identify this program? If yes, please attach a copy of the proposed program logo.

Note: USAID prefers to fund projects that do NOT have a separate logo or identity that competes with the USAID Identity.

(2) Program Communications and Publicity

Who are the primary and secondary audiences for this project or program?

Guidelines: Please include direct beneficiaries and any special target segments or influencers. *For Example: Primary audience: schoolgirls age 8-12, Secondary audience: teachers and parents—specifically mothers.*

What communications or program materials will be used to explain or market the program to beneficiaries?

Guidelines: These include training materials, posters, pamphlets, Public Service Announcements, billboards, websites, and so forth.

What is the main program message(s)?

Guidelines: *For example: "Be tested for HIV-AIDS" or "Have your child inoculated."*

Please indicate if you also plan to incorporate USAID's primary message – this aid is "from the American people" – into the narrative of program materials. This is optional; however, marking with the USAID Identity is required.

Will the recipient announce and promote publicly this program or project to host country citizens? If yes, what press and promotional activities are planned?

Guidelines: These may include media releases, press conferences, public events, and so forth. Note: incorporating the message, "USAID from the American People", and the USAID Identity is required.

Please provide any additional ideas about how to increase awareness that the American people support this project or program.

Guidelines: One of our goals is to ensure that both beneficiaries and host-country citizens know that the aid the Agency is providing is "from the American people."

Please provide any initial ideas on how to further this goal.

(3) Acknowledgements

Will there be any direct involvement from a host-country government ministry? If yes, please indicate which one or ones. Will the recipient acknowledge the ministry as an additional co-sponsor?

Note: it is perfectly acceptable and often encouraged for USAID to "co-brand" programs with government ministries.

Please indicate if there are any other groups whose logo or identity the recipient will use on program materials and related communications.

Guidelines: Please indicate if they are also a donor or why they will be visibly acknowledged, and if they will receive the same prominence as USAID.

(d) Award Criteria.

The Agreement Officer will review the Branding Strategy for adequacy, ensuring that it contains the required information on naming and positioning the USAID-funded program, project, or activity, and promoting and communicating it to cooperating country beneficiaries and citizens. The Agreement Officer also will evaluate this information to ensure that it is consistent with the stated objectives of the award; with the Apparently Successful Applicant's cost data submissions; with the Apparently Successful Applicant's project, activity, or program performance plan; and with the regulatory requirements set out in 22 CFR 226.91. The Agreement Officer may obtain advice and recommendations from technical experts while performing the evaluation.

MARKING PLAN – ASSISTANCE (DEC 2005)

(a) Definitions

Marking Plan means a plan that the Apparently Successful Applicant submits at the specific request of a USAID Agreement Officer after evaluation of an application for USAID funding, detailing the public communications, commodities, and program materials and other items that will visibly bear the USAID Identity. Recipients may request approval of Presumptive Exceptions to marking requirements in the Marking Plan.

Apparently Successful Applicant(s) means the Applicant(s) for USAID funding recommended for an award after evaluation, but who has not yet been awarded a grant, Cooperative Agreement or other assistance award by the Agreement Officer. The Agreement Officer will request that Apparently Successful Applicants submit a Branding Strategy and Marking Plan. Apparently Successful Applicant status confers no right and constitutes no USAID commitment to an award, which the Agreement Officer must still obligate.

USAID Identity (Identity) means the official marking for the Agency, comprised of the USAID logo and new brandmark, which clearly communicates that our assistance is from the American people. The USAID Identity is available on the USAID website and USAID

provides it without royalty, license, or other fee to recipients of USAID funded grants, Cooperative Agreements, or other assistance awards or subawards.

A ***Presumptive Exception*** exempts the Applicant from the general marking requirements for a *particular* USAID-funded public communication, commodity, program material or other deliverable, or a *category* of USAID-funded public communications, commodities, program materials or other deliverables that would otherwise be required to visibly bear the USAID Identity. The Presumptive Exceptions are:

Presumptive Exception (i). USAID marking requirements may not apply if they would compromise the intrinsic independence or neutrality of a program or materials where independence or neutrality is an inherent aspect of the program and materials, such as election monitoring or ballots, and voter information literature; political party support or public policy advocacy or reform; independent media, such as television and radio broadcasts, newspaper articles and editorials; and public service announcements or public opinion polls and surveys (22 C.F.R. 226.91(h)(1)).

Presumptive Exception (ii). USAID marking requirements may not apply if they would diminish the credibility of audits, reports, analyses, studies, or policy recommendations whose data or findings must be seen as independent (22 C.F.R. 226.91(h)(2)).

Presumptive Exception (iii). USAID marking requirements may not apply if they would undercut host-country government “ownership” of constitutions, laws, regulations, policies, studies, assessments, reports, publications, surveys or audits, public service announcements, or other communications better positioned as “by” or “from” a cooperating country ministry or government official (22 C.F.R. 226.91(h)(3)).

Presumptive Exception (iv). USAID marking requirements may not apply if they would impair the functionality of an item, such as sterilized equipment or spare parts (22 C.F.R. 226.91(h)(4)).

Presumptive Exception (v). USAID marking requirements may not apply if they would incur substantial costs or be impractical, such as items too small or otherwise unsuited for individual marking, such as food in bulk (22 C.F.R. 226.91(h)(5)).

Presumptive Exception (vi). USAID marking requirements may not apply if they would offend local cultural or social norms, or be considered inappropriate on such items as condoms, toilets, bed pans, or similar commodities (22 C.F.R. 226.91(h)(6)).

Presumptive Exception (vii). USAID marking requirements may not apply if they would conflict with international law (22 C.F.R. 226.91(h)(7)).

(b) **Submission.** The Apparently Successful Applicant, upon the request of the Agreement Officer, will submit and negotiate a Marking Plan that addresses the details of the public

communications, commodities, program materials that will visibly bear the USAID Identity. The marking plan will be customized for the particular program, project, or activity under the resultant grant or Cooperative Agreement. The plan will be included in and made a part of the resulting grant or Cooperative Agreement. USAID and the Apparently Successful Applicant will negotiate the Marking Plan within the time specified by the Agreement Officer. Failure to submit and negotiate a Marking Plan will make the Applicant ineligible for award of a grant or Cooperative Agreement. The Applicant must include an estimate of all costs associated with branding and marking USAID programs, such as plaques, labels, banners, press events, promotional materials, and so forth in the budget portion of its application. These costs are subject to revision and negotiation with the Agreement Officer upon submission of the Marking Plan and will be incorporated into the Total Estimated Amount of the grant, Cooperative Agreement or other assistance instrument.

(c) **Submission Requirements.** The Marking Plan will include the following:

(1) A description of the public communications, commodities, and program materials that the recipient will produce as a part of the grant or Cooperative Agreement and which will visibly bear the USAID Identity. These include:

- (i) program, project, or activity sites funded by USAID, including visible infrastructure projects or other programs, projects, or activities that are physical in nature;
- (ii) technical assistance, studies, reports, papers, publications, audiovisual productions, public service announcements, Web sites/Internet activities and other promotional, informational, media, or communications products funded by USAID;
- (iii) events financed by USAID, such as training courses, conferences, seminars, exhibitions, fairs, workshops, press conferences, and other public activities; and
- (iv) all commodities financed by USAID, including commodities or equipment provided under humanitarian assistance or disaster relief programs, and all other equipment, supplies and other materials funded by USAID, and their export packaging.

(2) A table specifying:

- (i) the program deliverables that the recipient will mark with the USAID Identity,
- (ii) the type of marking and what materials the Applicant will be used to mark the program deliverables with the USAID Identity, and
- (iii) when in the performance period the Applicant will mark the program deliverables, and where the Applicant will place the marking.

(3) A table specifying:

- (i) what program deliverables will not be marked with the USAID Identity, and
- (ii) the rationale for not marking these program deliverables.

(d) Presumptive Exceptions.

(1) The Apparently Successful Applicant may request a Presumptive Exception as part of the overall Marking Plan submission. To request a Presumptive Exception, the Apparently Successful Applicant must identify which Presumptive Exception applies, and state why, in light of the Apparently Successful Applicant's technical proposal and in the context of the program description or program statement in the USAID Request For Application or Annual Program Statement, marking requirements should not be required.

(2) Specific guidelines for addressing each Presumptive Exception are:

(i) For Presumptive Exception (i), identify the USAID Strategic Objective, Interim Result, or program goal furthered by an appearance of neutrality, or state why the program, project, activity, commodity, or communication is 'intrinsically neutral.' Identify, by category or deliverable item, examples of program materials funded under the award for which you are seeking an exception.

(ii) For Presumptive Exception (ii), state what data, studies, or other deliverables will be produced under the USAID funded award, and explain why the data, studies, or deliverables must be seen as credible.

(iii) For Presumptive Exception (iii), identify the item or media product produced under the USAID funded award, and explain why each item or product, or category of item and product, is better positioned as an item or product produced by the cooperating country government.

(iv) For Presumptive Exception (iv), identify the item or commodity to be marked, or categories of items or commodities, and explain how marking would impair the item's or commodity's functionality.

(v) For Presumptive Exception (v), explain why marking would not be cost beneficial or practical.

(vi) For Presumptive Exception (vi), identify the relevant cultural or social norm, and explain why marking would violate that norm or otherwise be inappropriate.

(vii) For Presumptive Exception (vii), identify the applicable international law violated by marking.

(3) The Agreement Officer will review the request for adequacy and reasonableness.

In consultation with the Cognizant Technical Officer and other agency personnel as necessary, the Agreement Officer will approve or disapprove the requested Presumptive Exception. Approved exceptions will be made part of the approved Marking Plan, and will apply for the term of the award, unless provided otherwise.

(e) **Award Criteria:** The Agreement Officer will review the Marking Plan for adequacy and reasonableness, ensuring that it contains sufficient detail and information concerning public communications, commodities, and program materials that will visibly bear the USAID Identity. The Agreement Officer will evaluate the plan to ensure that it is consistent with the stated objectives of the award; with the Applicant's cost data

submissions; with the Applicant's actual project, activity, or program performance plan; and with the regulatory requirements of 22 C.F.R.

226.91. The Agreement Officer will approve or disapprove any requested Presumptive Exceptions (see paragraph (d)) on the basis of adequacy and reasonableness. The Agreement Officer may obtain advice and recommendations from technical experts while performing the evaluation.

MARKING UNDER USAID-FUNDED ASSISTANCE INSTRUMENTS (DEC 2005)

(a) Definitions

Commodities mean any material, article, supply, goods or equipment, excluding recipient offices, vehicles, and non-deliverable items for recipient's internal use, in administration of the USAID funded grant, Cooperative Agreement, or other agreement or subagreement.

Principal Officer means the most senior officer in a USAID Operating Unit in the field, e.g., USAID Mission Director or USAID representative. For global programs managed from Washington but executed across many countries, such as disaster relief and assistance to internally displaced persons, humanitarian emergencies or immediate post conflict and political crisis response, the cognizant Principal Officer may be an Office Director, for example, the Directors of USAID/W/Office of Foreign Disaster Assistance and Office of Transition Initiatives. For non-presence countries, the cognizant Principal Officer is the Senior USAID officer in a regional USAID Operating Unit responsible for the non-presence country, or in the absence of such a responsible operating unit, the Principal U.S Diplomatic Officer in the non-presence country exercising delegated authority from USAID.

Programs mean an organized set of activities and allocation of resources directed toward a common purpose, objective, or goal undertaken or proposed by an organization to carry out the responsibilities assigned to it.

Projects include all the marginal costs of inputs (including the proposed investment) technically required to produce a discrete marketable output or a desired result (for example, services from a fully functional water/sewage treatment facility).

Public communications are documents and messages intended for distribution to audiences external to the recipient's organization. They include, but are not limited to, correspondence, publications, studies, reports, audio visual productions, and other informational products; applications, forms, press and promotional materials used in connection with USAID funded programs, projects or activities, including signage and plaques; Web sites/Internet activities; and events such as training courses, conferences, seminars, press conferences and so forth.

Subrecipient means any person or government (including cooperating country government) department, agency, establishment, or for profit or nonprofit organization that receives a USAID subaward, as defined in 22 C.F.R. 226.2.

Technical Assistance means the provision of funds, goods, services, or other foreign assistance, such as loan guarantees or food for work, to developing countries and other USAID recipients, and through such recipients to subrecipients, in direct support of a development objective – as opposed to the internal management of the foreign assistance program.

USAID Identity (Identity) means the official marking for the United States Agency for International Development (USAID), comprised of the USAID logo or seal and new landmark, with the tagline that clearly communicates that our assistance is “from the American people.” The USAID Identity is available on the USAID website at www.usaid.gov/branding and USAID provides it without royalty, license, or other fee to recipients of USAID-funded grants, or Cooperative Agreements, or other assistance awards

(b) Marking of Program Deliverables

(1) All recipients must mark appropriately all overseas programs, projects, activities, public communications, and commodities partially or fully funded by a USAID grant or Cooperative Agreement or other assistance award or subaward with the USAID Identity, of a size and prominence equivalent to or greater than the recipient's, other donor's, or any other third party's identity or logo.

(2) The Recipient will mark all program, project, or activity sites funded by USAID, including visible infrastructure projects (for example, roads, bridges, buildings) or other programs, projects, or activities that are physical in nature (for example, agriculture, forestry, water management) with the USAID Identity. The Recipient should erect temporary signs or plaques early in the construction or implementation phase. When construction or implementation is complete, the Recipient must install a permanent, durable sign, plaque or other marking.

(3) The Recipient will mark technical assistance, studies, reports, papers, publications, audio-visual productions, public service announcements, Web sites/Internet activities and other promotional, informational, media, or communications products funded by USAID with the USAID Identity.

(4) The Recipient will appropriately mark events financed by USAID, such as training courses, conferences, seminars, exhibitions, fairs, workshops, press conferences and other public activities, with the USAID Identity. Unless directly prohibited and as appropriate to the surroundings, recipients should display additional materials, such as signs and banners, with the USAID Identity. In circumstances in which the USAID Identity cannot be

displayed visually, the recipient is encouraged otherwise to acknowledge USAID and the American people's support.

(5) The Recipient will mark all commodities financed by USAID, including commodities or equipment provided under humanitarian assistance or disaster relief programs, and all other equipment, supplies, and other materials funded by USAID, and their export packaging with the USAID Identity.

(6) The Agreement Officer may require the USAID Identity to be larger and more prominent if it is the majority donor, or to require that a cooperating country government's identity be larger and more prominent if circumstances warrant, and as appropriate depending on the audience, program goals, and materials produced.

(7) The Agreement Officer may require marking with the USAID Identity in the event that the recipient does not choose to mark with its own identity or logo.

(8) The Agreement Officer may require a pre-production review of USAID-funded public communications and program materials for compliance with the approved Marking Plan.

(9) Subrecipients. To ensure that the marking requirements "flow down" to subrecipients of subawards, recipients of USAID funded grants and Cooperative Agreements or other assistance awards will include the USAID-approved marking provision in any USAID funded subaward, as follows:

"As a condition of receipt of this subaward, marking with the USAID Identity of a size and prominence equivalent to or greater than the recipient's, subrecipient's, other donor's or third party's is required. In the event the recipient chooses not to require marking with its own identity or logo by the subrecipient, USAID may, at its discretion, require marking by the subrecipient with the USAID Identity."

(10) Any 'public communications', as defined in 22 C.F.R. 226.2, funded by USAID, in which the content has not been approved by USAID, must contain the following disclaimer:

"This study/report/audio/visual/other information/media product (specify) is made possible by the generous support of the American people through the United States Agency for International Development (USAID). The contents are the responsibility of [insert recipient name] and do not necessarily reflect the views of USAID or the United States Government."

(11) The recipient will provide the Cognizant Technical Officer (CTO) or other USAID personnel designated in the grant or Cooperative Agreement with two copies of all program and communications materials produced under the award. In addition, the

recipient will submit one electronic or one hard copy of all final documents to USAID's Development Experience Clearinghouse.

(c) Implementation of marking requirements.

(1) When the grant or Cooperative Agreement contains an approved Marking Plan, the recipient will implement the requirements of this provision following the approved Marking Plan.

(2) When the grant or Cooperative Agreement does not contain an approved Marking Plan, the recipient will propose and submit a plan for implementing the requirements of this provision within [*Agreement Officer fill-in*] days after the effective date of this provision. The plan will include:

(i) A description of the program deliverables specified in paragraph (b) of this provision that the recipient will produce as a part of the grant or Cooperative Agreement and which will visibly bear the USAID Identity.

(ii) the type of marking and what materials the Applicant uses to mark the program deliverables with the USAID Identity,

(iii) when in the performance period the Applicant will mark the program deliverables, and where the Applicant will place the marking,

(3) The recipient may request program deliverables not be marked with the USAID Identity by identifying the program deliverables and providing a rationale for not marking these program deliverables. Program deliverables may be exempted from USAID marking requirements when:

(i) USAID marking requirements would compromise the intrinsic independence or neutrality of a program or materials where independence or neutrality is an inherent aspect of the program and materials;

(ii) USAID marking requirements would diminish the credibility of audits, reports, analyses, studies, or policy recommendations whose data or findings must be seen as independent;

(iii) USAID marking requirements would undercut host-country government "ownership" of constitutions, laws, regulations, policies, studies, assessments, reports, publications, surveys or audits, public service announcements, or other communications better positioned as "by" or "from" a cooperating country ministry or government official;

(iv) USAID marking requirements would impair the functionality of an item;

(v) USAID marking requirements would incur substantial costs or be impractical;

(vi) USAID marking requirements would offend local cultural or social norms, or be considered inappropriate;

(vii) USAID marking requirements would conflict with international law.

(4) The proposed plan for implementing the requirements of this provision, including any proposed exemptions, will be negotiated within the time specified by the Agreement

Officer after receipt of the proposed plan. Failure to negotiate an approved plan with the time specified by the Agreement Officer may be considered as noncompliance with the requirements is provision.

(d) Waivers.

(1) The recipient may request a waiver of the Marking Plan or of the marking requirements of this provision, in whole or in part, for each program, project, activity, public communication or commodity, or, in exceptional circumstances, for a region or country, when USAID required marking would pose compelling political, safety, or security concerns, or when marking would have an adverse impact in the cooperating country. The recipient will submit the request through the Cognizant Technical Officer. The Principal Officer is responsible for approvals or disapprovals of waiver requests.

(2) The request will describe the compelling political, safety, security concerns, or adverse impact that require a waiver, detail the circumstances and rationale for the waiver, detail the specific requirements to be waived, the specific portion of the Marking Plan to be waived, or specific marking to be waived, and include a description of how program materials will be marked (if at all) if the USAID Identity is removed. The request should also provide a rationale for any use of recipient's own identity/logo or that of a third party on materials that will be subject to the waiver.

(3) Approved waivers are not limited in duration but are subject to Principal Officer review at any time, due to changed circumstances.

(4) Approved waivers "flow down" to recipients of subawards unless specified otherwise. The waiver may also include the removal of USAID markings already affixed, if circumstances warrant.

(5) Determinations regarding waiver requests are subject to appeal to the Principal Officer's cognizant Assistant Administrator. The recipient may appeal by submitting a written request to reconsider the Principal Officer's waiver determination to the cognizant Assistant Administrator.

(e) Non-retroactivity. The requirements of this provision do not apply to any materials, events, or commodities produced prior to January 2, 2006. The requirements of this provision do not apply to program, project, or activity sites funded by USAID, including visible infrastructure projects (for example, roads, bridges, buildings) or other programs, projects, or activities that are physical in nature (for example, agriculture, forestry, water management) where the construction and implementation of these are complete prior to January 2, 2006 and the period of the grant does not extend past January 2, 2006.

[End of Section C]

**SECTION D - U.S. AGENCY FOR INTERNATIONAL DEVELOPMENT
CERTIFICATIONS, ASSURANCES, AND OTHER STATEMENTS OF
RECIPIENT**

PART I - CERTIFICATIONS AND ASSURANCES

1. ASSURANCE OF COMPLIANCE WITH LAWS AND REGULATIONS GOVERNING NON-DISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS
 - (a) The recipient hereby assures that no person in the United States shall, on the bases set forth below, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under, any program or activity receiving financial assistance from USAID, and that with respect to the grant for which application is being made, it will comply with the requirements of:
 - (1) Title VI of the Civil Rights Act of 1964 (Pub. L. 88-352, 42 U.S.C. 2000-d), which prohibits discrimination on the basis of race, color or national origin, in programs and activities receiving Federal financial assistance;
 - (2) Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), which prohibits discrimination on the basis of handicap in programs and activities receiving Federal financial assistance;
 - (3) The Age Discrimination Act of 1975, as amended (Pub. L. 95-478), which prohibits discrimination based on age in the delivery of services and benefits supported with Federal funds;
 - (4) Title IX of the Education Amendments of 1972 (20 U.S.C. 1681, et seq.), which prohibits discrimination on the basis of sex in education programs and activities receiving Federal financial assistance (whether or not the programs or activities are offered or sponsored by an educational institution); and
 - (5) USAID regulations implementing the above nondiscrimination laws, set forth in Chapter II of Title 22 of the Code of Federal Regulations.
 - (b) If the recipient is an institution of higher education, the Assurances given herein extend to admission practices and to all other practices relating to the treatment of students or clients of the institution, or relating to the opportunity to participate in the provision of services or other benefits to such individuals, and shall be applicable to the entire institution unless the recipient establishes to the satisfaction of the USAID Administrator that the institution's practices in designated parts or programs of the

institution will in no way affect its practices in the program of the institution for which financial assistance is sought, or the beneficiaries of, or participants in, such programs.

- (c) This assurance is given in consideration of and for the purpose of obtaining any and all Federal grants, loans, contracts, property, discounts, or other Federal financial assistance extended after the date hereof to the recipient by the Agency, including installment payments after such date on account of applications for Federal financial assistance which were approved before such date. The recipient recognizes and agrees that such Federal financial assistance will be extended in reliance on the representations and agreements made in this Assurance, and that the United States shall have the right to seek judicial enforcement of this Assurance. This Assurance is binding on the recipient, its successors, transferees, and assignees, and the person or per This Assurance is binding on the recipient, its successors, transferees, and assignees, and the person or persons whose signatures appear below are authorized to sign this Assurance on behalf of the recipient.

2. CERTIFICATION REGARDING DRUG-FREE WORKPLACE REQUIREMENTS

(a) Instructions for Certification

- (1) By signing and/or submitting this application or grant, the recipient is providing the certification set out below.
- (2) The certification set out below is a material representation of fact upon which reliance was placed when the agency determined to award the grant. If it is later determined that the recipient knowingly rendered a false certification, or otherwise violates the requirements of the Drug-Free Workplace Act, the agency, in addition to any other remedies available to the Federal Government, may take action authorized under the Drug-Free Workplace Act.
- (3) For recipients other than individuals, Alternate I applies.
- (4) For recipients who are individuals, Alternate II applies.

(b) Certification Regarding Drug-Free Workplace Requirements

Alternate I

- (1) The recipient certifies that it will provide a drug-free workplace by:
 - (A) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is

- prohibited in the Applicant's/grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
- (B) Establishing a drug-free awareness program to inform employees about--
1. The dangers of drug abuse in the workplace;
 2. The recipient's policy of maintaining a drug-free workplace;
 3. Any available drug counseling, rehabilitation, and employee assistance programs; and
 4. The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
- (C) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (b) (1) (A);
- (D) Notifying the employee in the statement required by paragraph (b) (1) (A) that, as a condition of employment under the grant, the employee will--
1. Abide by the terms of the statement; and
 2. Notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction;
- (E) Notifying the agency within ten days after receiving notice under subparagraph (b) (1) (D) 1, from an employee or otherwise receiving actual notice of such conviction;
- (F) Taking one of the following actions, within 30 days of receiving notice under subparagraph (b) (1)(D)2., with respect to any employee who is so convicted--
1. Taking appropriate personnel action against such an employee, up to and including termination; or
 2. Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(G) Making a good faith effort to continue to maintain a drug- free workplace through implementation of paragraphs (b)(1)(A), (b)(1)(B), (b)(1)(C), (b)(1)(D), (b)(1)(E) and (b)(1)(F).

(2) The recipient shall insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address, city, county, state, zip code)

Alternate II

The recipient certifies that, as a condition of the grant, he or she will not engage in the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance in conducting any activity with the grant.

3. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS -- PRIMARY COVERED TRANSACTIONS

(a) Instructions for Certification

1. By signing and submitting this proposal, the prospective primary participant is providing the certification set out below.
2. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.
3. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into

this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

4. The prospective primary participant shall provide immediate written notice to the department or agency to which this proposal is submitted if at any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
5. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meaning set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. [4] You may contact the department or agency to which this proposal is being submitted for assistance in obtaining a copy of those regulations.
6. The prospective primary participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.
7. The prospective primary participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Covered Transaction," [5] provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
8. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the methods and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the No procurement List.
9. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a

participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealing.

10. Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

(b) Certification Regarding Debarment, Suspension, and Other Responsibility Matters--Primary Covered Transactions

(1) The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:

(A) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

(B) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(C) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (1) (B) of this certification;

(D) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

(2) Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Solicitation No. _____

Application/Proposal No. _____

Date of Application/Proposal _____

Name of Applicant/Subgrantee _____

Typed Name and Title _____

Signature _____

- 1/ See ADS Chapter 303, 22 CFR 208.
- 2/ For USAID, this clause is entitled "Debarment, Suspension, Ineligibility, and Voluntary Exclusion (March 1989)" and is set forth in the USAID grant standard provision for U.S. nongovernmental organizations entitled "Debarment, Suspension, and Related Matters" (see ADS Chapter 303), or in the USAID grant standard provision for non-U.S. nongovernmental organizations entitled "Debarment, Suspension, and Other Responsibility Matters" (see ADS Chapter 303).

4. CERTIFICATION REGARDING LOBBYING

The undersigned certifies, to the best of his or her knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any Cooperative Agreement, and the extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan, or Cooperative Agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or Cooperative Agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all sub awards at all tiers (including subcontracts, sub grants, and

contracts under grants, loans, and Cooperative Agreements) and that all sub recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, United States Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Statement for Loan Guarantees and Loan Insurance

The undersigned states, to the best of his or her knowledge and belief, that: If any funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this commitment providing for the United States to insure or guarantee a loan, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions. Submission of this statement is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required statement shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

5. PROHIBITION ON ASSISTANCE TO DRUG TRAFFICKERS FOR COVERED COUNTRIES AND INDIVIDUALS (ADS 206)

USAID reserves the right to terminate this [Agreement/Contract], to demand a refund or take other appropriate measures if the [Grantee/ Contractor] 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. The undersigned shall review USAID ADS 206 to determine if any certifications are required for Key Individuals or Covered Participants.

If there are COVERED PARTICIPANTS: USAID reserves the right to terminate assistance to, or take 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.

The recipient has reviewed and is familiar with the proposed grant format and the applicable regulations, and takes exception to the following (use a continuation page as necessary):

Solicitation No. _____

Application/Proposal No. _____

Date of Application/Proposal _____

Name of Recipient _____

Typed Name and Title _____

Signature _____ Date _____

[1] FORMATS\GRNTCERT: Rev. 06/16/97 (ADS 303.6, E303.5.6a) [2] When these Certifications, Assurances, and Other Statements of Recipient are used for Cooperative Agreements, the term "Grant" means "Cooperative Agreement". [3] The recipient must obtain from each identified sub grantee and (sub) contractor, and submit with its application/proposal, the Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion -- Lower Tier Transactions, set forth in Attachment A hereto. The recipient should reproduce additional copies as necessary. [4] See ADS Chapter E303.5.6a, 22 CFR 208, Annex1, App A. [5] For USAID, this clause is entitled "Debarment, Suspension, Ineligibility, and Voluntary Exclusion (March 1989)" and is set forth in the grant standard provision entitled "Debarment, Suspension, and Related Matters" if the recipient is a U.S. nongovernmental organization, or in the grant standard provision entitled "Debarment, Suspension, and Other Responsibility Matters" if the recipient is a non-U.S. nongovernmental organization.

6. KEY INDIVIDUAL CERTIFICATION NARCOTICS OFFENSES AND DRUG TRAFFICKING

I hereby certify that within the last ten years:

1. I have not been convicted of a violation of, or a conspiracy to violate, any law or regulation of the United States or any other country concerning narcotic or psychotropic drugs or other controlled substances.
2. I am not and have not been an illicit trafficker in any such drug or controlled substance.
3. I am not and have not been a knowing assistor, abettor, conspirator, or colluder with others in the illicit trafficking in any such drug or substance.

Signature: _____

Date: _____

Name: _____

Title/Position: _____

Organization: _____

Address: _____

Date of Birth: _____

NOTICE:

1. You are required to sign this Certification under the provisions of 22 CFR Part 140, Prohibition on Assistance to Drug Traffickers. These regulations were issued by the Department of State and require that certain key individuals of organizations must sign this Certification.
2. If you make a false Certification you are subject to U.S. criminal prosecution under 18 U.S.C. 1001.

7. PARTICIPANT CERTIFICATION NARCOTICS OFFENSES AND DRUG TRAFFICKING

1. I hereby certify that within the last ten years:
 - a. I have not been convicted of a violation of, or a conspiracy to violate, any law or regulation of the United States or any other country concerning narcotic or psychotropic drugs or other controlled substances.
 - b. I am not and have not been an illicit trafficker in any such drug or controlled substance.
 - c. I am not or have not been a knowing assister, abettor, conspirator, or colluder with others in the illicit trafficking in any such drug or substance.
2. I understand that USAID may terminate my training if it is determined that I engaged in the above conduct during the last ten years or during my USAID training.

Signature: _____

Name: _____

Date: _____

Address: _____

Date of Birth: _____

NOTICE:

1. You are required to sign this Certification under the provisions of 22 CFR Part 140, Prohibition on Assistance to Drug Traffickers. These regulations were issued by the Department of State and require that certain participants must sign this Certification.
2. If you make a false Certification you are subject to U.S. criminal prosecution under 18 U.S.C. 1001.

FORMATS\GRNTCERT: Rev. 06/16/97 (ADS 303.6, E303.5.6a) When these Certifications, Assurances, and Other Statements of Recipient are used for Cooperative Agreements, the term "Grant" means "Cooperative Agreement". The recipient must obtain from each identified sub grantee and (sub) contractor, and submit with its application/proposal, the Certification Regarding Debarment, Suspension, Ineligibility and

Voluntary Exclusion -- Lower Tier Transactions, set forth in Attachment A hereto. The recipient should reproduce additional copies as necessary. See ADS Chapter E303.5.6a, 22 CFR 208, Annex1, App A. For USAID, this clause is entitled "Debarment, Suspension, Ineligibility, and Voluntary Exclusion (March 1989)" and is set forth in the grant standard provision entitled "Debarment, Suspension, and Related Matters" if the recipient is a U.S. nongovernmental organization, or in the grant standard provision entitled "Debarment, Suspension, and Other Responsibility Matters" if the recipient is a non-U.S. nongovernmental organization.

8. CERTIFICATION REGARDING MATERIAL SUPPORT AND RESOURCES

As a condition of entering into the referenced agreement, _____ hereby certifies that it has not provided and will not provide material support or resources to any individual or entity that it knows, or has reason to know, is an individual or entity that advocates, plans, sponsors, engages in, or has engaged in terrorist activity, including but not limited to the individuals and entities listed in the Annex to Executive Order 13224 and other such individuals and entities that may be later designated by the United States under any of the following authorities: § 219 of the Immigration and Nationality Act, as amended (8 U.S.C. § 1189), the International Emergency Economic Powers Act (50 U.S.C. § 1701 et seq.), the National Emergencies Act (50 U.S.C. § 1601 et seq.), or § 212(a)(3)(B) of the Immigration and Nationality Act, as amended by the USA Patriot Act of 2001, Pub. L. 107-56 (October 26, 2001) (8 U.S.C. §1182). _____ further certifies that it will not provide material support or resources to any individual or entity that it knows, or has reason to know, is acting as an agent for any individual or entity that advocates, plans, sponsors, engages in, or has engaged in, terrorist activity, or that has been so designated, or will immediately cease such support if an entity is so designated after the date of the referenced agreement.

For purposes of this certification, "material support and resources" includes currency or other financial securities, financial services, lodging, training, safe houses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel, transportation, and other physical assets, except medicine or religious materials.

For purposes of this certification, "engage in terrorist activity" shall have the same meaning as in section 212(a) (3) (B) (IV) of the Immigration and Nationality Act, as amended (8 U.S.C. § 1182(a) (3) (B) (IV)).

For purposes of this certification, "entity" means a partnership, association, corporation, or other organization, group, or subgroup.

This certification is an express term and condition of the agreement and any violation of it shall be grounds for unilateral termination of the agreement by USAID prior to the end of its term.

Signature: _____

Name: _____

Date: _____

Address: _____

NOTICE:

If you make a false Certification you are subject to U.S. criminal prosecution under 18 U.S.C. 1001.

9. CERTIFICATION REGARDING TERRORIST FINANCING

By signing and submitting this application, the prospective recipient provides the certification set out below:

1. The Recipient, to the best of its current knowledge, did not provide, within the previous ten years, and will take all reasonable steps to ensure that it does not and will not knowingly provide, material support or resources to any individual or entity that commits, attempts to commit, advocates, facilitates, or participates in terrorist acts, or has committed, attempted to commit, facilitated, or participated in terrorist acts, as that term is defined in paragraph 3.
2. The following steps may enable the Recipient to comply with its obligations under paragraph 1:
 - a. Before providing any material support or resources to an individual or entity, the Recipient will verify that the individual or entity does not (i) appear on the master list of Specially Designated Nationals and Blocked Persons, which list is maintained by the U.S. Treasury's Office of Foreign Assets Control (OFAC) and is available online at Oak's website : <http://www.treas.gov/offices/eotffc/ofac/sdn/t11sdn.pdf> or (ii) is not included in any supplementary information concerning prohibited individuals or entities that may be provided by USAID to the Recipient.

- b. Before providing any material support or resources to an individual or entity, the Recipient also will verify that the individual or entity has not been designated by the United Nations Security (UNSC) sanctions committee established under UNSC Resolution 1267 (1999) (the "1267 Committee") [individuals and entities linked to the Taliban, Usama bin Laden, or the Al Qaida Organization]. To determine whether there has been a published designation of an individual or entity by the 1267 Committee, the Recipient should refer to the consolidated list available online at the Committee's website:
<http://www.un.org/Docs/sc/committees/1267/1267ListEng.htm>.
 - c. Before providing any material support or resources to an individual or entity, the Recipient will consider all information about that individual or entity of which it is aware and all public information that is reasonably available to it or of which it should be aware.
 - d. The Recipient also will implement reasonable monitoring and oversight procedures to safeguard against assistance being diverted to support terrorist activity.
3. for purposes of this Certification-
- a. "Material support and resources" means currency or monetary instruments or financial securities, financial services, lodging, training, expert advice or assistance, safe houses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel, transportation, and other physical assets, except medicine or religious materials."
 - b. "Terrorist act" means-
 - (I) an act prohibited pursuant to one of the 12 United Nations Conventions and Protocols related to terrorism (see UN terrorism conventions Internet site: <http://untreaty.un.org/English/Terrorism.asp>); or
 - (ii) An act of premeditated, politically motivated violence perpetrated against noncombatant targets by sub national groups or clandestine agents; or
 - (iii) any other act intended to cause death or serious bodily injury to a civilian, or to any other person not taking an active part in hostilities in a situation of armed conflict, when the purpose of such act, by its nature or context, is to intimidate a population, or to compel a government or an international organization to do or to abstain from doing any act.
 - c. "Entity" means a partnership, association, corporation, or other organization, group or subgroup.

- d. References in this Certification to the provision of material support and resources shall not be deemed to include the furnishing of USAID funds or USAID-financed commodities to the ultimate beneficiaries of USAID assistance, such as recipients of food, medical care, micro-enterprise loans, shelter, etc., unless the Recipient has reason to believe that one or more of these beneficiaries commits, attempts to commit, advocates, facilitates, or participates in terrorist acts, or has committed, attempted to commit, facilitated or participated in terrorist acts.

- e. The Recipient's obligations under paragraph 1 are not applicable to the procurement of goods and/or services by the Recipient that are acquired in the ordinary course of business through contract or purchase, e.g., utilities, rents, office supplies, gasoline, etc., unless the Recipient has reason to believe that a vendor or supplier of such goods and services commits, attempts to commit, advocates, facilitates, or participates in terrorist acts, or has committed, attempted to commit, facilitated or participated in terrorist acts.

This Certification is an express term and condition of any agreement issued as a result of this application, and any violation of it shall be grounds for unilateral termination of the agreement by USAID prior to the end of its term.

Signed: _____
(*Typed Name and Title*)
(*Name of Organization*)

Date

PART II - OTHER STATEMENTS OF RECIPIENT

1. AUTHORIZED INDIVIDUALS

The recipient represents that the following persons are authorized to negotiate on its behalf with the Government and to bind the recipient in connection with this application or grant:

Name	Title	Telephone No.	Facsimile No.
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

2. TAXPAYER IDENTIFICATION NUMBER (TIN)

If the recipient is a U.S. organization, or a foreign organization which has income effectively connected with the conduct of activities in the U.S. or has an office or a place of business or a fiscal paying agent in the U.S., please indicate the recipient's TIN:

TIN: _____

3. CONTRACTOR IDENTIFICATION NUMBER - DATA UNIVERSAL NUMBERING SYSTEM (DUNS) NUMBER

- (a) In the space provided at the end of this provision, the recipient should supply the Data Universal Numbering System (DUNS) number applicable to that name and address. Recipients should take care to report the number that identifies the recipient's name and address exactly as stated in the proposal.
- (b) The DUNS is a 9-digit number assigned by Dun and Bradstreet Information Services. If the recipient does not have a DUNS number, the recipient should call Dun and Bradstreet directly at 1-800-333-0505. A DUNS number will be provided immediately by telephone at no charge to the recipient. The recipient should be prepared to provide the following information:
 - (1) Recipient's name.
 - (2) Recipient's address.
 - (3) Recipient's telephone number.

- (4) Line of business.
- (5) Chief executive officer/key manager.
- (6) Date the organization was started.
- (7) Number of people employed by the recipient.
- (8) Company affiliation.

- (c) Recipients located outside the United States may obtain the location and phone number of the local Dun and Bradstreet Information Services office from the Internet Home Page at <http://www.dbisna.com/dbis/customer/custlist.htm>. If an offer or is unable to locate a local service center, it may send an e-mail to Dun and Bradstreet at globalinfo@dbisma.com.

The DUNS system is distinct from the Federal Taxpayer Identification Number (TIN) system.

DUNS: _____

4. LETTER OF CREDIT (LOC) NUMBER

If the recipient has an existing Letter of Credit (LOC) with USAID, please indicate the LOC number:

LOC: _____

5. PROCUREMENT INFORMATION

- (a) Applicability. This applies to the procurement of goods and services planned by the recipient (i.e., contracts, purchase orders, etc.) from a supplier of goods or services for the direct use or benefit of the recipient in conducting the program supported by the grant, and not to assistance provided by the recipient (i.e., a sub grant or sub agreement) to a sub grantee or sub recipient in support of the sub grantee's or sub recipient's program. Provision by the recipient of the requested information does not, in and of itself, constitute USAID approval.

- (b) Amount of Procurement. Please indicate the total estimated dollar amount of goods and services which the recipient plans to purchase under the grant:

\$ _____

- (c) Nonexpendable Property. If the recipient plans to purchase nonexpendable equipment which would require the approval of the Agreement Officer, please indicate below (using a continuation page, as necessary) the types, quantities of

each, and estimated unit costs. Nonexpendable equipment for which the Agreement Officer's approval to purchase is required is any article of nonexpendable tangible personal property charged directly to the grant, having a useful life of more than one year and an acquisition cost of \$5,000 or more per unit.

TYPE/DESCRIPTION (Generic)	QUANTITY	ESTIMATED UNIT COST
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- (d) **Source, Origin, and Component of Goods.** If the recipient plans to purchase any goods/commodities which are not of U.S. source and/or U.S. origin, please indicate below (using a continuation page, as necessary) the types and quantities of each, estimated unit costs of each, and probable source and/or origin. "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. Any commodity whose source is a non-Free World country is ineligible for USAID financing. 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, commercially recognized new commodity results, which is substantially different in basic characteristics or in purpose or utility from its components. Merely packaging various items together for a particular procurement or relabeling items does not constitute production of a commodity. Any commodity whose origin is a non-Free World country is ineligible for USAID financing. "Components" are the goods which go directly into the production of a produced commodity. Any component from a non-Free World country makes the commodity ineligible for USAID financing.

TYPE/ DESCRIPTION (Generic)	QUANTITY	EST. UNIT COST	GOODS COMPONENTS	PROBABLE SOURCE	GOODS COMPONENTS	PROBABLE ORIGIN
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- (e) **Restricted Goods.** If the recipient plans to purchase any restricted goods, please indicate below (using a continuation page, as necessary) the types and quantities of each, estimated unit costs of each, intended use, and probable source and/or origin. Restricted goods are Agricultural Commodities, Motor Vehicles, Pharmaceuticals, Pesticides, Rubber Compounding Chemicals and Plasticizers, Used Equipment, U.S. Government-Owned Excess Property, and Fertilizer.

TYPE/ DESCRIPTION (Generic)	QUANTITY	ESTIMATED UNIT COST	PROBABLE SOURCE	PROBABLE ORIGIN	INTENDED USE
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- (f) **Supplier Nationality.** If the recipient plans to purchase any goods or services from suppliers of goods and services whose nationality is not in the U.S., please indicate below (using a continuation page, as necessary) the types and quantities of each good or service, estimated costs of each, probable nationality of each non-U.S. supplier of each good or service, and the rationale for purchasing from a non-U.S. supplier. Any supplier whose nationality is a non-Free World country is ineligible for USAID financing.

TYPE/ DESCRIPTION (Generic)	QUANTITY	ESTIMATED UNIT COST	PROBABLE SUPPLIER (Non-US Only)	NATIONALITY	RATIONALE for NON-US
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- (g) **Proposed Disposition.** If the recipient plans to purchase any nonexpendable equipment with a unit acquisition cost of \$5,000 or more, please indicate below (using a continuation page, as necessary) the proposed disposition of each such item. Generally, the recipient may either retain the property for other uses and make compensation to USAID (computed by applying the percentage of federal participation in the cost of the original program to the current fair market value of the property), or sell the property and reimburse USAID an amount computed by applying to the sales proceeds the percentage of federal participation in the cost of the original program (except that the recipient may deduct from the federal share \$500 or 10% of the proceeds, whichever is greater, for selling and handling expenses), or donate the property to a host country institution, or otherwise dispose of the property as instructed by USAID.

TYPE/DESCRIPTION (Generic)	QUANTITY	ESTIMATED UNIT COST	PROPOSED	DISPOSITION
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6. TYPE OF ORGANIZATION

The recipient, by checking the applicable box, represents that -

- (a) If the recipient is a U.S. entity, it operates as a corporation incorporated under the laws of the State of, an individual, a partnership, a nongovernmental nonprofit organization, a state or local governmental organization, a private college or university, a public college or university, an international organization, or a joint venture; or
- (b) If the recipient is a non-U.S. entity, it operates as a corporation organized under the laws of _____ (country), an individual, a partnership,

[] a nongovernmental nonprofit organization, [] a nongovernmental educational institution, [] a governmental organization, [] an international organization, or [] a joint venture.

7. ESTIMATED COSTS OF COMMUNICATIONS PRODUCTS

The following are the estimate(s) of the cost of each separate communications product (i.e., any printed material [other than non-color photocopy material], photographic services, or video production services) which is anticipated under the grant. Each estimate must include all the costs associated with preparation and execution of the product. Use a continuation page as necessary.

8. SURVEY ON ENSURING EQUAL OPPORTUNITY FOR APPLICANTS

Completion of the Survey on Ensuring Equal Opportunity for Applicants is voluntary. Applicants are asked to review the purpose of the survey and, if the organization chooses to complete the form, please follow the Instructions for Submitting the Survey.

Survey on Ensuring Equal Opportunity for Applicants

OMB No. 1890-0014 Exp. 1/31/2006

Purpose: The Federal government is committed to ensuring that all qualified applicants, small or large, non-religious or faith-based, have an equal opportunity to compete for Federal funding. In order for us to better understand the population of applicants for Federal funds, we are asking nonprofit private organizations (not including private universities) to fill out this survey.

Upon receipt, the survey will be separated from the application. Information provided on the survey will not be considered in any way in making funding decisions and will not be included in the Federal grants database. While your help in this data collection process is greatly appreciated, completion of this survey is voluntary.

Instructions for Submitting the Survey: If you are applying using a hard copy application, please place the completed survey in an envelope labeled "Applicant Survey." Seal the envelope and include it along with your application package. If you are applying electronically, please submit this survey along with your application.

Applicant's (Organization) Name: _____

Applicant's DUNS Number: _____

Grant Name: _____ **CFDA Number:** _____

1. Does the applicant have 501(c)(3) status?

Yes No

2. How many full-time equivalent employees does the applicant have? *(Check only one box).*

3 or Fewer 15-50
 4-5 51-100
 6-14 over 100

3. What is the size of the applicant's annual budget?

(Check only one box.)

Less Than \$150,000
 \$150,000 - \$299,999
 \$300,000 - \$499,999
 \$500,000 - \$999,999
 \$1,000,000 - \$4,999,999
 \$5,000,000 or more

4. Is the applicant a faith-based/religious organization?

Yes No

5. Is the applicant a non-religious community-based organization?

Yes No

6. Is the applicant an intermediary that will manage the grant on behalf of other organizations?

Yes No

7. Has the applicant ever received a government grant or contract (Federal, State, or local)?

Yes No

8. Is the applicant a local affiliate of a national organization?

Yes No

Survey Instructions on Ensuring Equal Opportunity for Applicants

Provide the applicant's (organization) name and DUNS number and the grant name and CFDA number.

1. 501(c)(3) status is a legal designation provided on application to the Internal Revenue Service by eligible organizations. Some grant programs may require nonprofit applicants to have 501(c)(3) status. Other grant programs do not.
2. For example, two part-time employees who each work half-time equal one full-time equivalent employee. If the applicant is a local affiliate of a national organization, the responses to survey questions 2 and 3 should reflect the staff and budget size of the local affiliate.
3. Annual budget means the amount of money your organization spends each year on all of its activities.
4. Self-identify.
5. An organization is considered a community-based organization if its headquarters/service location shares the same zip code as the clients you serve.
6. An "intermediary" is an organization that enables a group of small organizations to receive and manage government funds by administering the grant on their behalf.
7. Self-explanatory.
8. Self-explanatory.

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless such collection displays a valid OMB control number. The valid OMB control number for this information collection is 1890-0014. The time required to complete this information collection is estimated to average five (5) minutes per response, including the time to review instructions, search existing data resources, gather the data needed, and complete and review the information collection. **If you have any comments concerning the accuracy of the time estimate(s) or suggestions for improving this form, please write to:** U.S. Department of Education, Washington, D.C. 2202-4651.

If you have comments or concerns regarding the status of your individual submission of this form, write directly to the USAID Agreement Officer.

OMB No. 1890-0014 Exp. 1/31/2006

Paperwork Burden Statement

**SECTION E – COOPERATIVE AGREEMENT FORMAT
(SAMPLE)**

NOTE: Attachment 1 – SCHEDULE is provided as a format sample only. Upon award the Recipient will receive a document tailored to the specifics of their proposal and the applicable regulations. The actual document may contain more or less than the provisions listed within this attachment. The sample is provided to familiarize potential Applicants with USAID's Agreement format.

Subject: _____
Award No.: _____

Pursuant to the authority contained in the Foreign Assistance Act of 1961, as amended, the U.S. Agency for International Development (hereinafter referred to as "USAID" or "Grantor") hereby intends to grant to _____ (hereinafter referred to as ___ or "Recipient"), the sum of \$_____ to provide support for a program in _____ as described in the Schedule of this award and the Attachment 2, entitled "Program Description". As this award is incrementally funded, only the amount shown in Section 1.3.b. of the Agreement schedule has been obligated for use hereunder.

This award is effective and obligation is made as of the date of this letter and shall apply to commitments made by the Recipient in furtherance of program objectives during the period beginning with the effective date and ending on the date shown in Section 1.2 of Attachment 1, Schedule. USAID shall not be liable for reimbursing the Recipient for any costs in excess of the obligated amount.

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

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

Sincerely,

Dale Lewis
Agreement Officer
USAID/Indonesia

Attachments:

1. Schedule
2. Program Description
3. Standard Provisions

ACKNOWLEDGED:

By: _____

Title: _____

Date: _____

ACCOUNTING AND APPROPRIATION DATA

A. GENERAL

1. Total USAID Agreement Amount : \$_____
2. Total Program Amount : \$_____
3. Total USAID Obligated Amount : \$_____
4. Cost-Sharing
(Non-Federal) : \$_____
5. Activity Title :
6. USAID Technical Office : Office of Democratic Governance
(DG)
7. Tax I.D. Number :
8. DUNS No. :
9. LOC Number :

B. SPECIFIC

1. MAARD Number :
2. Appropriation Number :
3. Budget Plan Code :

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ACCOUNTING AND APPROPRIATION DATA

ATTACHMENT 1

SCHEDULE

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- 1.2 PERIOD OF AGREEMENT
- 1.3 AMOUNT OF AWARD AND PAYMENT
- 1.4 BUDGET
- 1.5 REPORTING AND EVALUATION
 - 1.5.1 Financial Reporting
 - 1.5.2 Program Performance Reporting
- 1.6 SUBSTANTIAL INVOLVEMENT UNDERSTANDINGS
- 1.7 KEY PERSONNEL
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- 1.14 PROGRAM INCOME (If Applicable)
- 1.15 SPECIAL PROVISIONS

ATTACHMENT 2 PROGRAM DESCRIPTION

ATTACHMENT 3 STANDARD PROVISIONS

Attachment 1

SCHEDULE

1.1 PURPOSE OF AGREEMENT

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

1.2 PERIOD OF AGREEMENT

The effective date of this Agreement is the date of the Cover Letter and the estimated completion date is _____. Funds obligated hereunder are available for program expenditures for the estimated period beginning the effective date of this Agreement through _____.

1.3 AMOUNT OF AWARD AND PAYMENT

- (a) The total estimated amount of this Award is \$_____.
- (b) USAID hereby obligates the amount of \$_____ for program expenditures during the period set forth in 1.2 above and as shown in the Budget below.
- (c) Payment shall be made to the Grantee by Payment - Letter of Credit in accordance with procedures set forth in 22 CFR 226.22.
- (d) Additional funds up to the total estimated amount may be obligated by USAID subject to the availability of funds, satisfactory progress of the project, and continued relevance to USAID programs.

1.4 BUDGET

The following is the Agreement Budget, including local cost financing items, if authorized. Revisions to this budget shall be made in accordance with 22 CFR 226.25.

THE BUDGET BELOW IS PROVIDED AS A SAMPLE ONLY

BUDGET	FEDERAL	NON-FEDERAL
Personnel Salary	\$	\$
Fringe Benefit	\$	\$
Travel, Transportation and Per Diem	\$	\$
Equipment	\$	\$
Supplies	\$	\$

Contractual	\$	\$
Allowances	\$	\$
Other Direct Costs	\$	\$
TOTAL Direct Charges	\$	\$
Indirect Charges	\$	\$
COMBINED TOTAL	\$	\$

Note: Format budget is to be similarly applied to all sub-awardee's budget.

1.5 REPORTING AND EVALUATION

1.5.1 Financial Reporting

- (a) The Recipient shall submit in original and one copy. Financial reports shall be in keeping with 22 CFR 226.52. In accordance with 22 CFR 226.52, the SF 425 will be required by the end of this Agreement. The recipient shall submit these forms in the following manner:
- (b) The SF 425 will be submitted via electronic format to the U.S. Department of Health and Human Services (<http://www.dpm.psc.gov>). A copy of this form shall also be simultaneously submitted to the Agreement Officer Technical Representative (AOTR).
- (c) In accordance with 22 CFR 226.70-72, the original and two copies of final financial reports shall be submitted as follows: M/FM, the Agreement Officer (if requested) and the AOTR. The electronic version of the final SF 425 shall be submitted to HHS in accordance with paragraph (b) above.

1.5.2 Program Performance Reporting

- (a) Final Report – The Recipient shall submit an original and one copy of a final performance report no later than 90 calendar days after the expiration or termination of this Agreement. The Recipient shall submit the report to the:

Agreement Officer Technical Representative (AOTR)
Attn: USAID/Indonesia
Democratic Governance (DG) Office
c/o American Embassy, Unit 8135
FPO AP 96520-8135

One copy, in electronic (preferred) or paper form of final documents to one of the following: (a) Via e-mail: docsubmit@dec.cdie.org ; (b) Via U.S. Postal Service: Development Experience Clearinghouse, 8403 Colesville Road, Suite

210, Silver Spring, MD 20910, USA; (c) Via Fax: (301) 588-7787; or (d) Online: <http://www.dec.org/index.cfm?fuseaction=docSubmit.home>.

- (b) Contents. The performance report shall briefly present the information contained in 22 CFR 226.51(d).

1.6 SUBSTANTIAL INVOLVEMENT UNDERSTANDINGS

The following provisions constitute USAID's substantial involvement in the recipient's program in order to assure that program requirements are met and that mutual program objectives are achieved.

The Agreement Officer Technical Representative (AOTR), USAID/Indonesia, shall be responsible for:

- (a)
- (b)
- (c)
- (d)

1.7 KEY PERSONNEL

The following positions have been designated as key to the successful completion of the objectives of this Agreement. In accordance with the Substantial Involvement clause of this Agreement, these personnel are subject to the approval of the AOTR.

1.8 TITLE TO AND CARE OF PROPERTY

Title to all property financed under this award shall vest in the Recipient subject to the requirements of 22 CFR 226.30 through 37.

1.9 AUTHORIZED GEOGRAPHIC CODE

The authorized geographic code for procurement of goods and services under this award is the United States (000) and Indonesia.

1.10 INDIRECT COSTS

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

Type	Rate	Base	Period
------	------	------	--------

1.11 RESOLUTION OF CONFLICTS

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

- Attachment 1 – Schedule
- Attachment 2 - Program Description
- Attachment 3 - Standard Provisions
- Attachment 4 – 22 CFR 226

1.12 COST SHARING

The Recipient agrees to expend an amount not less than ____% of the total program amount (combined Federal and Non-Federal). Cost sharing contributions shall meet the criteria as set out in 22 CFR 226.23.

1.13 PAYMENT OFFICE

USAID/ FM/CMP – LOC Unit
Ronald Reagan Building (RRB)
Room 7.07 -108 or 134
1300 Pennsylvania Avenue, NW
Washington, D.C., 20523-7700

1.14 PROGRAM INCOME (If Applicable)

The Recipient shall account for Program Income in Accordance with 22 CFR 226.24. Pursuant to 22 CFR 226.24(1), Program Income earned under this

Agreement shall be applied and used as additive to the Agreement to further Program objectives.

1.15 SPECIAL PROVISIONS

1. Hiring of Government of Indonesia (GOI) Employees

Honoraria may be paid to university employees and to members of research institutions, who are GOI employees solely by virtue of their position in a university or research institutions, carrying out project-related activities outside their normal duties where the normal practice of the GOI condones this type of additional work. [Only nominal and occasional payments of honoraria to other GOI employees under similar circumstances may be paid provided such payments are clearly for functions outside their normal duties and do not take place during normal working hours or otherwise conflict with official duties in which case they are not considered salary supplements. Frequent recurring payments are prohibited except for university and research institution employees.]

2. **Terrorist Financing** – The Recipient is reminded that U.S. Executive Orders and U.S. law prohibits transactions with, and the provision of resources and support to, individuals and organizations associated with terrorism. It is the legal responsibility of the recipient to ensure compliance with these Executive Orders and laws. This provision must be included in all subcontracts/sub awards issued under this Agreement.

3. Foreign Government Delegations to International Conferences

Funds in this Agreement may not be used to finance the travel, per diem, hotel expenses, meals, conference meals, conference fees or other conference costs for any member of a foreign government's delegation to an international conference sponsored by a public international organization, except as provided in ADS Mandatory Reference "Guidance on Funding Foreign Government Delegations to International Conferences

[\[http://www.info.usaid.gov/pubs/ads/300/refindx3.htm\]](http://www.info.usaid.gov/pubs/ads/300/refindx3.htm)" or as approved by the CTO.

4. USAID Disability Policy – Assistance (December 2004)

- (a) The objectives of the USAID Disability Policy are (1) to enhance the attainment of

United States Government foreign assistance program goals by promoting the participation and equalization of opportunities of individuals with disabilities in

USAID policy, country and sector strategies, activity designs and implementation;

(2) to increase awareness of issues of people with disabilities both within USAID programs and in host countries; (3) to engage other U.S. government agencies,

host country counterparts, governments, implementing organizations and other

donors in fostering a climate of nondiscrimination against people with disabilities;

and (4) to support international advocacy for people with disabilities. The full text

of the policy paper can be found at the following website:
<http://www.usaid.gov/about/disability/DISABPOL.FIN.html>.

(b) USAID therefore requires that the recipient not discriminate against people with disabilities in the implementation of USAID funded programs and that it make

every effort to comply with the objectives of the USAID Disability Policy in performing the program under this associate Cooperative Agreement. To that end

and to the extent it can accomplish this goal within the scope of the program objectives, the recipient should demonstrate a comprehensive and consistent approach

for including men, women and children with disabilities.

5. REPORTING OF FOREIGN TAXES

(a) The Contractor must annually submit a report by April 16 of every year after award for the duration of the contract.

(b) Contents of Report. The reports must contain:

(1) Contractor name.

(2) Contact name with phone, fax and e-mail.

(3) Agreement number(s).

(4) Amount of foreign taxes assessed by a foreign government [each foreign government must be listed separately on commodity purchase transactions valued at \$500 or more financed with U.S. foreign assistance funds under this agreement during the prior U.S. fiscal year.

- (5) Only foreign taxes assessed by the foreign government in the country receiving U.S. assistance are to be reported. Foreign taxes by a third party foreign government are not to be reported.
- (6) Any reimbursements received by the Contractor during the period in (iv) regardless of when the foreign tax was assessed plus, for the interim report, any reimbursements on the taxes reported in (iv) received by the Contractor through October 31 and for the final report, any reimbursements on the taxes reported in (iv) received through March 31.
- (7) The final report is an updated cumulative report of the interim report
- (8) Reports are required even if the Contractor did not pay any taxes during the report period.
- (9) Cumulative reports may be provided if the Contractor is implementing more than one program in a foreign country.
- (c) Definitions. For purposes of this clause:
- (1) "Agreement" includes USAID direct and country contracts, grants, cooperative agreements and interagency agreements.
 - (2) "Commodity" means any material, article, supply, goods, or equipment.
 - (3) "Foreign government" includes any foreign governmental entity.
 - (4) "Foreign taxes" means value-added taxes and custom duties assessed by a foreign government on a commodity. It does not include foreign sales taxes.
- (d) Where. Submit the reports to: The Office of Financial Management, USAID/Indonesia,
- (e) Subagreements. The Contractor must include this reporting requirement in all applicable subcontracts, subgrants and other subagreements.
- (f) For further information see <http://www.state.gov/m/rm/c10443.htm>.
6. DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS (January 2004)
- (1) The recipient agrees to notify the Agreement Officer immediately upon learning that it or any of its principals:
- (a) Are presently excluded or disqualified from covered transactions by any Federal department or agency;
 - (b) Have been convicted within the preceding three-years period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery,

- bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, or obstruction of justice; commission of any other offense indicating a lack of business integrity or business honesty that seriously and directly affects your present responsibility;
- (c) Are presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b); and
 - (d) Have had one or more public transactions (Federal, State, or local) terminated for cause or default within the preceding three years.
- (2) The recipient agrees that, unless authorized by the Agreement Officer, it will not knowingly enter into any subagreements or contracts under this grant with a person or entity that is included on the Excluded Parties List System (<http://epls.arnet.gov>). The recipient further agrees to include the following provision in any subagreements or contracts entered into under this award: DEBARMENT, SUSPENSION, INELIGIBILITY, AND VOLUNTARY EXCLUSION (DECEMBER 2003) The recipient/contractor certifies that neither it nor its principals is presently excluded or disqualified from participation in this transaction by any Federal department or agency.
- (3) The policies and procedures applicable to debarment, suspension, and ineligibility under USAID-financed transactions are set forth in 22 CFR Part 208.
7. DRUG-FREE WORKPLACE (January 2004)
- (1) The recipient agrees that it will publish a drug-free workplace statement and provide a copy to each employee who will be engaged in the performance of any Federal award. The statement must
 - (a) Tell the employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in its workplace;
 - (b) Specify the actions the recipient will take against employees for violating that prohibition; and
 - (c) Let each employee know that, as a condition of employment under any award, he or she (1) Must abide by the terms of the statement, and (2) Must notify you in writing if he or she is convicted for a violation of a criminal drug statute occurring in the workplace, and must do so no more than five calendar days after the conviction.
 - (2) The recipient agrees that it will establish an ongoing drug-free awareness program to inform employees about
 - (a) The dangers of drug abuse in the workplace;
 - (b) Your policy of maintaining a drug-free workplace;
 - (c) Any available drug counseling, rehabilitation and employee assistance programs; and

- (d) The penalties that you may impose upon them for drug abuse violations occurring in the workplace.
- (3) Without the Agreement Officer's expressed written approval, the policy statement and program must be in place as soon as possible, no later than the 30 days after the effective date of this award, or the completion date of this award, whichever occurs first.
- (4) The recipient agrees to immediately notify the Agreement Officer if an employee is convicted of a drug violation in the workplace. The notification must be in writing, identify the employee's position title, the number of each award on which the employee worked. The notification must be sent to the Agreement Officer within ten calendar days after the recipient learns of the conviction.
- (5) Within 30 calendar days of learning about an employee's conviction, the recipient must either
 - (a) Take appropriate personnel action against the employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973 (29 USC 794), as amended, or
 - (b) Require the employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for these purposes by a Federal, State or local health, law enforcement, or other appropriate agency.
- (6) The policies and procedures applicable to violations of these requirements are set forth in 22 CFR Part 210.

Attachment 2

PROGRAM DESCRIPTION

The Recipient will implement the “_____” as prescribed herein and in accordance with the terms and conditions of this Cooperative Agreement as addressed in the Recipient’s Technical Applications Section _____ dated _____.

Attachment 3

**MANDATORY STANDARD PROVISIONS FOR
U.S., NONGOVERNMENTAL RECIPIENTS**

I. MANDATORY STANDARD PROVISIONS FOR U.S. NONGOVERNMENTAL RECIPIENTS

1. APPLICABILITY OF 22 CFR PART 226 (May 2005)
2. INELIGIBLE COUNTRIES (MAY 1986)
3. NONDISCRIMINATION (MAY 1986)
4. NONLIABILITY (NOVEMBER 1985)
5. AMENDMENT (NOVEMBER 1985)
6. NOTICES (NOVEMBER 1985)
7. SUBAGREEMENTS (June 1999)
8. OMB APPROVAL UNDER THE PAPERWORK REDUCTION ACT
(December 2003)
9. USAID ELIGIBILITY RULES FOR GOODS AND SERVICES (April 1998)
10. DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS
(January 2004)
11. DRUG-FREE WORKPLACE (January 2004)
12. EQUAL PROTECTION OF THE LAWS FOR FAITH-BASED AND COMMUNITY ORGANIZATIONS (February 2004)
13. IMPLEMENTATION OF E.O. 13224 -- EXECUTIVE ORDER ON TERRORIST FINANCING (March 2002)
14. MARKING UNDER USAID-FUNDED ASSISTANCE INSTRUMENTS
(December 2005)
15. REGULATIONS GOVERNING EMPLOYEES (AUGUST 1992)
16. CONVERSION OF UNITED STATES DOLLARS TO LOCAL CURRENCY
(NOVEMBER 1985)
17. USE OF POUCH FACILITIES (AUGUST 1992)
18. INTERNATIONAL AIR TRAVEL AND TRANSPORTATION (JUNE 1999)
19. OCEAN SHIPMENT OF GOODS (JUNE 1999)
20. LOCAL PROCUREMENT (April 1998)
21. VOLUNTARY POPULATION PLANNING ACTIVITIES – MANDATORY REQUIREMENTS (MAY 2006)

II. REQUIRED AS APPLICABLE STANDARD PROVISIONS FOR U.S., NONGOVERNMENTAL RECIPIENTS

1. NEGOTIATED INDIRECT COST RATES - PREDETERMINED (April 1998)
2. NEGOTIATED INDIRECT COST RATES - PROVISIONAL (Nonprofit) (April 1998)
3. NEGOTIATED INDIRECT COST RATE - PROVISIONAL (Profit) (April 1998)

4. PUBLICATIONS AND MEDIA RELEASES (MARCH 2006)
5. PARTICIPANT TRAINING (April 1998)
6. VOLUNTARY POPULATION PLANNING ACTIVITIES – SUPPLEMENTAL REQUIREMENTS (JANUARY 2009)
7. TITLE TO AND CARE OF PROPERTY (COOPERATING COUNTRY TITLE) (NOVEMBER 1985)
8. PUBLIC NOTICES (MARCH 2004)
9. COST SHARING (MATCHING) (July 2002)
10. PROHIBITION OF ASSISTANCE TO DRUG TRAFFICKERS (JUNE 1999)
11. INVESTMENT PROMOTION (NOVEMBER 2003)
12. REPORTING OF FOREIGN TAXES (March 2006)
13. FOREIGN GOVERNMENT DELEGATIONS TO INTERNATIONAL CONFERENCES (January 2002)
14. ORGANIZATIONS ELIGIBLE FOR ASSISTANCE (JULY 2004)
15. PROHIBITION ON THE USE OF FEDERAL FUNDS TO PROMOTE, SUPPORT, OR ADVOCATE FOR THE LEGALIZATION OR PRACTICE OF PROSTITUTION - ASSISTANCE (JULY 2004)
16. USAID DISABILITY POLICY - ASSISTANCE (DECEMBER 2004)

I. MANDATORY STANDARD PROVISIONS FOR U.S. NONGOVERNMENTAL RECIPIENTS

1. APPLICABILITY OF 22 CFR PART 226 (May 2005)

a. All provisions of 22 CFR Part 226 and all Standard Provisions attached to this agreement are applicable to the recipient and to subrecipients which meet the definition of "Recipient" in Part 226, unless a section specifically excludes a subrecipient from coverage. The recipient shall assure that subrecipients have copies of all the attached standard provisions.

b. For any subawards made with Non-US subrecipients the Recipient shall include the applicable "Standard Provisions for Non-US Nongovernmental Grantees." Recipients are required to ensure compliance with monitoring procedures in accordance with OMB Circular A-133.

[END OF PROVISION]

2. INELIGIBLE COUNTRIES (MAY 1986)

Unless otherwise approved by the USAID Agreement Officer, funds will only be expended for assistance to countries eligible for assistance under the Foreign Assistance Act of 1961, as amended, or under acts appropriating funds for foreign assistance.

[END OF PROVISION]

3. NONDISCRIMINATION (MAY 1986)

(This provision is applicable when work under the grant is performed in the U.S. or when employees are recruited in the U.S.)

No U.S. citizen or legal resident 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 award on the basis of race, color, national origin, age, handicap, or sex.

[END OF PROVISION]

4. NONLIABILITY (NOVEMBER 1985)

USAID does not assume liability for any third party claims for damages arising out of this award.

[END OF PROVISION]

5. AMENDMENT (NOVEMBER 1985)

The award may be amended by formal modifications to the basic award document or by means of an exchange of letters between the Agreement Officer and an appropriate official of the recipient.

[END OF PROVISION]

6. NOTICES (NOVEMBER 1985)

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

To the USAID Agreement Officer, at the address specified in the award.

To recipient, at recipient's address shown in the award or to such other address designated within the award

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

[END OF PROVISION]

7. SUBAGREEMENTS (June 1999)

Subrecipients, subawardees, and contractors have no relationship with USAID under the terms of this agreement. All required USAID approvals must be directed through the recipient to USAID.

[END OF PROVISION]

8. OMB APPROVAL UNDER THE PAPERWORK REDUCTION ACT (December 2003)

Information collection requirements imposed by this grant are covered by OMB approval number 0412-0510; the current expiration date is 04/30/2005. The Standard Provisions containing the requirement and an estimate of the public reporting burden (including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information) are

Standard Provision Burden Estimate

Air Travel and Transportation 1 (hour)

Ocean Shipment of Goods .5

Patent Rights .5

Publications .5

Negotiated Indirect Cost Rates -
(Predetermined and Provisional) 1

Voluntary Population Planning .5

Protection of the Individual as a 1

Research Subject

22 CFR 226 Burden Estimate

22 CFR 226.40-.49 Procurement
of Goods and Services 1

22 CFR 226.30 - .36

Property Standards 1.5

Comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, may be sent to the Office of

Procurement, Policy Division (M/OP/P) U.S. Agency for International Development, Washington, DC 20523-7801 and to the Office of Management and Budget, Paperwork Reduction Project (0412-0510), Washington, D.C 20503.
[END OF PROVISION]

9. USAID ELIGIBILITY RULES FOR GOODS AND SERVICES (April 1998)

(This provision is not applicable to goods or services which the recipient provides with private funds as part of a cost-sharing requirement, or with Program Income generated under the award.)

a. Ineligible and Restricted Goods and Services: USAID's policy on ineligible and restricted goods and services is contained in ADS Chapter 312.

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

- (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 award shall not be used to procure any goods or services furnished by any firms or individuals whose name appears on the "Lists of Parties Excluded from Federal Procurement and Nonprocurement Programs." USAID will provide the recipient with a copy of these lists upon request.

(3) Restricted Goods. The recipient shall not procure any of the following goods and services without the prior approval of the Agreement Officer:

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

Prior approval will be deemed to have been met when:

- (i) the item is of U.S. source/origin;
- (ii) the item has been identified and incorporated in the program description or schedule of the award (initial or revisions), or amendments to the award; and
- (iii) the costs related to the item are incorporated in the approved budget of the award.

Where the item has not been incorporated into the award as described above, a separate written authorization from the Agreement Officer must be provided before the item is procured.

b. Source and Nationality: The eligibility rules for goods and services based on source and nationality are divided into two categories. One applies when the total procurement

element during the life of the award is over \$250,000, and the other applies when the total procurement element during the life of the award is not over \$250,000, or the award is funded under the Development Fund for Africa (DFA) regardless of the amount. 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 Agreement Officer. USAID policies and definitions on source, origin and nationality are contained in 22 CFR Part 228, Rules on Source, Origin and Nationality for Commodities and Services Financed by the Agency for International Development, which is incorporated into this Award in its entirety.

(1) For DFA funded awards or when the total procurement element during the life of this award is valued at \$250,000 or less, the following rules apply:

(i) The authorized source for procurement of all goods and services to be reimbursed under the award is USAID Geographic Code 935, "Special Free World," and such goods and services must meet the source, origin and nationality requirements set forth in 22 CFR Part 228 in accordance with the following order of preference:

- (A) The United States (USAID Geographic Code 000),
- (B) The Cooperating Country,
- (C) USAID Geographic Code 941, and
- (D) USAID Geographic Code 935.

(ii) Application of order of preference: When the recipient procures goods and services from other than U.S. sources, under the order of preference in paragraph (b)(1)(i) above, the recipient 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) Compelling 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 award.

(2) When the total procurement element exceeds \$250,000 (unless funded by DFA), the following applies: Except as may be specifically approved or directed in advance by the Agreement Officer, all goods and services financed with U.S. dollars, which will be reimbursed under this award must meet the source, origin and nationality requirements set forth in 22 CFR Part 228 for the authorized geographic code specified in the schedule of this award. If none is specified, the authorized source is Code 000, the United States.

c. 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 USAID 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 (USAID Geographic Code 000),
- (2) The Cooperating Country,
- (3) "Selected Free World" countries (USAID Geographic Code 941), and
- (4) "Special Free World" countries (USAID Geographic Code 899).

d. If USAID determines that the recipient has procured any of these goods or services under this award contrary to the requirements of this provision, and has received payment for such purposes, the Agreement Officer may require the recipient to refund the entire amount of the purchase.

This provision must be included in all subagreements which include procurement of goods or services which total over \$5,000.

[END OF PROVISION]

10. DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS (January 2004)

a. The recipient agrees to notify the Agreement Officer immediately upon learning that it or any of its principals:

- (1) Are presently excluded or disqualified from covered transactions by any Federal department or agency;
- (2) Have been convicted within the preceding three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, or obstruction of justice; commission of any other offense indicating a lack of business integrity or business honesty that seriously and directly affects your present responsibility;
- (3) Are presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b); and
- (4) Have had one or more public transactions (Federal, State, or local) terminated for cause or default within the preceding three years.

b. The recipient agrees that, unless authorized by the Agreement Officer, it will not knowingly enter into any subagreements or contracts under this grant with a person or entity that is included on the Excluded Parties List System (<http://epls.arnet.gov>). The recipient further agrees to include the following provision in any subagreements or contracts entered into under this award:

**DEBARMENT, SUSPENSION, INELIGIBILITY, AND VOLUNTARY EXCLUSION
(DECEMBER 2003)**

The recipient/contractor certifies that neither it nor its principals is presently excluded or disqualified from participation in this transaction by any Federal department or agency.

c. The policies and procedures applicable to debarment, suspension, and ineligibility under USAID-financed transactions are set forth in 22 CFR Part 208.

[END OF PROVISION]

11. DRUG-FREE WORKPLACE (January 2004)

a. The recipient agrees that it will publish a drug-free workplace statement and provide a copy to each employee who will be engaged in the performance of any Federal award. The statement must

(1) Tell the employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in its workplace;

(2) Specify the actions the recipient will take against employees for violating that prohibition; and

(3) Let each employee know that, as a condition of employment under any award, he or she

(i) Must abide by the terms of the statement, and

(ii) Must notify you in writing if he or she is convicted for a violation of a criminal drug statute occurring in the workplace, and must do so no more than five calendar days after the conviction.

b. The recipient agrees that it will establish an ongoing drug-free awareness program to inform employees about

(i) The dangers of drug abuse in the workplace;

(ii) Your policy of maintaining a drug-free workplace;

(iii) Any available drug counseling, rehabilitation and employee assistance programs; and

(iv) The penalties that you may impose upon them for drug abuse violations occurring in the workplace.

c. Without the Agreement Officer's expressed written approval, the policy statement and program must be in place as soon as possible, no later than the 30 days after the effective date of this award or the completion date of this award, whichever occurs first.

d. The recipient agrees to immediately notify the Agreement Officer if an employee is convicted of a drug violation in the workplace. The notification must be in writing, identify the employee's position title, the number of each award on which the employee worked. The notification must be sent to the Agreement Officer within ten calendar days after the recipient learns of the conviction.

e. Within 30 calendar days of learning about an employee's conviction, the recipient must either

(1) Take appropriate personnel action against the employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973 (29 USC 794), as amended, or

(2) Require the employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for these purposes by a Federal, State or local health, law enforcement, or other appropriate agency.

f. The policies and procedures applicable to violations of these requirements are set forth in 22 CFR Part 210.

[END OF PROVISION]

12. EQUAL PROTECTION OF THE LAWS FOR FAITH-BASED AND COMMUNITY ORGANIZATIONS (February 2004)

a. The recipient may not discriminate against any beneficiary or potential beneficiary under this award on the basis of religion or religious belief. Accordingly, in providing services supported in whole or in part by this agreement or in its outreach activities related to such services, the recipient may not discriminate against current or prospective program beneficiaries on the basis of religion, a religious belief, a refusal to hold a religious belief, or a refusal to actively participate in a religious practice;

b. The Federal Government must implement Federal programs in accordance with the Establishment Clause and the Free Exercise Clause of the First Amendment to the Constitution. Therefore, if the recipient engages in inherently religious activities, such as worship, religious instruction, and proselytization, it must offer those services at a different time or location from any programs or services directly funded by this award, and participation by beneficiaries in any such inherently religious activities must be voluntary.

c. If the recipient makes subawards under this agreement, faith-based organizations should be eligible to participate on the same basis as other organizations, and should not be discriminated against on the basis of their religious character or affiliation.

[END OF PROVISION]

13. IMPLEMENTATION OF E.O. 13224 -- EXECUTIVE ORDER ON TERRORIST FINANCING (March 2002)

The Recipient is reminded that U.S. Executive Orders and U.S. law prohibits transactions with, and the provision of resources and support to, individuals and organizations associated with terrorism. It is the legal responsibility of the recipient to ensure compliance with these Executive Orders and laws. This provision must be included in all contracts/subawards issued under this agreement.

[END OF PROVISION]

14. MARKING UNDER USAID-FUNDED ASSISTANCE INSTRUMENTS (December 2005)

(a) Definitions

Commodities mean any material, article, supply, goods or equipment, excluding recipient offices, vehicles, and non-deliverable items for recipient's internal use, in administration of the USAID funded grant, Cooperative Agreement, or other agreement or subagreement.

Principal Officer means the most senior officer in a USAID Operating Unit in the field, e.g., USAID Mission Director or USAID Representative. For global programs managed from Washington but executed across many countries, such as disaster relief and assistance to internally displaced persons, humanitarian emergencies or immediate post conflict and political crisis response, the cognizant Principal Officer may be an Office Director, for example, the Directors of USAID/W/Office of Foreign Disaster Assistance and Office of Transition Initiatives. For non-presence countries, the cognizant Principal Officer is the Senior USAID officer in a regional USAID Operating Unit responsible for the non-presence country, or in the absence of such a responsible operating unit, the Principal U.S Diplomatic Officer in the non-presence country exercising delegated authority from USAID.

Programs mean an organized set of activities and allocation of resources directed toward a common purpose, objective, or goal undertaken or proposed by an organization to carry out the responsibilities assigned to it.

Projects include all the marginal costs of inputs (including the proposed investment) technically required to produce a discrete marketable output or a desired result (for example, services from a fully functional water/sewage treatment facility).

Public communications are documents and messages intended for distribution to audiences external to the recipient's organization. They include, but are not limited to, correspondence, publications, studies, reports, audio visual productions, and other informational products; applications, forms, press and promotional materials used in connection with USAID funded programs, projects or activities, including signage and plaques; Web sites/Internet activities; and events such as training courses, conferences, seminars, press conferences and so forth.

Subrecipient means any person or government (including cooperating country government) department, agency, establishment, or for profit or nonprofit organization that receives a USAID subaward, as defined in 22 C.F.R. 226.2.

Technical Assistance means the provision of funds, goods, services, or other foreign assistance, such as loan guarantees or food for work, to developing countries and other USAID recipients, and through such recipients to subrecipients, in direct support of a development objective – as opposed to the internal management of the foreign assistance program.

USAID Identity (Identity) means the official marking for the United States Agency for International Development (USAID), comprised of the USAID logo or seal and new landmark, with the tagline that clearly communicates that our assistance is “from the American people.” The USAID Identity is available on the USAID website at www.usaid.gov/branding and USAID provides it without royalty, license, or other fee to recipients of USAID-funded grants, or Cooperative Agreements, or other assistance awards

(b) Marking of Program Deliverables

(1) All recipients must mark appropriately all overseas programs, projects, activities, public communications, and commodities partially or fully funded by a USAID grant or Cooperative Agreement or other assistance award or subaward with the USAID Identity, of a size and prominence equivalent to or greater than the recipient's, other donor's, or any other third party's identity or logo.

(2) The Recipient will mark all program, project, or activity sites funded by USAID, including visible infrastructure projects (for example, roads, bridges, buildings) or other programs, projects, or activities that are physical in nature (for example, agriculture, forestry, water management) with the USAID Identity. The Recipient should erect temporary signs or plaques early in the construction or implementation phase. When construction or implementation is complete, the Recipient must install a permanent, durable sign, plaque or other marking.

(3) The Recipient will mark technical assistance, studies, reports, papers, publications, audio-visual productions, public service announcements, Web sites/Internet activities and other promotional, informational, media, or communications products funded by USAID with the USAID Identity.

(4) The Recipient will appropriately mark events financed by USAID, such as training courses, conferences, seminars, exhibitions, fairs, workshops, press conferences and other public activities, with the USAID Identity. Unless directly prohibited and as appropriate to the surroundings, recipients should display additional materials, such as signs and banners, with the USAID Identity. In circumstances in which the USAID Identity cannot be displayed visually, the recipient is encouraged otherwise to acknowledge USAID and the American people's support.

(5) The Recipient will mark all commodities financed by USAID, including commodities or equipment provided under humanitarian assistance or disaster relief programs, and all other equipment, supplies, and other materials funded by USAID, and their export packaging with the USAID Identity.

(6) The Agreement Officer may require the USAID Identity to be larger and more prominent if it is the majority donor, or to require that a cooperating country government's identity be larger and more prominent if circumstances warrant, and as appropriate depending on the audience, program goals, and materials produced.

(7) The Agreement Officer may require marking with the USAID Identity in the event that the recipient does not choose to mark with its own identity or logo.

(8) The Agreement Officer may require a pre-production review of USAID-funded public communications and program materials for compliance with the approved Marking Plan.

(9) Subrecipients. To ensure that the marking requirements "flow down" to subrecipients of subawards, recipients of USAID funded grants and Cooperative Agreements or other assistance awards will include the USAID-approved marking provision in any USAID funded subaward, as follows:

"As a condition of receipt of this subaward, marking with the USAID Identity of a size and prominence equivalent to or greater than the recipient's, subrecipient's, other donor's or third party's is required. In the event the recipient chooses not to require marking with its own identity or logo by the subrecipient, USAID may, at its discretion, require marking by the subrecipient with the USAID Identity."

(10) Any 'public communications', as defined in 22 C.F.R. 226.2, funded by USAID, in which the content has not been approved by USAID, must contain the following disclaimer:

"This study/report/audio/visual/other information/media product (specify) is made possible by the generous support of the American people through the United States Agency

for International Development (USAID). The contents are the responsibility of [insert recipient name] and do not necessarily reflect the views of USAID or the United States Government.”

(11) The recipient will provide the Cognizant Technical Officer (CTO) or other USAID personnel designated in the grant or Cooperative Agreement with two copies of all program and communications materials produced under the award. In addition, the recipient will submit one electronic or one hard copy of all final documents to USAID's Development Experience Clearinghouse.

(c) Implementation of marking requirements.

(1) When the grant or Cooperative Agreement contains an approved Marking Plan, the recipient will implement the requirements of this provision following the approved Marking Plan.

(2) When the grant or Cooperative Agreement does not contain an approved Marking Plan, the recipient will propose and submit a plan for implementing the requirements of this provision within [Agreement Officer fill-in] days after the effective date of this provision. The plan will include:

(i) A description of the program deliverables specified in paragraph (b) of this provision that the recipient will produce as a part of the grant or Cooperative Agreement and which will visibly bear the USAID Identity.

(ii) the type of marking and what materials the Applicant uses to mark the program deliverables with the USAID Identity,

(iii) when in the performance period the Applicant will mark the program deliverables, and where the Applicant will place the marking,

(3) The recipient may request program deliverables not be marked with the USAID Identity by identifying the program deliverables and providing a rationale for not marking these program deliverables. Program deliverables may be exempted from USAID marking requirements when:

(i) USAID marking requirements would compromise the intrinsic independence or neutrality of a program or materials where independence or neutrality is an inherent aspect of the program and materials;

(ii) USAID marking requirements would diminish the credibility of audits, reports, analyses, studies, or policy recommendations whose data or findings must be seen as independent;

(iii) USAID marking requirements would undercut host-country government “ownership” of constitutions, laws, regulations, policies, studies, assessments, reports, publications, surveys or audits, public service announcements, or other communications better positioned as “by” or “from” a cooperating country ministry or government official;

(iv) USAID marking requirements would impair the functionality of an item;

(v) USAID marking requirements would incur substantial costs or be impractical;

(vi) USAID marking requirements would offend local cultural or social norms, or be considered inappropriate;

(vii) USAID marking requirements would conflict with international law.

(4) The proposed plan for implementing the requirements of this provision, including any proposed exemptions, will be negotiated within the time specified by the Agreement

Officer after receipt of the proposed plan. Failure to negotiate an approved plan with the time specified by the Agreement Officer may be considered as noncompliance with the requirements is provision.

(d) Waivers.

(1) The recipient may request a waiver of the Marking Plan or of the marking requirements of this provision, in whole or in part, for each program, project, activity, public communication or commodity, or, in exceptional circumstances, for a region or country, when USAID required marking would pose compelling political, safety, or security concerns, or when marking would have an adverse impact in the cooperating country. The recipient will submit the request through the Cognizant Technical Officer. The Principal Officer is responsible for approvals or disapprovals of waiver requests.

(2) The request will describe the compelling political, safety, security concerns, or adverse impact that require a waiver, detail the circumstances and rationale for the waiver, detail the specific requirements to be waived, the specific portion of the Marking Plan to be waived, or specific marking to be waived, and include a description of how program materials will be marked (if at all) if the USAID Identity is removed. The request should also provide a rationale for any use of recipient's own identity/logo or that of a third party on materials that will be subject to the waiver.

(3) Approved waivers are not limited in duration but are subject to Principal Officer review at any time, due to changed circumstances.

(4) Approved waivers "flow down" to recipients of subawards unless specified otherwise. The waiver may also include the removal of USAID markings already affixed, if circumstances warrant.

(5) Determinations regarding waiver requests are subject to appeal to the Principal Officer's cognizant Assistant Administrator. The recipient may appeal by submitting a written request to reconsider the Principal Officer's waiver determination to the cognizant Assistant Administrator.

(e) Non-retroactivity. The requirements of this provision do not apply to any materials, events, or commodities produced prior to January 2, 2006. The requirements of this provision do not apply to program, project, or activity sites funded by USAID, including visible infrastructure projects (for example, roads, bridges, buildings) or other programs, projects, or activities that are physical in nature (for example, agriculture, forestry, water management) where the construction and implementation of these are complete prior to January 2, 2006 and the period of the grant does not extend past January 2, 2006.

[END OF PROVISION]

15. REGULATIONS GOVERNING EMPLOYEES (AUGUST 1992)

(The following applies to the recipient's employees working in the cooperating country under the agreement who are not citizens of the cooperating country.)

a. The recipient'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 recipient 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 USAID personnel employed by the Mission, including the rules contained in 22 CFR Part 136, except as this may conflict with host government regulations.

c. Other than work to be performed under this award for which an employee is assigned by the recipient, no employee of the recipient 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 recipient'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 recipient employee is not in accordance with the preceding paragraphs, the recipient's chief of party shall consult with the USAID Mission Director and the employee involved and shall recommend to the recipient 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 award 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, either under (e) or (f) above, that the services of such employee should be terminated, the recipient shall use its best efforts to cause the return of such employee to the United States, or point of origin, as appropriate.

[END OF PROVISION]

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

(This provision applies when activities are undertaken outside the United States.)

Upon arrival in the Cooperating Country, and from time to time as appropriate, the recipient's chief of party shall consult with the Mission Director who shall provide, in writing, the procedure the recipient 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 PROVISION]

17. USE OF POUCH FACILITIES (AUGUST 1992)

(This provision applies when activities are undertaken outside 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 USAID recipients 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 USAID Mission. In

consideration of the use of pouch facilities, the recipient and its employees agree to indemnify and hold harmless, the Department of State and USAID for loss or damage occurring in pouch transmission:

(1) Recipients and their employees are authorized use of the pouch for transmission and receipt of up to a maximum of .9 kgs 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 .45 kgs 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")

City Name of post (USAID/_____)

Agency for International Development

Washington, D.C. 20523-0001

(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) Recipient 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.

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

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 USAID Mission.

[END OF PROVISION]

18. INTERNATIONAL AIR TRAVEL AND TRANSPORTATION (JUNE 1999)

(This provision is applicable when costs for international travel or transportation will be paid for with USAID funds. This provision is not applicable if the recipient is providing for travel with private funds as part of a cost-sharing requirement, or with Program Income generated under the award.)

a. PRIOR BUDGET APPROVAL

In accordance with OMB Cost Principles, direct charges for foreign travel costs are allowable only when each foreign trip has received prior budget approval. Such approval will be deemed to have been met when:

(1) the trip is identified. Identification is accomplished by providing the following information: the number of trips, the number of individuals per trip, and the destination country(s).

(2) the information noted at (a)(1) above is incorporated in: the proposal, the program description or schedule of the award, the implementation plan (initial or revisions), or amendments to the award; and

(3) the costs related to the travel are incorporated in the approved budget of the award.

The Agreement Officer may approve travel which has not been incorporated in writing as required by paragraph (a)(2). In such case, a copy of the Agreement Officer's approval must be included in the agreement file.

b. NOTIFICATION

(1) As long as prior budget approval has been met in accordance with paragraph (a) above, a separate Notification will not be necessary unless:

(i) the primary purpose of the trip is to work with USAID Mission personnel, or

(ii) the recipient expects significant administrative or substantive programmatic support from the Mission.

Neither the USAID Mission nor the Embassy will require Country Clearance of employees or contractors of USAID Recipients.

(2) Where notification is required in accordance with paragraph (1)(i) or (ii) above, the recipient will observe the following standards:

(i) Send a written notice to the cognizant USAID Technical Office in the Mission. If the recipient's primary point of contact is a Technical Officer in USAID/W, the recipient may send the notice to that person. It will be the responsibility of the USAID/W Technical Officer to forward the notice to the field.

(ii) The notice should be sent as far in advance as possible, but at least 14 calendar days in advance of the proposed travel. This notice may be sent by fax or e-mail. The recipient should retain proof that notification was made.

(iii) The notification shall contain the following information: the award number, the cognizant Technical Officer, the traveler's name (if known), date of arrival, and the purpose of the trip.

(iv) The USAID Mission will respond only if travel has been denied. It will be the responsibility of the Technical Officer in the Mission to contact the recipient within 5 working days of having received the notice if the travel is denied. If the recipient has not received a response within the time frame, the recipient will be considered to have met these standards for notification, and may travel.

(v) If a subrecipient is required to issue a Notification, as per this section, the subrecipient may contact the USAID Technical Officer directly, or the prime may contact USAID on the subrecipient's behalf.

c. SECURITY ISSUES

Recipients are encouraged to obtain the latest Department of State Travel Advisory Notices before travelling. These Notices are available to the general public and may be obtained directly from the State Department, or via Internet.

Where security is a concern in a specific region, recipients may choose to notify the US Embassy of their presence when they have entered the country. This may be especially important for long-term posting.

d. USE OF U.S.-OWNED LOCAL CURRENCY

Travel to certain countries shall, at USAID's option, be funded from U.S.-owned local currency. When USAID intends to exercise this option, USAID will either issue a U.S. Government S.F. 1169, Transportation Request (GTR) which the grantee may exchange for tickets, or issue the tickets directly. Use of such U.S.-owned currencies will constitute a dollar charge to this grant.

e. THE FLY AMERICA ACT

The Fly America Act (49 U.S.C. 40118) requires that all air travel and shipments under this award must be made on U.S. flag air carriers to the extent service by such carriers is available. The Administrator of General Services Administration (GSA) is authorized to issue regulations for purposes of implementation. Those regulations may be found at 41 CFR part 301, and are hereby incorporated by reference into this award.

f. COST PRINCIPLES

The recipient will be reimbursed for travel and the reasonable cost of subsistence, post differentials and other allowances paid to employees in international travel status in accordance with the recipient's applicable cost principles and established policies and practices which are uniformly applied to federally financed and other activities of the grantee.

If the recipient does not have written established policies regarding travel costs, the standard for determining the reasonableness of reimbursement for overseas allowance will be 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 Agreement Officer.

g. SUBAWARDS.

This provision will be included in all subawards and contracts which require international air travel and transportation under this award.

[END OF PROVISION]

19. OCEAN SHIPMENT OF GOODS (JUNE 1999)

(This provision is applicable for awards and subawards for \$100,000 or more and when goods purchased with funds provided under this award are transported to cooperating countries on ocean vessels whether or not award funds are used for the transportation.)

a. At least 50% of the gross tonnage of all goods purchased under this agreement 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 agreement 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 USAID Transportation Division, Office of Procurement, 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. The recipient shall send a copy of each ocean bill of lading, stating all of the carrier's charges including the basis for calculation such as weight or cubic measurement, covering a shipment under this agreement to:

U.S. Department of Transportation,
Maritime Administration, Division of National Cargo,
400 7th Street, S.W.,
Washington, DC 20590, and
U.S. Agency for International Development,
Office of Procurement, Transportation Division
1300 Pennsylvania Avenue, N.W.
Washington, DC 20523-7900

e. Shipments by voluntary nonprofit relief agencies (i.e., PVOs) shall be governed by this standard provision and by USAID Regulation 2, "Overseas Shipments of Supplies by Voluntary Nonprofit Relief Agencies" (22 CFR Part 202).

f. Shipments financed under this grant must meet applicable eligibility requirements set out in 22 CFR 228.21.

[END OF PROVISION]

20. LOCAL PROCUREMENT (April 1998)

(This provision applies when activities are undertaken outside the United States.)

a. Financing local procurement involves the use of appropriated funds to finance the procurement of goods and services supplied by local businesses, dealers or producers, with payment normally being in the currency of the cooperating country.

b. Locally financed procurements must be covered by source and nationality waivers as set forth in 22 CFR 228, Subpart F, except as provided for in mandatory standard provision, "USAID Eligibility Rules for Goods and Services," or when one of the following exceptions applies:

(1) Locally available commodities of U.S. origin, which are otherwise eligible for financing, if the value of the transaction is estimated not to exceed \$100,000 exclusive of transportation costs.

(2) Commodities of geographic code 935 origin if the value of the transaction does not exceed the local currency equivalent of \$5,000.

(3) Professional Services Contracts estimated not to exceed \$250,000.

(4) Construction Services Contracts estimated not to exceed \$5,000,000.

(5) Commodities and services available only in the local economy (no specific per transaction value applies to this category). This category includes the following items:

- (i) Utilities including fuel for heating and cooking, waste disposal and trash collection;
- (ii) Communications - telephone, telex, fax, postal and courier services;
- (iii) Rental costs for housing and office space;
- (iv) Petroleum, oils and lubricants for operating vehicles and equipment;
- (v) Newspapers, periodicals and books published in the cooperating country;
- (vi) Other commodities and services and related expenses that, by their nature or as a practical matter, can only be acquired, performed, or incurred in the cooperating country, e.g., vehicle maintenance, hotel accommodations, etc.

c. The coverage on ineligible and restricted goods and services in the mandatory standard provision entitled, "USAID Eligibility Rules for Goods and Services," also apply to local procurement.

This provision will be included in all subagreements where local procurement of goods or services is a supported element.

[END OF PROVISION]

21. VOLUNTARY POPULATION PLANNING ACTIVITIES – MANDATORY REQUIREMENTS (MAY 2006)

Requirements for Voluntary Sterilization Programs

(1) None of the funds made available under this award shall be used to pay for the performance of involuntary sterilization as a method of family planning or to coerce or provide any financial incentive to any individual to practice sterilization.

Prohibition on Abortion-Related Activities:

(1) No funds made available under this award will be used to finance, support, or be attributed to the following activities: (i) procurement or distribution of equipment intended to be used for the purpose of inducing abortions as a method of family planning; (ii) special fees or incentives to any person to coerce or motivate them to have abortions; (iii) payments to persons to perform abortions or to solicit persons to undergo abortions; (iv) information, education, training, or communication programs that seek to promote abortion as a method of family planning; and (v) lobbying for or against abortion. The term "motivate", as it relates to family planning assistance, shall not be construed to prohibit the provision, consistent with local law, of information or counseling about all pregnancy options.

(2) No funds made available under this award will be used to pay for any biomedical research which relates, in whole or in part, to methods of, or the performance of, abortions or involuntary sterilizations as a means of family planning. Epidemiologic or descriptive research to assess the incidence, extent or consequences of abortions is not precluded.

[END OF PROVISION]

[END OF MANDATORY PROVISIONS]

**Required As Applicable
Standard Provisions for
U.S., Nongovernmental Recipients**

The following standard provisions are required to be used when applicable. Applicability statements are contained in the parenthetical statement preceding the standard provision. When a standard provision is determined to be applicable in accordance with the applicability statement, the use of such standard provision is mandatory unless a deviation has been approved in accordance with ADS 303.3.4.

II. REQUIRED AS APPLICABLE STANDARD PROVISIONS FOR U.S., NONGOVERNMENTAL RECIPIENTS

1. NEGOTIATED INDIRECT COST RATES - PREDETERMINED (April 1998)

APPLICABILITY: This provision is applicable to educational or nonprofit institutions whose indirect cost rates under this award are on a predetermined basis.

NEGOTIATED INDIRECT COST RATES - PREDETERMINED (April 1998)

- a. The allowable indirect costs shall be determined by applying the predetermined indirect cost rates to the bases specified in the schedule of this award.
 - b. Within the earlier of 30 days after receipt of the A-133 audit report or nine months after the end of the audit period, the recipient shall submit to the cognizant agency for audit the required OMB Circular A-133 audit report, proposed predetermined indirect cost rates, and supporting cost data. If USAID is the cognizant agency or no cognizant agency has been designated, the recipient shall submit four copies of the audit report, the proposed predetermined indirect cost rates, and supporting cost data to the Overhead, Special Costs, and Closeout Branch, Office of Procurement, USAID, Washington DC 20523-7802. The proposed rates shall be based on the recipient's actual cost experience during that fiscal year. Negotiations of predetermined indirect cost rates shall begin soon after receipt of the recipient's proposal.
 - c. Allowability of costs and acceptability of cost allocation methods shall be determined in accordance with the applicable cost principles.
 - d. The results of each negotiation shall be set forth in an indirect cost rate agreement signed by both parties. Such agreement is automatically incorporated into this award and shall specify (1) the agreed upon predetermined rates, (2) the bases to which the rates apply, (3) the fiscal year for which the rates apply, and (4) the specific items treated as direct costs. The indirect cost rate agreement shall not change any monetary ceiling, award obligation, or specific cost allowance or disallowance provided for in this award.
 - e. Pending establishment of predetermined indirect costs rates for any fiscal year, the recipient shall be reimbursed either at the rates fixed for the previous fiscal year or at billing rates acceptable to the USAID Agreement Officer, subject to appropriate adjustment when the final rates for the fiscal year or other period are established.
- [END OF PROVISION]

2. NEGOTIATED INDIRECT COST RATES - PROVISIONAL (Nonprofit) (April 1998)

APPLICABILITY: This provision is applicable to any nonprofit organizations whose indirect cost rates under this award are on a provisional basis.

NEGOTIATED INDIRECT COST RATES - PROVISIONAL (Nonprofit) (April 1998)

- a. Provisional indirect cost rates shall be established for each of the recipient's accounting periods during the term of this award. Pending establishment of revised provisional or final

rates, allowable indirect costs shall be reimbursed at the rates, on the bases, and for the periods shown in the schedule of the award.

b. Within the earlier of 30 days after receipt of the A-133 audit report or nine months after the end of the audit period, the recipient shall submit to the cognizant agency for audit the required OMB Circular A-133 audit report, proposed final indirect cost rates, and supporting cost data. If USAID is the cognizant agency or no cognizant agency has been designated, the recipient shall submit four copies of the audit report, along with the proposed final indirect cost rates and supporting cost data, to the Overhead, Special Costs, and Closeout Branch, Office or Procurement, USAID, Washington, DC 20523-7802. The proposed rates shall be based on the recipient's actual cost experience during that fiscal year. Negotiations of final indirect cost rates shall begin soon after receipt of the recipient's proposal.

c. Allowability of costs and acceptability of cost allocation methods shall be determined in accordance with the applicable cost principles.

d. The results of each negotiation shall be set forth in a written indirect cost rate agreement signed by both parties. Such agreement is automatically incorporated into this award and shall specify (1) the agreed upon final rates, (2) the bases to which the rates apply, (3) the fiscal year for which the rates apply, and (4) the items treated as direct costs. The agreement shall not change any monetary ceiling, award obligation, or specific cost allowance or disallowance provided for in this award.

e. Pending establishment of final indirect cost rate(s) for any fiscal year, the recipient shall be reimbursed either at negotiated provisional rates or at billing rates acceptable to the Agreement Officer, subject to appropriate adjustment when the final rates for the fiscal year are established. To prevent substantial overpayment or underpayment, the provisional or billing rates may be prospectively or retroactively revised by mutual agreement.

f. Failure by the parties to agree on final rates is a 22 CFR 226.90 dispute.

[END OF PROVISION]

3. NEGOTIATED INDIRECT COST RATE - PROVISIONAL (Profit) (April 1998)

APPLICABILITY: This provision applies to for-profit organizations whose indirect cost rates under this award are on a provisional basis.

NEGOTIATED INDIRECT COST RATE - PROVISIONAL (Profit) (April 1998)

a. Provisional indirect cost rates shall be established for the recipient's accounting periods during the term of this award. Pending establishment of revised provisional or final rates, allowable indirect costs shall be reimbursed at the rates, on the bases, and for the periods shown in the schedule of this award. Indirect cost rates and the appropriate bases shall be established in accordance with FAR Subpart 42.7.

b. Within six months after the close of the recipient's fiscal year, the recipient shall submit to the cognizant agency for audit the proposed final indirect cost rates and supporting cost data. If USAID is the cognizant agency or no cognizant agency has been designated, the recipient shall submit three copies of the proposed final indirect cost rates and supporting cost data, to the Overhead, Special Costs, and Closeout Branch, Office or Procurement,

USAID, Washington, DC 20523-7802. The proposed rates shall be based on the recipient's actual cost experience during that fiscal year. Negotiations of final indirect cost rates shall begin soon after receipt of the recipient's proposal.

c. Allowability of costs and acceptability of cost allocation methods shall be determined in accordance with the applicable cost principles.

d. The results of each negotiation shall be set forth in an indirect cost rate agreement signed by both parties. Such agreement is automatically incorporated into this award and shall specify (1) the agreed upon final rates, (2) the bases to which the rates apply, (3) the fiscal year for which the rates apply, and (4) the items treated as direct costs. The agreement shall not change any monetary ceiling, award obligation, or specific cost allowance or disallowance provided for in this award.

e. Pending establishment of final indirect cost rates for any fiscal year, the recipient shall be reimbursed either at negotiated provisional rates or at billing rates acceptable to the Agreement Officer, subject to appropriate adjustment when the final rates for the fiscal year are established. To prevent substantial overpayment or underpayment, the provisional or billing rates may be prospectively or retroactively revised by mutual agreement.

f. Failure by the parties to agree on final rates is a 22 CFR 226.90 dispute.

[END OF PROVISION]

4. PUBLICATIONS AND MEDIA RELEASES (MARCH 2006)

APPLICABILITY: This provision is applicable when publications are financed under the award.

PUBLICATIONS AND MEDIA RELEASES (MARCH 2006)

a. The recipient shall provide the USAID Cognizant Technical Officer one copy of all published works developed under the award with lists of other written work produced under the award. In addition, the recipient shall submit final documents in electronic format unless no electronic version exists at the following address:

Online (preferred)

<http://www.dec.org/submit.cfm>

Mailing address:

Document Acquisitions

USAID Development Experience Clearinghouse (DEC)

8403 Colesville Road Suite 210

Silver Spring, MD 20910-6368

Contract Information

Telephone (301) 562-0641

Fax (301) 588-7787

E-mail: docsubmit@dec.cdie.org

Electronic documents must consist of only one electronic file that comprises the complete and final equivalent of a hard copy. They may be submitted online (preferred); on 3.5" diskettes, a Zip disk, CD-R, or by e-mail. Electronic documents should be in PDF (Portable Document Format). Submission in other formats is acceptable but discouraged.

Each document submitted should contain essential bibliographic elements, such as 1) descriptive title; 2) author(s) name; 3) award number; 4) sponsoring USAID office; 5) strategic objective; and 6) date of publication;:

b. In the event award 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 award unless the schedule of the award has identified the profits or royalties as program income.

c. Except as otherwise provided in the terms and conditions of the award, the author or the recipient is free to copyright any books, publications, or other copyrightable materials developed in the course of or under this award, but USAID 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 PROVISION]

5. PARTICIPANT TRAINING (April 1998)

APPLICABILITY: This provision is applicable when any participant training is financed under the award.

PARTICIPANT TRAINING (April 1998)

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

b. Application of ADS Chapter 253: Participant training under this award shall comply with the policies established in ADS Chapter 253, Participant Training, except to the extent that specific exceptions to ADS 253 have been provided in this award with the concurrence of the Office of International Training.

c. Orientation: In addition to the mandatory requirements in ADS 253, recipients are strongly encouraged to provide, in collaboration with the Mission training officer, predeparture orientation and orientation in Washington at the Washington International Center. 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 Agreement Officer, who will transmit the request to NCIV through EGAT/ED/PT.

[END OF PROVISION]

***6. VOLUNTARY POPULATION PLANNING ACTIVITIES – SUPPLEMENTAL REQUIREMENTS (JANUARY 2009)**

APPLICABILITY: This provision is applicable to all awards involving any aspect of voluntary population planning activities.

VOLUNTARY POPULATION PLANNING ACTIVITIES – SUPPLEMENTAL REQUIREMENTS (JANUARY 2009)

a. Voluntary Participation and Family Planning Methods:

(1) The recipient agrees to take any steps necessary to ensure that funds made available under this award will not be used to coerce any individual to practice methods of family planning inconsistent with such individual's moral, philosophical, or religious beliefs. Further, the recipient agrees to conduct its activities in a manner which safeguards the rights, health and welfare of all individuals who take part in the program.

(2) Activities which provide family planning services or information to individuals, financed in whole or in part under this agreement, shall provide a broad range of family planning methods and services available in the country in which the activity is conducted or shall provide information to such individuals regarding where such methods and services may be obtained.

b. Requirements for Voluntary Family Planning Projects

(1) A Family planning project must comply with the requirements of this paragraph.

(2) A project is a discrete activity through which a governmental or nongovernmental organization or public international organization provides family planning services to people and for which funds obligated under this award, or goods or services financed with such funds, are provided under this award, except funds solely for the participation of personnel in short-term, widely attended training conferences or programs.

(3) Service providers and referral agents in the project shall not implement or be subject to quotas or other numerical targets of total number of births, number of family planning acceptors, or acceptors of a particular method of family planning. Quantitative estimates or indicators of the number of births, acceptors, and acceptors of a particular method that are used for the purpose of budgeting, planning, or reporting with respect to the project are not quotas or targets under this paragraph, unless service providers or referral agents in the project are required to achieve the estimates or indicators.

(4) The project shall not include the payment of incentives, bribes, gratuities or financial rewards to (i) any individual in exchange for becoming a family planning acceptor or (ii) any personnel performing functions under the project for achieving a numerical quota or target of total number of births, number of family planning acceptors, or acceptors of a particular method of contraception. This restriction applies to salaries or payments paid or made to personnel performing functions under the project if the amount of the salary or payment increases or decreases based on a predetermined number of births, number of family planning acceptors, or number of acceptors of a particular method of contraception that the personnel affect or achieve.

(5) No person shall be denied any right or benefit, including the right of access to participate in any program of general welfare or health care, based on the person's decision not to accept family planning services offered by the project.

(6) The project shall provide family planning acceptors comprehensible information about the health benefits and risks of the method chosen, including those conditions that might render the use of the method inadvisable and those adverse side effects known to be consequent to the use of the method. This requirement may be satisfied by providing

information in accordance with the medical practices and standards and health conditions in the country where the project is conducted through counseling, brochures, posters, or package inserts.

(7) The project shall ensure that experimental contraceptive drugs and devices and medical procedures are provided only in the context of a scientific study in which participants are advised of potential risks and benefits.

(8) With respect to projects for which USAID provides, or finances the contribution of, contraceptive commodities or technical services and for which there is no subaward or contract under this award, the organization implementing a project for which such assistance is provided shall agree that the project will comply with the requirements of this paragraph while using such commodities or receiving such services.

(9) The recipient shall notify USAID when it learns about an alleged violation in a project of the requirements of subparagraphs (3), (4), (5) or (7) of this paragraph;

the recipient shall investigate and take appropriate corrective action, if necessary, when it learns about an alleged violation in a project of subparagraph (6) of this paragraph and shall notify USAID about violations in a project affecting a number of people over a period of time that indicate there is a systemic problem in the project.

The recipient shall provide USAID such additional information about violations as USAID may request.

c. Additional Requirements for Voluntary Sterilization Programs

(1) None of the funds made available under this award shall be used to pay for the performance of involuntary sterilization as a method of family planning or to coerce or provide any financial incentive to any individual to practice sterilization.

(2) The recipient shall ensure that any surgical sterilization procedures supported in whole or in part by funds from this award are performed only after the individual has voluntarily appeared at the treatment facility and has given informed consent to the sterilization procedure. Informed consent means the voluntary, knowing assent from the individual after being advised of the surgical procedures to be followed, the attendant discomforts and risks, the benefits to be expected, the availability of alternative methods of family planning, the purpose of the operation and its irreversibility, and the option to withdraw consent anytime prior to the operation. An individual's consent is considered voluntary if it is based upon the exercise of free choice and is not obtained by any special inducement or any element of force, fraud, deceit, duress, or other forms of coercion or misrepresentation.

(3) Further, the recipient shall document the patient's informed consent by (i) a written consent document in a language the patient understands and speaks, which explains the basic elements of informed consent, as set out above, and which is signed by the individual and by the attending physician or by the authorized assistant of the attending physician; or (ii) when a patient is unable to read adequately a written certification by the attending physician or by the authorized assistant of the attending physician that the basic elements of informed consent above were orally presented to the patient, and that the patient thereafter consented to the performance of the operation. The receipt of this oral explanation shall be acknowledged by the patient's mark on the certification and by the signature or mark of a witness who shall speak the same language as the patient.

(4) The recipient must retain copies of informed consent forms and certification documents for each voluntary sterilization procedure for a period of three years after performance of the sterilization procedure.

d. Prohibition on Abortion-Related Activities:

(1) No funds made available under this award will be used to finance, support, or be attributed to the following activities: (i) procurement or distribution of equipment intended to be used for the purpose of inducing abortions as a method of family planning; (ii) special fees or incentives to any person to coerce or motivate them to have abortions; (iii) payments to persons to perform abortions or to solicit persons to undergo abortions; (iv) information, education, training, or communication programs that seek to promote abortion as a method of family planning; and (v) lobbying for or against abortion. The term "motivate", as it relates to family planning assistance, shall not be construed to prohibit the provision, consistent with local law, of information or counseling about all pregnancy options.

(2) No funds made available under this award will be used to pay for any biomedical research which relates, in whole or in part, to methods of, or the performance of, abortions or involuntary sterilizations as a means of family planning. Epidemiologic or descriptive research to assess the incidence, extent or consequences of abortions is not precluded.

*e. The recipient shall insert this provision in all subsequent subagreements and contracts involving family planning or population activities that will be supported in whole or in part from funds under this award. The term subagreement means subgrants and subcooperative agreements.

[END OF PROVISION]

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

APPLICABILITY: 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.

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

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 recipient by USAID 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 USAID under provisions set forth in the schedule of this award. All such property shall be under the custody and control of recipient until the owner of title directs otherwise or completion of work under this award 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 recipient 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 recipient shall take all reasonable steps to comply with all appropriate directions or instructions which the Agreement Officer may prescribe as reasonably necessary for the protection of the Government property.

c. The recipient shall prepare and establish a program, to be approved by the appropriate USAID 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 recipient 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 award 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 award.

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

(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 award.

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

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

(2) Maintenance Program: The recipient's maintenance program shall be consistent with sound business practice, the terms of the award, 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 recipient'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 recipient 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 recipient 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 recipient'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 recipient's business, or all or substantially all of the recipient's operation at any one plant, laboratory, or separate location in which this award is being performed;

(ii) Which results from a failure on the part of the recipient, 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 Agreement Officer under (b) above;

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

(vi) Which results from a risk expressly required to be insured under some other provision of this award, 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 recipient's liability under any one exception shall not be limited by any other exception.

(2) The recipient 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 USAID may have required the recipient to carry such insurance under any other provision of this award.

(3) Upon the happening of loss or destruction of or damage to the cooperating country property, the recipient shall notify the Agreement 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 Agreement Officer a statement of:

(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 recipient shall make repairs and renovations of the damaged cooperating country property or take such other action as the Agreement Officer directs.

(5) In the event the recipient 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 award, or shall otherwise reimburse USAID, as directed by the Agreement Officer. The recipient shall do nothing to prejudice USAID's right to recover against third parties for any such loss, destruction, or damage, and upon the request of the Agreement Officer, shall, at the Government's expense, furnish to USAID 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: USAID, 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 award, or at such other date as may be fixed by the Agreement Officer, the recipient shall submit to the Agreement Officer an inventory schedule covering all items of equipment, materials and supplies under the recipient'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 award. The recipient 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 PROVISION]

8. PUBLIC NOTICES (MARCH 2004)

APPLICABILITY: This provision is applicable when the cognizant Activity Manager or SO Team determines that the award is of public interest and requests that the provision be included in the award.

PUBLIC NOTICES (MARCH 2004)

It is USAID's policy to inform the public as fully as possible of its programs and activities. The recipient is encouraged to give public notice of the receipt of this award and, from time to time, to announce progress and accomplishments. Press releases or other public notices should include a statement substantially as follows:

"The U.S. Agency for International Development administers the U.S. foreign assistance program providing economic and humanitarian assistance in more than 120 countries worldwide."

The recipient may call on USAID's Bureau for Legislative and Public Affairs for advice regarding public notices. The recipient is requested to provide copies of notices or announcements to the cognizant technical officer and to USAID's Bureau for Legislative and Public Affairs as far in advance of release as possible.

[END OF PROVISION]

9. COST SHARING (MATCHING) (July 2002)

APPLICABILITY: This provision, along with 22 CFR 226, is applicable when the recipient has agreed or is required to cost share or provide a matching share.

COST SHARING (MATCHING) (July 2002)

a. If at the end of any funding period, the recipient has expended an amount of non-Federal funds less than the agreed upon amount or percentage of total expenditures, the Agreement Officer may apply the difference to reduce the amount of USAID incremental funding in the following funding period. If the award has expired or has been terminated, the Agreement Officer may require the recipient to refund the difference to USAID.

b. The source, origin and nationality requirements and the restricted goods provision established in the Standard Provision entitled "USAID Eligibility Rules for Goods and Services" do not apply to cost sharing (matching) expenditures.

[END OF PROVISION]

10. PROHIBITION OF ASSISTANCE TO DRUG TRAFFICKERS (JUNE 1999)

APPLICABILITY: This provision is applicable where performance of the award will take place in "Covered" Countries, as described in ADS 206 (see 206.5.3)

PROHIBITION OF ASSISTANCE TO DRUG TRAFFICKERS (JUNE 1999)

a. 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.

b. (1) For any loan over \$1000 made under this agreement, the recipient shall insert a clause in the loan agreement stating that the loan is subject to immediate cancellation, acceleration, recall or refund by the recipient if the borrower or a key individual of a borrower 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.

(2) Upon notice by USAID of a determination under section (1) and at USAID's option, the recipient agrees to immediately cancel, accelerate or recall the loan, including refund in full of the outstanding balance. USAID reserves the right to have the loan refund returned to USAID.

c. (1) The recipient agrees not to disburse, or sign documents committing the recipient to disburse, funds to a subrecipient designated by USAID ("Designated Subrecipient") until advised by USAID that: (i) any United States Government review of the Designated Subrecipient and its key individuals has been completed; (ii) any related certifications have been obtained; and (iii) the assistance to the Designated Subrecipient has been approved. Designation means that the subrecipient has been unilaterally selected by USAID as the

subrecipient. USAID approval of a subrecipient, selected by another party, or joint selection by USAID and another party is not designation.

(2) The recipient shall insert the following clause, or its substance, in its agreement with the Designated Subrecipient:

“The recipient reserves the right to terminate this [Agreement/Contract] or take other appropriate measures if the [Subrecipient] or a key individual of the [Subrecipient] 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.”

[END OF PROVISION]

11. INVESTMENT PROMOTION (NOVEMBER 2003)

APPLICABILITY: The following clause is required for grants and Cooperative Agreements when the program includes gray-area activities or investment-related activities where specific activities are not identified at the time of obligation but could be for investment-related activities, as described in ADS 225 (see 225.3.1.8)

INVESTMENT PROMOTION (NOVEMBER 2003)

a. Except as specifically set forth in this award 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 recipient 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 recipient must notify the Agreement Officer and provide a detailed description of the proposed activity. The recipient must not proceed with the activity until advised by USAID that it may do so.

c. The recipient must ensure that its employees and sub-recipients and contractors providing investment promotion services hereunder are made aware of the restrictions set forth in this clause and must include this clause in all contracts and other sub-agreements entered into hereunder.

[END OF PROVISION]

12. REPORTING OF FOREIGN TAXES (March 2006)

APPLICABILITY: This provision is applicable to all USAID agreements that obligate or subobligate FY 2003 or later funds except for agreements funded with Operating Expense, Pub. L. 480 funds, or trust funds, or agreements where there will be no commodity transactions in a foreign country over the amount of \$500.

REPORTING OF FOREIGN TAXES (March 2006)

a. The recipient must annually submit a report by April 16 of the next year.

b. Contents of Report. The report must contain:

- (i) Contractor/recipient name.
 - (ii) Contact name with phone, fax and email.
 - (iii) Agreement number(s).
 - (iv) Amount of foreign taxes assessed by a foreign government [each foreign government must be listed separately] on commodity purchase transactions valued at \$500 or more financed with U.S. foreign assistance funds under this agreement during the prior U.S. fiscal year.
 - (v) Only foreign taxes assessed by the foreign government in the country receiving U.S. assistance is to be reported. Foreign taxes by a third party foreign government are not to be reported. For example, if an assistance program for Lesotho involves the purchase of commodities in South Africa using foreign assistance funds, any taxes imposed by South Africa would not be reported in the report for Lesotho (or South Africa).
 - (vi) Any reimbursements received by the Recipient during the period in (iv) regardless of when the foreign tax was assessed and any reimbursements on the taxes reported in (iv) received through March 31.
 - (vii) Report is required even if the recipient did not pay any taxes during the report period.
 - (viii) Cumulative reports may be provided if the recipient is implementing more than one program in a foreign country.
- c. Definitions. For purposes of this clause:
- (i) "Agreement" includes USAID direct and country contracts, grants, Cooperative Agreements and interagency agreements.
 - (ii) "Commodity" means any material, article, supply, goods, or equipment.
 - (iii) "Foreign government" includes any foreign governmental entity.
 - (iv) "Foreign taxes" means value-added taxes and custom duties assessed by a foreign government on a commodity. It does not include foreign sales taxes.
- d. Where. Submit the reports to: [insert address and point of contact at the Embassy, Mission or FM/CMP as appropriate. see b. below] [optional with a copy to]
- e. Subagreements. The recipient must include this reporting requirement in all applicable subcontracts, subgrants and other subagreements.
- f. For further information see <http://www.state.gov/m/rm/c10443.htm>.
- [END OF PROVISION]

13. FOREIGN GOVERNMENT DELEGATIONS TO INTERNATIONAL CONFERENCES (January 2002)

APPLICABILITY: Include this provision in agreements funded from the following accounts:

- Development Assistance, including assistance for sub-Saharan Africa,
- Child Survival and Disease Programs Fund, and
- Micro and Small Enterprise Development Program Account.

FOREIGN GOVERNMENT DELEGATIONS TO INTERNATIONAL CONFERENCES (January 2002)

Funds in this agreement may not be used to finance the travel, per diem, hotel expenses, meals, conference fees or other conference costs for any member of a foreign government's delegation to an international conference sponsored by a public international organization, except as provided in ADS Mandatory Reference "Guidance on Funding Foreign Government Delegations to International Conferences or as approved by the Agreement Officer.

These provisions also must be included in the Standard Provisions of any new grant or Cooperative Agreement to a public international organization or a U.S. or non-U.S. non-governmental organization financed with FY04 HIV/AIDS funds or modification to an existing grant or Cooperative Agreement that adds FY04 HIV/AIDS.

[END OF PROVISION]

14. ORGANIZATIONS ELIGIBLE FOR ASSISTANCE (JULY 2004)

APPLICABILITY: This provision must be included in any Request for Application (RFA) or Annual Program Statement (APS) that could lead to a grant or Cooperative Agreement for activities related to human trafficking funded from any year program resources.

ORGANIZATIONS ELIGIBLE FOR ASSISTANCE (JULY 2004)

The U.S. Government is opposed to prostitution and related activities, which are inherently harmful and dehumanizing, and contribute to the phenomenon of trafficking in persons. None of the funds made available under this agreement may be used to promote, support or advocate the legalization or practice of prostitution. Nothing in the preceding sentence shall be construed to preclude assistance designed to ameliorate the suffering of, or health risks to, victims while they are being trafficked or after they are out of the situation that resulted from such victims being trafficked. Foreign organizations, whether prime or subrecipients, that receive U.S. Government funds to fight trafficking in persons cannot promote, support or advocate the legalization or practice of prostitution when they are engaged in overseas activities. The preceding sentence shall not apply to organizations that provide services to individuals solely after they are no longer engaged in activities that resulted from such victims being trafficked.

[END OF PROVISION]

15. PROHIBITION ON THE USE OF FEDERAL FUNDS TO PROMOTE, SUPPORT, OR ADVOCATE FOR THE LEGALIZATION OR PRACTICE OF PROSTITUTION - ASSISTANCE (JULY 2004)

APPLICABILITY: This provision must be included in any grant or Cooperative Agreement that uses funds made available for activities related to human trafficking funded from any year program resources.

PROHIBITION ON THE USE OF FEDERAL FUNDS TO PROMOTE, SUPPORT, OR ADVOCATE FOR THE LEGALIZATION OR PRACTICE OF PROSTITUTION - ASSISTANCE (JULY 2004)

a. The U.S. Government is opposed to prostitution and related activities, which are inherently harmful and dehumanizing, and contribute to the phenomenon of trafficking in persons. None of the funds made available under this agreement may be used to promote, support, or advocate the legalization or practice of prostitution. Nothing in the preceding sentence shall be construed to preclude assistance designed to ameliorate the suffering of, or health risks to, victims while they are being trafficked or after they are out of the situation that resulted from such victims being trafficked.

b. [This subsection (b) only applies to foreign non-governmental organizations and PIOs receiving U.S. Government funds to carry out programs that target victims of severe forms of trafficking as either prime awardees or subawardees.]

(1) For programs that target victims of severe forms of trafficking, as a condition of entering into this agreement or subagreement, the recipient/subrecipient agrees that in its activities outside of the United States and its possessions it does not promote, support, or advocate the legalization or practice of prostitution. The preceding sentence shall not apply to organizations that provide services to individuals solely after they are no longer engaged in activities that resulted from such victims being trafficked.

(2) The following definitions apply for purposes of this clause:

FOREIGN NON-GOVERNMENTAL ORGANIZATION – The term “foreign non-governmental organization” means an entity that is not organized under the laws of any State of the United States, the District of Columbia or the Commonwealth of Puerto Rico.

SEVERE FORMS OF TRAFFICKING IN PERSONS. -- The term “severe forms of trafficking in persons” means—

(A) sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or

(B) the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

(C) The recipient shall insert this provision in all sub-agreements under this award.

(D) This provision includes express terms and conditions of the agreement and any violation of it shall be grounds for unilateral termination, in whole or in part, of the agreement by USAID prior to the end of its term.

[END OF STANDARD PROVISION]

16. USAID DISABILITY POLICY - ASSISTANCE (DECEMBER 2004)

APPLICABILITY: This provision must be included in Request for Applications (RFAs), and in awards.

USAID DISABILITY POLICY - ASSISTANCE (DECEMBER 2004)

a. The objectives of the USAID Disability Policy are (1) to enhance the attainment of United States foreign assistance program goals by promoting the participation and equalization of opportunities of individuals with disabilities in USAID policy, country and sector strategies, activity designs and implementation; (2) to increase awareness of issues of people with disabilities both within USAID programs and in host countries; (3) to engage other U.S. government agencies, host country counterparts, governments, implementing organizations and other donors in fostering a climate of nondiscrimination against people with disabilities; and (4) to support international advocacy for people with disabilities. The full text of the policy paper can be found at the following website:

http://pdf.dec.org/pdf_docs/PDABQ631.pdf

b. USAID therefore requires that the recipient not discriminate against people with disabilities in the implementation of USAID funded programs and that it make every effort to comply with the objectives of the USAID Disability Policy in performing the program under this grant or Cooperative Agreement. To that end and to the extent it can accomplish this goal within the scope of the program objectives, the recipient should demonstrate a comprehensive and consistent approach for including men, women and children with disabilities.

[END OF PROVISION]

[END OF STANDARD PROVISIONS]