

KEN-07/020

Original Contract

T.d. 17.12.07

**Contract between
the Norwegian Ministry of Foreign Affairs (MFA) and
Maasai Education Discovery (MED) regarding
the Maasai Girls Scholarship Project**

Maasai Education Discovery has in November 2007 requested MFA for financial support to MED's Maasai Girls Scholarship Project, MFA has decided to comply with the request, and the two parties agree as follows:

1. Scope and objectives

- 1.1 This Contract sets forth the terms and procedures for MFA's assistance to the project as outlined in the Agreed Project Summary in Annex I (the Project) and further described in the Project Document "Maasai Girls Scholarship Project", dated 19 November 2007.

The Norwegian Embassy in Nairobi (the Embassy) is, as a part of MFA, competent to act on behalf of MFA. All communication to MFA in regard to the Agreement shall be directed to the Embassy.

- 1.2 The Goal of the Project is

- to ensure the Maasai girls complete their basic education as well as escape from FGM and forced marriage,
- to increase the number of Maasai girls enrolled in schools,
- to advance women empowerment and to promote economic development in the Maasai communities through education while putting an end to FGM.

2. Contributions of MFA

- 2.1 MFA shall, subject to Parliamentary appropriations, make available a financial grant not exceeding NOK 1.700.000 (Norwegian Kroner One million ^{seven} hundred thousand) (the Grant) to be used exclusively to finance the Project during the planned period 2008 - 2010.
- 2.2 Upon completion of the Project, any unutilised funds, including accrued interests, shall be returned to MFA, unless the Parties have agreed in writing upon the utilisation of such funds.

3. Obligations of Maasai Education Discovery (MED)

MED shall:

- 3.1 Implement the Project on the basis of this Contract, approved budgets and work plans as well as the Project Document. Any revisions have to be agreed upon in advance in writing,
- 3.2 effect purchases for the Project in such a manner as to obtain the most favourable terms with regard to price, quality, delivery date and maintenance facilities, and to keep the same insured,
- 3.3 meet all additional expenses that may be necessary for the completion of the Project, including provide counter part and other funding according to the budget,
- 3.4 ensure that Project funds, which shall include any accrued interests, are properly accounted for,
- 3.5 keep MFA informed about plans for major organisational changes as well as keep MFA informed as to the name of the auditor of the Project,

- 3.6 provide copies to MFA of reports submitted to authorities relevant pertaining to the Project,
- 3.7 promptly inform MFA in writing of any condition which interferes or threatens to interfere with the successful implementation of the Project,
- 3.8 guarantee that funds made available in accordance with this Contract are not used in violation of relevant UN conventions and resolutions of the UN Security Council,
- 3.9 ensure that representatives of Norway are permitted to visit any part of the Project for purposes related to the Contract and examine any relevant records, goods and documents.

4. Disbursements

- 4.1 Disbursements from the Grant shall take place upon semi-annual written requests from MED based on the financial needs of the Project and, with exception of the first request, on approved work plans and budgets. The first disbursement, amounting to NOK 412.000, will be made upon signing of this Contract. In addition, the exchange loss of 661,9930 Ksh (approx. NOK 55.000) from KEN-05/018 Addendum II will be covered, making the first disbursement under this contract amount to **NOK 467.000**.
- 4.2 Along with the requests, except the first request, MED shall submit statements of cash and bank balances from the Project's accounting records.
- 4.3 When determining the amount to request, MED shall take into account unspent disbursed amounts and income from all sources as well as any accrued interests.
- 4.4 Funds will be transferred upon MFA's approval of the request to a separate bank account in the name of MED Maasai Girls Scholarship Project, and will be available for the Project immediately. MED shall immediately, in writing, acknowledge receipt of the funds. The date of receipt shall be stated.

5. Reporting

- 5.1 MED shall submit the following reports/documentation to MFA:
 - An annual progress report for the previous year within 31 September each year,
 - financial statements for the Project showing receipts/income and expenditures the previous year as well as the cash/bank/financial position of the Project as per 31 August within 31 September each year,
 - a budget and work plan for the coming year within 31 September each year with an updated revolving plan for the entire Project period,
 - the audited annual financial statements of the entire organisation within 31 September each year,
 - a final report for the whole Project period, as well as financial statements from end of the previous audit until completion of the Project within April 2011.
- 5.2 The annual progress report shall include the following information:
 - A description of actual outputs compared to planned outputs (normally defined in annual work plans)
 - a brief summary of the use of funds compared to budget
 - an assessment of the efficiency of the Project (a measure of how efficiently resources/inputs are converted into outputs)
 - an explanation of major deviations from the plan
 - an assessment of problems and risks (internal or external to the Project) that may affect the success of the Project
 - an assessment of the need for adjustments to activity plans and/or inputs and outputs, including actions for risk mitigation.

- a brief assessment of achievements in relation to purpose.

5.3 The final report shall include the following information:

- The topics listed in Clause 5.2 above
- an assessment of the effectiveness of the Project, i.e. the extent to which the purpose has been achieved
- an assessment of impact (if possible), i.e. the changes and effects positive or negative, planned and unforeseen of the Project seen in relation to target groups and others who are affected
- an assessment of the sustainability of the Project, i.e. an assessment of the extent to which the positive effects of the Project will still continue after the external assistance has been concluded
- a summary of main “lessons learned”.
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5.4 MFA shall respond in writing within three weeks after the receipt of the reports and documentation. MFA shall approve the work plans and budgets in writing.

6. Audit

6.1 The annual audit shall be carried out by an independent and recognised professional auditor acceptable to MFA. The audit shall at least cover the issues mentioned in the Terms of Reference in Annex II to the Contract. MED shall submit to MFA the audit report, any management letter and any other report from the auditor significant to the implementation of the Project within 6 months after the end of the financial year. MED shall comment upon the auditor’s findings, and MFA shall respond within three weeks upon reception of the report.

6.2 MFA may appoint an independent auditor to undertake audit if deemed necessary. Audits may also be carried out by the Norwegian Auditor General as and when deemed necessary.

7. Meetings and reviews

7.1 An annual meeting shall be held in October each year unless otherwise agreed in writing. The meetings shall be called and chaired by MED. The purpose of these meetings is to discuss the progress of the Project, including results and fulfilment of agreed obligations, to discuss and, if feasible, approve documentation submitted according to Article 5, as well as to discuss issues of special concern for the implementation of the Project, e.g. risk management. Central elements of the discussion and all decisions from the consultations shall be recorded in agreed minutes.

7.2 MFA reserves the right to carry out independent reviews or evaluations of the Project as and when MFA deems it necessary. The cost for such reviews will be covered by funds over and above the Grant.

8. Corruption

The Parties declare their commitment to counteract corrupt practices in the execution of the Contract. Further, the Parties commit themselves not to accept, either directly or indirectly, as an inducement or reward in relation to the execution of the Contract, any kind of offer, gift, payments or benefits, which would or could be construed as illegal or corrupt practice. The Parties shall immediately inform each other of any indication of corruption or misuse of resources related to the Project, and undertake to take rapid legal action to initiate investigations of and prosecution against, in accordance with applicable law, any person suspected of corruption or misuse of resources related to the Project.

9. Breach of contract

9.1 If MED fails to fulfil its obligations under this Contract, or if any major organisational changes are found to be contradictory to the objectives of the Project, MFA may, upon consultations with MED cancel this Contract and claim repayment or withdraw the total or a portion of the funds provided to the Project.

9.2 MFA may cancel this Contract or portion of this Contract with immediate effect if it determines that corrupt or fraudulent practices were engaged in by representatives of MED or of a

beneficiary of the aid funds without MED having taken timely and appropriate action satisfactory to MFA to remedy the situation.

10. Entry into force – Termination - Disputes

10.1 This Contract shall enter into force on the date of its signature, and shall remain in force until both Parties have fulfilled all obligations arising from it. Whether these obligations shall be regarded as fulfilled, shall be determined in consultation by the Parties.

10.2 Notwithstanding the previous clause, each Party may terminate the Contract upon three months' written notice.

10.3 In case of termination of the Contract MED shall exert its best efforts to bring the Project to an end in a rapid, orderly and economical manner as to the use of the funds from MFA. MED shall not commit the Project economically from the date of the receipt of the notice of termination. Any unspent funds not committed by the date of the receipt of the notice of termination, shall be returned to MFA without delay.

10.4 If any dispute arises relating to the implementation or interpretation of this Contract, the Parties shall consult with a view to reaching a solution. Any disputes that cannot be solved amicably shall be referred to the competent Kenyan court and settled in accordance with Kenyan law.

This Contract is drawn in duplicate with one copy for MED and one for MFA.

Nairobi, 12/11-07 ()
For the Norwegian Ministry
of Foreign Affairs

12/11-07 () ... ()
For Maasai Education Discovery


Elisabeth Jacobsen
Ambassador


Koitamet Olekina
Director

Annex I: Agreed Project Summary
Annex II: Terms of reference for audit

Annex I Agreed Project Summary

Identification of the Project

- Project Title/Name: Maasai Girls Scholarship Project
- Implementing institution: Maasai Education Discovery (MED)

Description of the Project

Goal:

The goal of the project is

- 1) to ensure the Maasai girls complete their basic education as well as escape from FGM and forced marriage,
- 2) to increase the number of Maasai girls enrolled in schools,
- 3) to advance women empowerment and to promote economic development in the Maasai communities through education while putting an end to FGM.

Outputs:

115 Maasai girls to have completed their basic education and been through a mentoring programme.

Inputs

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- Funds 1.645.000 NOK (excl. NOK 55.000 exchange loss from 2007).
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Main indicators

115 Maasai girls to have completed their basic education.

Risks

- That some of the girls will drop out of school, to undergo FGM and get married.
- Lack of support from parents, future husbands, chiefs and women circumcisers wishing to retain old traditions.
- Anti-corruption measures: MED is a small NGO with limited staff. Their economic management has had some weaknesses, but they seem to be learning from previous mistakes. The embassy should therefore follow the financial management of the project very closely.

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Maasai Education Discovery**

Budget and tentative payment schedule for the Scholarship Programme 2008-2010

Year	2008	2009	2010	2008-2010
Year 1	1 610 000	1 610 000	1 610 000	4 830 000
Year 2	603 750	603 750	603 750	1 811 250
Year 3	161 000	161 000	161 000	483 000
Pr:student	115	115	115	350
Students	115	115	115	350
Unit price	14 000	5 250	1 400	1 400
Education items	14 000	5 250	1 400	1 400
Tuition	14 000	5 250	1 400	1 400
Uniforms	5 250	603 750	603 750	1 811 250
School materials	1 400	161 000	161 000	483 000
Transportation	3 500	402 500	402 500	1 207 500
Sanitary towels	1 260	144 900	144 900	434 700
Library fee	840	96 600	96 600	289 800
School bags	500	57 500	57 500	172 500
Books	3 500	402 500	402 500	1 207 500
Nutrients	5 250	603 750	603 750	1 811 250
Toiletries	1 050	120 750	120 750	362 250
Books (others)	1 540	177 100	177 100	531 300
Internet	3 500	402 500	402 500	1 207 500
Mentoring Program	6 000	690 000	690 000	2 070 000
Sub total	47 590	5 472 850	5 472 850	16 418 550
Admin. and overhead, 20%:	9 518	1 094 570	1 094 570	3 283 710
Total in KES	719 101	6 567 420	6 567 420	19 702 260
Exchange loss 2007, KES: 661 993	54 879			55 000
NOK, rate: 0,0829 :				
Rate: 0,08290				
Budget in NOK, up to:	599 439	544 439	544 439	1 688 317
600 000	550 000	550 000	550 000	1 700 000

Payment schedule (tentative):
annual budget: NOK

December 2007:	78	467 000
May 2008:	22	133 000
October 2008:	76	412 500
May 2009:	25	137 500
October 2009:	76	412 500
May 2010:	25	137 500
Total:		1 700 000

Annex II Terms of Reference for audit

The auditor shall carry out the audit in accordance with any national legislation for NGOs as well as with international standards on auditing.

The objective of the audit is to audit

- 1) the annual financial statements of the Project as defined in Annex I to this Contract as well as
- 2) compliance with certain contractual obligations.

The auditor shall be given a copy of the present Contract, and decides himself whether to submit one or two reports. The audit report(s) shall state the auditor's opinion/findings as to:

- Whether the financial statements and the cash/bank/financial position present fairly, in all material respects, the income and expenditures of the Project in accordance with an acceptable financial reporting framework
- whether the audit has uncovered any material weaknesses in relevant internal control(s)
- whether the funds have been deposited in a separate bank account in the name of the organisation and that accrued interest are reflected in the statement from the bank whether the audit has uncovered any illegal or corrupt practices
- whether funds have been used exclusively to cover Project expenditures
- whether receipts/income and expenditures are properly accounted for.

The above list does not preclude the organisation or the auditor from addressing further issues.

The auditor shall also, if the auditor deems it warranted based on findings during the audit, submit a management letter to the organisation upon completion of the audit. The letter should address deficiencies noted in the system of internal control.