Grant Agreement

between

AFGHANISTAN

and

INTERNATIONAL DEVELOPMENT ASSOCIATION
(Acting as Administrator of the Afghanistan Reconstruction Trust Fund)

Dated May 13, 2002

AGREEMENT, dated May 13, 2002, between AFGHANISTAN (the “Recipient”) and INTERNATIONAL DEVELOPMENT ASSOCIATION, acting as administrator (the “Administrator”) of grant funds (the “Grant Funds”) contributed by various donors (collectively the Donors; each a “Donor”) to the Afghanistan Reconstruction Trust Fund (the “Trust Fund”).

WHEREAS (A) the Donors have agreed to provide the Grant Funds to Afghanistan in
support of Afghanistan’s reconstruction program;

(B) the Donors have requested the Administrator, and the Administrator has agreed, to administer the Grant Funds;

(C) the Administrator has established the Trust Fund for purposes of receiving and administering the Grant Funds;

(D) the Grant Funds shall finance, in addition to the Eligible Categories (as this term is hereinafter defined), investment and/or sector programs and activities (“investment projects”) as shall from time to time be approved by the AIA (as this term is hereinafter defined);

(E) the Management Committee (as this term is hereinafter defined) shall be responsible for allocating Grant Funds, on the basis of guidance provided by the AIA (as this term is hereinafter defined), among the Eligible Categories and investment projects; and

(F) the Administrator shall from time to time enter into separate grant agreements with recipients of Grant Funds in connection with the financing of investment projects (“Other Recipients”), such agreements to provide for the channeling of Grant Funds to Other Recipients (which may include ministries or agencies of the AIA) in accordance with certain terms and conditions (“Other Grant Agreements”);

NOW THEREFORE, the parties hereto hereby agree as follows:

ARTICLE I

Definitions

Section 1.01. Whenever used in this Agreement, unless the context otherwise requires, the several terms defined in the preamble to this Agreement shall have the respective meanings therein set forth, and the following terms shall have the following meanings:

(a) “AIA” means the Afghanistan Interim Administration established under the Agreement on Provisional Arrangements in Afghanistan pending the Re-Establishment of Permanent Government Institutions, dated December 5, 2001, and any successor thereto;

(b) “Donor Agreement” means an agreement entered into between the Administrator and a Donor, as such agreement may be amended form time to time, pursuant to which the Donor shall deposit, in a bank account agreed upon with the Administrator, Grant Funds to be made available by the Administrator to the Recipient under this Agreement and/or to Other Recipients under Other Grant Agreements;

(c) “Eligible Expenditures” means any and all expenditures eligible for financing under this Agreement as set forth in the table in paragraph 1 of Schedule 1 to this Agreement;

(d) “Eligible Categories” means Categories (1), set forth in the table in paragraph 1 of Schedule 1 to this Agreement, in respect of Special Account “A” (as this term is hereinafter defined), and Category (2), set forth in the table in paragraph 1 of Schedule 1 to this Agreement,
in respect of Special Account “B” (as this term is hereinafter defined);

(e) “Financial Monitoring Report” means each report prepared in accordance with Section 4.02 of this Agreement;

(f) “Grant” means the grant provided by the Administrator under the provisions of Section 2.01 (a) of this Agreement, being the portion of the Grant Funds allocated by the Management Committee (as this term is hereinafter defined) to the Eligible Categories;

(g) “Grant Account” means the account opened by the Administrator on its books in the name of the Recipient to which the amount of the Grant is credited;

(h) “Management Committee” means the committee responsible for overseeing the activities of the Trust Fund, whose membership shall consist of representatives of the Asian Development Bank, the Islamic Development Bank, the United Nations Development Programme and the Administrator;

(i) “MOF” means the Ministry of Finance of the AIA;

(j) “Monitoring Agent” means the independent firm referred to in Section 3.01 (a) of this Agreement;

(k) Special Account “A” means the account referred to in Section 2.02 (c) of this Agreement;

(l) “Special Account “B” means the account referred to in Section 2.02 (c) of this Agreement; and

(m) “Special Accounts” means, collectively, Special Account A and Special Account B.

ARTICLE II

The Grant

Section 2.01. (a) The Administrator agrees to make available to the Recipient, on the terms and conditions set forth or referred to in this Agreement, various currencies that shall have an aggregate value equivalent to the amount of forty million United States Dollars (US$40,000,000).

(b) Further Grant Funds may be added to the Grant as Donor contributions to the Trust Fund may be made from time to time. The Administrator shall periodically inform the Recipient of such contributions and any ensuing increase in the amount of the Grant, and shall take all action required on its part to modify this Agreement in order to reflect the increase in the Grant amount.

(c) The Administrator may invest the Grant Funds pending their disbursements in any instrument in which the Administrator is authorized to invest its own funds. The investment income earned on the Grant Funds, pending their disbursement, shall be credited to the Trust
Fund and shall be used to finance Eligible Expenditures and/or expenditures under Other Grant Agreements as may from time to time be decided by the Management Committee.

Section 2.02. (a) The amount of the Grant may be withdrawn from the Grant Account in accordance with the provisions of Schedule 1 to this Agreement for payments made or, if the Administrator shall so agree, to be made in respect of the Eligible Expenditures.

(b) The Recipient may open and maintain in dollars two (2) separate special deposit accounts in its central bank on terms and conditions satisfactory to the Administrator. Special Account “A” shall be used exclusively to finance Eligible Expenditures under Category (1), set forth in the table in paragraph 1 of Schedule 1 to this Agreement, while Special Account “B” shall be used exclusively to finance Eligible Expenditures under Category (2), set forth in the table in paragraph 1 of Schedule 1 to this Agreement. Deposits into, and payments out of, a Special Account shall be made in accordance with the provisions of Schedule 3 to this Agreement.

Section 2.03. The Closing Date shall be June 30, 2006, or such later date as the Administrator shall establish. The Administrator shall promptly notify the Recipient of such later date.

Section 2.04. The Administrator shall be obligated to make payments to or on behalf of the Recipient from the proceeds of the Grant only to the extent that an amount adequate to cover such payments shall have been paid by Donors into the Trust Fund.

Section 2.05. Except as the Administrator shall otherwise agree, procurement of goods and services to be financed out of the proceeds of the Grant shall be governed by the provisions of Schedule 2 to this Agreement and the Annex thereto.

ARTICLE III

Use of the Proceeds of the Grant

Section 3.01. (a) The Administrator has agreed, under the Donor Agreements, to employ an independent firm to monitor the procurement of goods and services, review and recommend approval of withdrawal applications and monitor all expenditures financed by the Grant Funds. To this end, the Recipient shall: (a) enable the Monitoring Agent to access the Recipient’s records, accounts and other relevant documents; (b) submit applications for withdrawal from the Grant Account or for replenishment of the Special Accounts to the Monitoring Agent; and (c) otherwise take all such action as shall be required on its part to enable the Monitoring Agent to perform its obligations under the contract with the Administrator.

(b) The Administrator and the Recipient shall exchange views with respect to: (i) the performance of the Monitoring Agent; (ii) any operating procedures that may be required to improve such performance; (iii) any proposed modification by the Administrator to the terms of reference of the Monitoring Agent; and (iv) any proposed termination of the contract between the Administrator and the Monitoring Agent.

Section 3.02. Except as the Administrator shall otherwise agree, the Recipient shall ensure that the goods and services financed by the proceeds of the Grant shall be used
section 3.03. notwithstanding the allocation of the proceeds of the grant among the eligible categories, if the administrator shall have reasonably estimated that the amount of the proceeds of the grant then allocated to either eligible category shall be insufficient to finance eligible expenditures under said eligible category, the administrator may reallocate to such eligible category, to the extent required to meet the estimated shortfall, proceeds of the grant allocated to the other eligible category which are not needed to meet eligible expenditures.

section 3.04. MOF is designated as representative of the recipient for purposes of taking any action required or permitted to be taken under the provisions of section 2.02 of this agreement.

ARTICLE IV

Financial Covenants

section 4.01. (a) The recipient shall, not later than June 30, 2002, establish, and thereafter maintain, a financial management system, including records and accounts, and prepare financial statements in a format acceptable to the administrator, adequate to reflect the operations, resources and expenditures financed out of the proceeds of the grant.

(b) The recipient shall:

(i) have the records, accounts and financial statements referred to in paragraph (a) of this section, and the records and accounts for the Special Accounts, for each fiscal year, audited in accordance with auditing standards acceptable to the administrator, consistently applied by independent auditors acceptable to the administrator;

(ii) furnish to the administrator as soon as available, but in any case not later than six (6) months after the end of each fiscal year, (A) certified copies of the financial statements referred to in paragraph (a) of this section for such fiscal year as so audited, and (B) an opinion on such statements, records and accounts and report of such audit, by said auditors, of such scope and in such detail as the administrator shall have reasonably requested; and

(iii) furnish to the administrator such other information concerning such records and accounts, and the audit thereof, and concerning said auditors, as the administrator may from time to time reasonably request.

(c) For all expenditures with respect to which withdrawals from the grant account were made on the basis of statements of expenditure, the recipient shall:

(i) maintain or cause to be maintained, in accordance with paragraph (a) of
Section 4.02. (a) The Recipient shall prepare and furnish to the Administrator a Financial Monitoring Report, in form and substance satisfactory to the Administrator, which:

(i) sets forth sources and uses of the proceeds of the Grant, both cumulatively and for the period covered by said report, showing separately funds provided under the Grant, and explains variances between the actual and planned uses of such funds;

(ii) describes physical and other progress in implementing activities financed under the Grant, both cumulatively and for the period covered by said report, and explains variances between the actual and planned implementation; and

(iii) sets forth the status of procurement under the Grant, as at the end of the period covered by said report.

(b) The first Financial Monitoring Report shall be furnished to the Administrator not later than forty five (45) days after the end of the first calendar quarter following the signature of this Agreement by both parties hereto, and shall cover the period from the incurrence of the first expenditure under the Grant through the end of such first calendar quarter; thereafter, each Financial Monitoring Report shall be furnished to the Administrator not later than forty five (45) days after each subsequent calendar quarter, and shall cover such calendar quarter.

ARTICLE V

Arbitration

Section 5.01. (a) Any controversy between the parties to this Agreement and any claim by any such party against any other such party arising under this Agreement which has not been settled by agreement of the parties shall be submitted to arbitration by an Arbitral Tribunal as hereinafter provided.
(b) The parties to such arbitration shall be the Administrator on the one side and the Recipient on the other side.

(c) The Arbitral Tribunal shall consist of three (3) arbitrators appointed as follows: one arbitrator shall be appointed by the Administrator; a second arbitrator shall be appointed by the Recipient; and the third arbitrator (hereinafter sometimes called the “Umpire”) shall be appointed by agreement of the parties or, if they shall not agree, by the President of the International Court of Justice or, failing appointment by said President, by the Secretary General of the United Nations. If either side shall fail to appoint an arbitrator, such arbitrator shall be appointed by the Umpire. In case any arbitrator appointed in accordance with this Section shall resign, die or become unable to act, a successor arbitrator shall be appointed in the same manner as herein prescribed for the appointment of the original arbitrator and such successor shall have all the powers and duties of such original arbitrator.

(d) An arbitration proceeding may be instituted under this Section upon notice by the party instituting such proceeding to the other party. Such notice shall contain a statement setting forth the nature of the controversy or claim to be submitted to arbitration and the nature of the relief sought and the name of the arbitrator appointed by the party instituting such proceeding. Within thirty (30) days after such notice, the other party shall notify to the party instituting the proceeding the name of the arbitrator appointed by such other party.

(e) If, within sixty (60) days after the notice instituting the arbitration proceeding, the parties shall not have agreed upon an Umpire, any party may request the appointment of an Umpire as provided in paragraph (c) of this Section.

(f) The Arbitral Tribunal shall convene at such time and place as shall be fixed by the Umpire. Thereafter, the Arbitral Tribunal shall determine where and when it shall sit.

(g) The Arbitral Tribunal shall decide all questions relating to its competence and shall, subject to the provisions of this Section and except as the parties shall otherwise agree, determine its procedures. All decisions of the Arbitral Tribunal shall be made by majority vote.

(h) The Arbitral Tribunal shall afford to all parties a fair hearing and shall render its award in writing. Such award may be rendered by default. An award signed by a majority of the Arbitral Tribunal shall constitute the award of such Tribunal. A signed counterpart of the award shall be transmitted to each party. Any such award rendered in accordance with the provisions of this Section shall be final and binding upon the parties to this Agreement. Each party shall abide by and comply with any such award rendered by the Arbitral Tribunal accordance with the provisions of this Section.

(i) The parties shall fix the amount of remuneration of the arbitrators and such other persons as shall be required for the conduct of the arbitration proceedings. If the parties shall not agree on such amount before the Arbitral Tribunal shall convene, the Arbitral Tribunal shall fix such amount as shall be reasonable under the circumstances. The Administrator and the Recipient shall each defray its own expenses in the arbitration proceedings. The costs of the Arbitral Tribunal shall be divided between, and borne equally by, the Administrator and the Recipient. Any question concerning the division of the costs of the Arbitral Tribunal or the procedure for payment of such costs shall be determined by the Arbitral Tribunal.

(j) The provisions for arbitration set forth in this Section shall be in lieu of any
other procedures for the settlement of controversies between the parties to this Agreement or of any claim by any such party against any other such party arising thereunder.

(k) If, within thirty (30) days after counterparts of the award shall have been delivered to the parties, the award shall not be complied with, any party may: (i) enter judgment upon, or institute a proceeding to enforce, the award in any court of competent jurisdiction against any other party; (ii) enforce such judgment by execution; or (iii) pursue any other appropriate remedy against such other party for the enforcement of the award and the provisions of this Agreement. Notwithstanding the foregoing, this Section shall not authorize any entry of judgment or enforcement of the award against any party that is a member of the Administrator except as such procedure may be available otherwise than by reason of the provisions of this Section.

Article VI

Representative of the Recipient; Addresses

Section 6.01. The Vice Chairman and Minister of Finance of the AIA is designated as representative of the Recipient for the purposes of taking any action on behalf of the Recipient under this Agreement.

Section 6.02. The following addresses are specified for the purposes of giving notices required or permitted under this Agreement.

For the Recipient:

Vice Chairman and Minister of Finance
Afghanistan Interim Administration
Kabul
Afghanistan

For the Administrator:

Country Director, Afghanistan
South Asia Region
International Development Association
1818 H Street, N.W.
Washington, D.C. 20433

Telephone: (202) 473-3047
Fax: (202) 522-3707
IN WITNESS WHEREOF, the parties hereto, acting through their duly authorized representatives, have caused this Agreement to be signed in their respective names as of the day and year first above written.

AFGHANISTAN

By /s/ Hedayat Amin-Arsala
Authorized Representative

INTERNATIONAL DEVELOPMENT ASSOCIATION
(Acting as Administrator of the Afghanistan Reconstruction Trust Fund)

By /s/ Alastair J. McKechnie
Country Director
Afghanistan

SCHEDULE 1

Withdrawal of Grant Funds

1. The table below sets forth the Eligible Categories to be financed out of the Grant, the allocation of the proceeds of the Grant to each Eligible Category and the percentage of Eligible Expenditures for items so to be financed in each Eligible Category:

<table>
<thead>
<tr>
<th>Category</th>
<th>Amount of the Grant Allocated (Expressed in U. S. Dollar Equivalent)</th>
<th>% of Eligible Expenditures to be Financed</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) Recurrent and Capital Expenditures</td>
<td>3 5 0 0 0 0 0 0</td>
<td>100%</td>
</tr>
</tbody>
</table>
2. For the purpose of this Schedule:

(a) the term “Recurrent Expenditures” means those recurrent expenditures set forth in the Recipient’s budget, whose eligibility for financing hereunder shall have been determined by the Management Committee, relating to wages, benefits, and other payments for civil servants, pension payments, debt service obligations, including the payment of interest, fees and other charges, and operation and maintenance costs, but excluding military and paramilitary expenditures and police-related expenditures; and

(b) the term “Capital Expenditures” means expenditures on account of goods, including, without limitation, office furniture and equipment, as set forth in the Recipient’s budget, the eligibility for financing of which shall have been approved by the Management Committee.

3. Notwithstanding the provisions of paragraph 1 of this Schedule, no withdrawals shall be made in respect of payments made for expenditures prior to the date of this Agreement.

4. The Administrator may require withdrawals from the Grant Account to be made on the basis of statements of expenditure for expenditures: (i) for goods under contracts costing less than $250,000 equivalent each, (ii) for services under contracts costing less than $100,000 equivalent each for consulting firms; (iii) for services under contracts costing less than $50,000 equivalent each for individual consultants; (iv) for training; and (v) for Recurrent Expenditures, all under such terms and conditions as the Administrator shall specify by notice to the Recipient.

5. Grant Funds provided to ministries and/or agencies of the AIA shall be made available under Other Grant Agreements and in accordance with terms and conditions substantially similar to those contained in development grant agreements entered into between the Recipient and the Administrator.

SCHEDULE 2

Procurement and Consultants’ Services

Section I. Procurement of Goods

Part A: General
Goods shall be procured in accordance with: (a) the provisions of Section I of the “Guidelines for Procurement under IBRD Loans and IDA Credits” published by the Administrator in January 1995 and revised in January and August 1996, September 1997 and January 1999 (the Guidelines); and (b) the provisions of the following Parts of this Section I.

Part B: Procurement Procedures

1. Limited International Bidding

Goods estimated to cost $1,000,000 equivalent or more per contract, and goods which the Administrator agrees can only be purchased from a limited number of suppliers, regardless of the cost thereof, may be procured under contracts awarded in accordance with the provisions of paragraph 3.2 of the Guidelines. In addition, the list of suppliers shall be derived from, inter alia, the expressions of interest received in response to the general procurement notice. Bidding documents may provide that bidders may send their bids by facsimile, in which case, bid security shall not be required. Furthermore, the entity responsible for the procurement of the above-mentioned goods shall be required to put in place arrangements satisfactory to the Administrator to ensure confidentiality of the bids received by facsimile.

2. International Shopping

Goods estimated to cost $1,000,000 equivalent or less per contract may be procured under contracts awarded on the basis of international shopping procedures in accordance with the provisions of paragraphs 3.5 and 3.6 of the Guidelines.
3. **National Shopping**

Goods estimated to cost $50,000 equivalent or less per contract may be procured under contracts awarded on the basis of national shopping procedures in accordance with the provisions of paragraphs 3.5 and 3.6 of the Guidelines.

4. **Competitive Bidding Advertised Locally**

Goods estimated to cost the equivalent of $250,000 or less per contract may be procured under contracts awarded on the basis of competitive bidding, advertised locally, in accordance with the procedures described in the Annex to this Schedule.

5. **Direct Contracting**

Goods which must be purchased from the original supplier to be compatible with existing equipment, are of a proprietary nature or which must be urgently procured, may, with the Administrator's prior agreement, be procured in accordance with the provisions of paragraph 3.7 of the Guidelines.

**Part C: Review by the Administrator of Procurement Decisions**

1. **Procurement Planning**

Prior to the issuance of any invitations to bid for contracts, the proposed procurement plan shall be furnished to the Administrator for its review and approval, in accordance with the provisions of paragraph 1 of Appendix 1 to the Guidelines. Procurement of all goods shall be undertaken in accordance with such procurement plan as shall have been approved by the Administrator, and with the provisions of said paragraph 1.

2. **Prior Review**

(a) With respect to: (i) each contract for goods estimated to cost more than the equivalent of $250,000; and (ii) the first three (3) contracts for goods, irrespective of the contract’s value, the procedures set forth in paragraphs 2 and 3 of Appendix 1 to the Guidelines shall apply when said contracts shall have been procured under the provisions of paragraphs B.1 and B.4 of this Schedule.

(b) In the event that any of the contracts referred to under sub-paragraph (a) (ii) above shall have been procured under the provisions of paragraphs B.2, B.3 or B.5 of Section I of this Schedule, the following procedures shall apply:

(i) prior to the execution of any contract under shopping procedures, the Recipient shall provide to the Administrator a report on the comparison and evaluation of quotations received;

(ii) prior to the execution of any contract procured under shopping or direct contracting procedures, the Recipient shall provide to the Administrator
a copy of the specifications and the draft contract; and

(iii) the procedures set forth in paragraphs 2(f), 2(g) and 3 of Appendix 1 to the Guidelines shall apply.

3. **Post Review**

With respect to each contract not governed by paragraph 2 of this Part, the procedures set forth in paragraph 4 of Appendix 1 to the Guidelines shall apply.

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**Section II**

**Employment of Consultants**

**Part A:** **General**

Consultants’ services shall be procured in accordance with: (a) the provisions of the Introduction and Section IV of the “Guidelines: Selection and Employment of Consultants by World Bank Recipients” published by the Administrator in January 1997 and revised in September 1997 and January 1999 (the Consultant Guidelines); and (b) the provisions of the following Parts of this Section II.

**Part B:** **Quality- and Cost-based Selection**

1. Except as otherwise provided in Part C of this Section, consultants’ services shall be procured under contracts awarded in accordance with the provisions of Section II of the Consultant Guidelines, paragraph 3 of Appendix 1 thereto, Appendix 2 thereto, and the provisions of paragraphs 3.13 through 3.18 thereof applicable to quality- and cost-based selection of consultants.

2. The following provisions shall apply to consultants’ services to be procured under contracts awarded in accordance with the provisions of the preceding paragraph: The short list of consultants for services for the Grant, estimated to cost less than $50,000 equivalent per contract, may comprise entirely national consultants in accordance with the provisions of paragraph 2.7 of the Consultant Guidelines.
Part C: Other Procedures for the Selection of Consultants

1. Selection Based on Consultants’ Qualifications

Services estimated to cost $200,000 equivalent or less per contract, may be procured under contracts awarded in accordance with the provisions of paragraphs 3.1 and 3.7 of the Consultant Guidelines.

2. Quality-based Selection

Services under contracts costing less than $1,000,000 equivalent each may be procured under contracts awarded in accordance with the provisions of paragraphs 3.1 through 3.4 of the Consultant Guidelines.

3. Single Source Selection

Services which are estimated to cost less than $100,000 equivalent per contract may, with the Administrator’s prior agreement, be procured in accordance with the provisions of paragraphs 3.8 through 3.11 of the Consultant Guidelines.

4. Individual Consultants

Services for tasks that meet the requirements set forth in paragraph 5.1 of the Consultant Guidelines shall be procured under contracts awarded to individual consultants in accordance with the provisions of paragraphs 5.1 through 5.3 of the Consultant Guidelines.

Part D: Review by the Administrator of the Selection of Consultants

1. Selection Planning

Prior to the issuance to consultants of any requests for proposals, the proposed plan for the selection of consultants under the Grant shall be furnished to the Administrator for its review and approval, in accordance with the provisions of paragraph 1 of Appendix 1 to the Consultant Guidelines. Selection of all consultants’ services shall be undertaken in accordance with such selection plan as shall have been approved by the Administrator, and with the provisions of said paragraph 1.

2. Prior Review

   (a) With respect to each contract for the employment of consulting firms estimated to cost the equivalent of $100,000 or more, the procedures set forth in paragraphs 1, 2 (other than the third subparagraph of paragraph 2(a)) and 5 of Appendix 1 to the Consultant Guidelines shall apply.

   (b) With respect to each contract for the employment of individual consultants estimated to cost the equivalent of $50,000 or more, the qualifications, experience, terms of reference and terms of employment of the consultants shall be furnished to the Administrator for its prior review and approval. The contract shall be awarded only after the said approval shall have been given.
3. Post Review

With respect to each contract not governed by paragraph 2 of this Part, the procedures set forth in paragraph 4 of Appendix 1 to the Consultant Guidelines shall apply.

ANNEX TO SCHEDULE 2

Procedures for Competitive Bidding Advertised Locally

A. Advertising

1. The invitation for bids shall be advertised in a newspaper of local circulation in the areas where the goods are to be supplied. In those areas where this is not possible, the invitation for bids shall be posted at such place or places as shall be appropriate.

2. The invitation for bids shall be in local language and in such other language as may be deemed appropriate by the Recipient’s department or agency concerned, and shall include the information referred to in the model invitation for bids set forth in the Administrator’s sample bidding documents for procurement of small works (in the case of civil works contracts) and for procurement of goods (in the case of goods), published by the Administrator on January 1995 and January 2001, respectively.

3. With due regard to the nature of the goods to be supplied, the time period for bid submission from the date of invitation shall be sufficient to allow potential bidders a reasonable time to prepare and submit their bids. It shall be no less than thirty (30) calendar days, unless otherwise agreed with the Administrator.

B. Eligibility

1. The eligibility of bidders and the origin of goods supplied shall be as defined under the “Guidelines for Procurement under IBRD Loans and IDA Credits” published by the Administrator in January 1995 and revised in January and August 1996, September 1997 and January 1999 (the Guidelines).

2. Foreign bidders shall be allowed to bid, if they wish to do so.

3. Joint ventures between foreign and local firms shall not be a condition for eligibility. Foreign bidders shall be allowed to bid alone. Nevertheless, foreign bidders may be required to have a local agent/intermediary in the Recipient’s territory.

C. Bidding

1. In addition to the invitation for bids, the bidding documents shall include the following:

(a) instructions to bidders, including the criteria to be used for bid evaluations;

(b) conditions of contract;
(c) technical specifications;

(d) bid form and price schedules; and

(e) performance security (optional for bids below a dollar equivalent sum to be agreed with the Administrator).

2. Bids may be expressed in local currency or in such other foreign currency as may be set forth in the invitation for bids. If the currency of payment set forth in the invitation for bids is the local currency, the invitations may indicate that there is no obligation on the part of the Recipient’s department or agency requesting the bids to convert into foreign currency the amounts to be paid.

3. Bidding documents shall be prepared in the local language or in such other language as may be deemed appropriate by the Recipient’s department or agency concerned.

4. Bids may be delivered by mail or by hand at the place set forth for such purposes in the invitation for bids.

5. Bids shall be opened publicly to allow representatives of the bidders to attend if they so desire. Bids shall not be modified after the opening of bids except to correct arithmetical errors. All bids shall be opened at the same time.

6. Bids may not be rejected for the sole purpose of obtaining lower bids. The Recipient shall consult with the Administrator prior to rejecting all bids or soliciting new bids. All bids may not be rejected and new bids invited on the same specifications solely for the purposes of obtaining lower prices, except in cases where the lowest evaluated bid exceeds the cost estimates by a substantial amount. In such cases, the Recipient may, as an alternative to rebidding and with the prior concurrence of the Administrator, negotiate with the lowest evaluated bidder to try to obtain a satisfactory contract, and, failing a satisfactory response, with the next lowest evaluated bidder. Rejection of all bids may be permissible when bids are not substantially responsive or in case of a lack of effective competition.

7. In the comparison of bids between local and foreign bidders, no domestic or regional preference to local bidders shall apply. Bids shall be compared on the basis of delivered price, inclusive of any prevailing duties.

8. Contracts shall be awarded to the lowest evaluated responsive bidder. Price negotiation with bidders shall not be undertaken before the contract is awarded except as provided in paragraph 6 above.

9. The award of contract shall be made within the period specified in the bidding documents. This period shall be determined in each case (goods or works) depending on the complexity of the contract and the approval.

10. A bid evaluation report shall be prepared by the Recipient’s department or agency requesting the bids setting out a record of all bids submitted, the reasons for disqualification of any bids, the criteria, weighing and evaluation of all responsive bids, the recommended award, and, if recommended award is to other than the lowest price bidder, the reasons therefore. The
concerned Recipient’s department or agency shall furnish to the Administrator a translation in the English language of such bid evaluation report in accordance with paragraphs 2 and 3 or Appendix 1 to the Guidelines.

**SCHEDULE 3**

**Special Accounts**

1. For the purpose of this Schedule, the term “Authorized Allocation” means an amount to be withdrawn from the Grant Account and deposited in each of the Special Accounts pursuant to paragraph 3 (a) of this Schedule, equivalent, in the case of Special Account A, to three million five hundred thousand United States dollars ($3,500,000) and in the case of Special Account B, to five hundred thousand United States dollars ($500,000).

2. Payments out of either Special Account shall be made exclusively for Eligible Expenditures in accordance with the provisions of the Schedule.

3. After the Administrator has received evidence satisfactory to it that a Special Account has been duly opened, withdrawals of the Authorized Allocation and subsequent withdrawals to replenish said Special Account shall be made as follows:

   (a) For withdrawals of the Authorized Allocation, the Recipient shall furnish to the Administrator, through the Monitoring Agent, a request or requests for a deposit or deposits which do not exceed the aggregate amount of the Authorized Allocation in question. On the basis of such request or requests, the Administrator shall, on behalf of the Recipient, withdraw from the Grant account and deposit in such Special Account such amount or amounts as the Recipient shall have requested.

   (b) (i) For replenishment of a Special Account, the Recipient shall furnish to the Administrator, through the Monitoring Agent, requests for deposits into said Special Account at such intervals as the Administrator shall specify.

   (ii) Prior to or at the time of each such request, the Recipient shall furnish to the Administrator, through the Monitoring Agent, the documents and other evidence required pursuant to paragraph 4 of this Schedule for the payment or payments in respect of which replenishment is requested. On the basis of each such request, the Administrator shall, on behalf of the Recipient, withdraw from the Grant Account and deposit into such Special Account such amount as the Recipient shall have requested and as shall have been shown by said documents and other evidence to have been paid out of the Special Account in question for Eligible Expenditures. All such deposits shall be withdrawn by the Administrator from the Grant Account under the respective eligible Categories, and in the respective equivalent amounts, as shall have been justified by said documents and other evidence.

4. For each payment made by the Recipient out of either Special Account, the Recipient shall, at such time as the Administrator shall reasonably request, furnish to the Administrator, through the Monitoring Agent, such documents and other evidence showing that such payment
was made exclusively for Eligible Expenditures.

5. Notwithstanding the provisions of paragraph 3 of this Schedule, the Administrator shall not be required to make further deposits into either Special Account:

   (a) if, at any time, the Administrator shall have determined that all further withdrawals should be made by the Recipient directly from the Grant Account in accordance with the provisions of Section 2.02 (a) of this Agreement;

   (b) if the Recipient shall have failed to furnish to the Administrator, within the period of time specified in Section 4.01 (b) (ii) of this Agreement, any of the audit reports required to be furnished to the Administrator pursuant to said section in respect of the audit of the records and accounts for the Special Accounts; or

   (c) once the total unwithdrawn amount of the Grant, minus the amount of any outstanding special commitment entered into by the Administrator, shall equal the equivalent of twice the aggregated amount of the Authorized Allocations.

   Thereafter, withdrawal from the Grant Account of the remaining unwithdrawn amount of the Grant allocated to the Eligible Categories shall follow such procedures as the Administrator shall specify by notice to the Recipient. Such further withdrawals shall be made only after and to the extent that the Administrator shall have been satisfied that all such amounts remaining on deposit in either Special Account as of the date of such notice will be utilized in making payments for Eligible Expenditures.

6. (a) If the Administrator shall have determined at any time that any payment out of a Special Account: (i) was made for an expenditure or in an amount not eligible pursuant to paragraph 2 of this Schedule; or (ii) was not justified by the evidence furnished to the Administrator, the Recipient shall, promptly upon notice from the Administrator: (A) provide such additional evidence as the Administrator may request; or (B) deposit into the said Special Account (or, if the Administrator shall so request, refund the to the Administrator) an amount equal to the amount of such payment or the portion thereof not so eligible or justified. Unless the Administrator shall otherwise agree, no further deposit by the Administrator into either Special Account shall be made until the Recipient has provided such evidence or made such deposit or refund, as the case may be.

   (b) If the Administrator shall have determined at any time that any amount outstanding in a Special Account will not be required to cover further payments under Eligible Expenditures, the Recipient shall, promptly upon notice from the Administrator, refund to the Administrator such outstanding amount.

   (c) The Recipient may, upon notice to the Administrator, refund to the Administrator all or any portion of Grant Funds on deposit in any Special Account.

   (d) Refunds to the Administrator made pursuant to paragraphs (a), (b) and (c) of this Schedule shall be credited to the Grant Account for subsequent withdrawal or for cancellation in accordance with the relevant provisions of this Agreement.