

Contract between the Norwegian Ministry of Foreign Affairs (MFA) and National Democratic Institute (NDI) regarding “Strengthening political parties to become more responsive, representative institutions”

National Democratic Institute (NDI) has in an e-mail dated November 17th 2009 requested MFA for financial support to “Kenya - Strengthening political parties to become more responsive, representative institutions”, 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 “Kenya - Strengthening political parties to become more responsive, representative institutions”, dated November 17th 2009.

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 strengthen the internal democratic practices of political parties so that they become more representative, accountable political institutions and are better able to help advance the national reform agenda in Kenya”.

The Objectives of the Project are

- a) promote the development of more responsive and inclusive political party structures;
- b) assist political parties to improve policy development; and
- c) strengthen the ability of political parties to play a more constructive role in Kenya’s wider national reform process.

2. Contributions of MFA

- 2.1 MFA shall, subject to Parliamentary appropriations, make available a financial grant not exceeding NOK 15 million (Norwegian Kroner fifteen million) (the Grant) to be used exclusively to finance the Project during the planned period November 23, 2009 – November 30, 2012.
- 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 NDI

NDI 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, and be responsible for entering into sub-contracts with partner organisations for the successful implementation of the Project,
- 3.3 meet all additional expenses that may be necessary for the completion of the Project,

- 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 NDI 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 4 million, will be made upon signing of this Contract and approval by MFA of a disbursement request from NDI.

Along with the requests, except the first request, NDI shall submit statements of cash balances from the Project's accounting records.

- 4.2 When determining the amount to request, NDI shall take into account unspent disbursed amounts and income from all sources as well as any accrued interests.
- 4.3 Funds will be transferred upon MFA's approval of the request to the following bank account in the name of NDI and will be available for the Project immediately:

4.4

Registered Name: National Democratic Institute
Bank Name: Sun Trust Bank (Dupont Circle Branch)
Account No.: 206660219
ABA No.: 061000104
Address: 1369 Connecticut Ave., NW
Washington, DC 20036
S.W.I.F.T.: SNTRUS3A

- 4.5 NDI shall immediately, in writing, acknowledge receipt of the funds. The date of receipt shall be stated as well as the exchange rate applied.

5. Reporting

- 5.1 NDI shall submit the following reports/documentation to MFA:
 - An annual progress report for the previous year within January 15th each year except in 2010,
 - financial statements for the Project showing receipts/income and expenditures the previous year as well as the cash/financial position of the Project as per November 30th the previous year within January 15th each year,
 - a budget and work plan for the coming year within January 15th each year with an updated revolving plan for the entire Project period. The first work plan will be due within a month of completion of the baseline assessments,

- the audited annual financial statements of the entire organisation within April each year, as well as audited reports and the management letter according to clause 6 below and Annex II within 1. April each year.
 - a final report for the whole Project period, as well as the interim final financial statement within 6 months after completion of the Project.
- 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”.
- 5.4 MFA shall respond in writing within 6 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 financial statements of NDI shall be audited by an independent professional accountant (auditor) or a recognised auditing firm acceptable to MFA. The audit shall at least cover the issues mentioned in the Terms of Reference in Annex II to the Contract. NDI shall submit to MFA the audit report and any other report from the auditor significant to the implementation of the Project within 1. April each year, including the Erastus & Company audit of the Kenya office. NDI shall comment upon the auditor’s findings.
- 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. The cost for such an audit will be covered by funds over and above the Grant.

7. Meetings and reviews

- 7.1 Formal meetings shall, except in 2010, be held within February each year unless otherwise agreed in writing. The meetings shall be called and chaired by NDI. 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 A mid-term review focusing on progress to date and the effectiveness of the Project, i.e. the extent to which the Purpose is being/have been achieved, shall be carried out by June 2011 or as stated in the workplan. An assessment of the Project's impact may also be included in the review.

The cost of the reviews shall be covered by the Grant.

- 7.3 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 NDI 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 NDI 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 NDI or of a beneficiary of the aid funds without NDI 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 NDI 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. NDI 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 NDI and one for MFA.

Nairobi, _____

Washington, DC, _____

For the Norwegian Ministry of
Foreign Affairs

For National Democratic Institute

ELISABETH JACOBSEN
Ambassador

KENNETH WOLLACK
President

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

Annex I Agreed Project Summary

Identification of the Project

- Project Title/Name: Kenya – Strengthening political parties to become more responsive, representative institutions
- Implementing institution: NDI

Description of the Project

NDI's goal is “to strengthen the internal democratic practices of political parties so that they become more representative, accountable political institutions and are better able to help advance the national reform agenda in Kenya.

Objectives:

1. promote the development of more responsive and inclusive political party structures;
2. assist political parties to improve policy development; and
3. strengthen the ability of political parties to play a more constructive role in Kenya's wider national reform process.

Outputs

Consultations, multi- and single party training, multiparty forums, training-of-trainers, provincial workshops, other technical assistance, public opinion research and dissemination, research and analysis, M&E of 1) programme implementation 2) parties progress within the programme.

Inputs

- Externally sourced consultants for specific task
- Human resources in NDI-Kenya
- Technical assistance from NDI Washington office
- NOK 15 million Kroner

Main indicators are listed in the Logical Framework (Annex III to this contract)

Major risk factors (internal and external)

| | |
|---|--|
| The anticipated 2012 elections are postponed. | In the event that elections are postponed, NDI would need to sustain its program over a longer period of time. NDI would discuss with the donor how this could be achieved. |
| Selected political party partners re-organize and create new factions or parties. | The party structure in Kenya is not stable. Individuals frequently defect between parties and new party coalitions and alliances of often formed in advance of elections. However, in spite of this, there is relatively low turnover within the political leadership as a whole. The delivery of NDIs assistance to party structures would be adapted to take account of mergers and coalitions but the nature of the assistance itself is not likely to change significantly. In the case of party trainers, NDI would seek to ensure that the program remains broadly balanced between electoral competitors, irrespective of any changes in party alliances. |
| Violence erupts during the course of the referendum campaign. | In this event, NDI would need to postpone program activities until normalcy was restored but the nature of the activities would not necessarily be affected. NDI would need more time in which to complete the activities and this would be discussed with the donor. |
| The election campaign period starts earlier and lasts longer than expected | If the campaign period comes early and parties turn their attention toward elections sooner than anticipated, NDI may need to reassess the focus of some of its activities with the parties. Any changes would be discussed with the donor first. |

Overall Budget

| BUDGET CATEGORY | | TOTAL Year 1 (USD) | TOTAL Year 2 (USD) | TOTAL Year 3 (USD) | TOTAL PROJECT USD |
|---------------------------|------------------------------------|--------------------------|--------------------------|--------------------------|-------------------------|
| I. | SALARIES AND BENEFITS | \$162 246 | \$166 263 | \$181 131 | \$509 641 |
| II. | FIELD STAFF ALLOWANCES | \$27 758 | \$25 140 | \$33 124 | \$86 023 |
| III. | FIELD OFFICE RENT AND UTILITIES | \$8 160 | \$10 037 | \$12 345 | \$30 542 |
| IV. | SUPPLIES AND EQUIPMENT | \$40 380 | \$8 450 | \$4 583 | \$53 413 |
| V. | COMMUNICATIONS | \$12 000 | \$12 360 | \$12 731 | \$37 091 |
| VI. | TRAVEL AND PER DIEM | \$80 482 | \$77 152 | \$118 204 | \$275 838 |
| VII. | CONTRACTUAL SERVICES | \$347 160 | \$184 215 | \$263 002 | \$794 377 |
| VIII. | CONSULTANT FEES | \$16 800 | \$1 800 | \$12 850 | \$31 450 |
| IX. | OTHER DIRECT COSTS | \$74 730 | \$111 645 | \$148 886 | \$335 261 |
| X. | COORPORATE AGREEMENTS | \$0 | \$0 | \$0 | \$0 |
| XI. | PROGRAM SUPPORT | \$118 536 | \$91 948 | \$121 176 | \$331 660 |
| TOTAL DIRECT COSTS | | \$888 252 | \$689 010 | \$908 032 | \$2 485 295 |
| XII. | OVERHEAD COSTS | \$60 583 | \$56 721 | \$74 751 | \$192 055 |
| GRAND TOTAL | | \$948 835 | \$745 731 | \$982 784 | \$2 677 350 |

Disbursement plan

| | |
|---------------|-----------------|
| November 2009 | NOK 4,0 million |
| August 2010 | NOK 1,8 million |
| February 2011 | NOK 1,9 million |
| August 2011 | NOK 1,9 million |
| February 2012 | NOK 2,7 million |
| August 2012 | NOK 2,7 million |

Annex II Terms of Reference for audit

Copies of NDI's annual institutional audit report as required by the US Government and the audit report of expenses incurred in the NDI/Kenya office as required by the Revenue Authority of the Government of Kenya satisfy the audit requirements of Articles 5.1 and 6.1 and this Annex.

The Erastus and Company audit is an annual audit required by the Revenue Authority of the Government of Kenya in connection with registration of the NDI Kenya office. This audit covers expenses incurred in the NDI Kenya office during the period June 1 through May 31.

The auditor shall carry out the audit in accordance with any national legislation for Non-Governmental Organisations as well as International Standards on Auditing.

The audit report(s) shall state the auditor's opinion/findings as to:

- whether the audit has uncovered material weaknesses in financial systems of financial control or accounting,
- whether the audit has uncovered any illegal or corrupt practices,
- whether funds have been used exclusively to cover Project expenditures

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

The auditor shall also, if warranted due to accounting deficiencies noted during the audit, submit a management letter to the organisation upon completion of the audit.

ANNEX III: LOGICAL FRAMEWORK

| OBJECTIVE 1: Promote the development of more responsive and inclusive political party structures | | | |
|---|---|---|---|
| Result | Indicators | Data Source | Risks/Assumptions |
| <p>Result 1.1: Political parties build internal training capacity in core areas of party development</p> | <p><i>Indicator 1.1.1: Number of party trainers who take part in ToT program (output)</i></p> <p>Indicator 1.1.2: Number of parties participating in ToT program that use core trainers to develop local party structures (outcome)</p> | <ul style="list-style-type: none"> • Workshop sign-in forms • Reports from party trainers and minutes of meetings with trainers | <p>Party members are willing to participate in the ToT program and become trainers for their parties</p> |
| <p>Result 1.2: Women and youth more effectively engage in political party decisionmaking</p> | <p>Indicator 1.2.1: Number of women in NECs who provide substantive recommendations to party decisions. (outcome)</p> <p>Indicator 1.2.2: Number of women and youth trained by NDI to serve as core party trainers (output)</p> | <ul style="list-style-type: none"> • Observation and interviews with members of party NECs (women and men) • Party records, NDI records | <p>Political parties comply with Political Parties Act requirement for NEC gender quota</p> <p>An adequate number of women and youth are already active in party structures, and that they are ready to take on roles as party trainers</p> |
| <p>Result 1.3: Political parties enhance their efforts at voter outreach between elections</p> | <p>Indicator 1.3.1: Number of parties that apply information obtained through NDI opinion research to citizen outreach strategies (outcome)</p> <p>Indicator 1.3.2: Number of parties that increase their use of two-way communication mechanisms between national leadership and local branches (outcome)</p> <p>Indicator 1.3.3: Percentage of selected parties who increase voter outreach activities between elections (outcome)</p> <p>Indicator 1.3.4: Political parties demonstrate an improved understanding of the importance of conducting voter outreach between elections (outcome)</p> | <ul style="list-style-type: none"> • Observation and interviews • Written party outreach strategies • Minutes of consultative meetings | <p>Political parties continue their commitment to developing stronger communication between national and local structures</p> <p>Political parties continue their commitment to strengthening local party branch structures in a meaningful way</p> |

| OBJECTIVE 2: Assist political parties to employ new methods to improve their policy development functions | | | |
|---|--|---|--|
| Result | Indicators | Data Source | Risks/Assumptions |
| 10.5 Result 2.1: <i>Parties develop more formalized and participatory policy development mechanisms</i> | Indicator 2.1.1: Number of political parties that increase their use of two-way communication mechanisms between party branches and national leadership on policy positions (outcome) | <ul style="list-style-type: none"> • Internal party documents, interviews, and observation • Party benchmarking tool • Minutes from consultative meetings | Parties remain committed to developing stronger communication between national and local structures |
| Result 2.2: Parties better understand how they are perceived by the public and apply that understanding to internal reforms and policy formulation | Indicator 2.2.1: Number of parties that apply research findings to internal reforms and policy development (outcome) | <ul style="list-style-type: none"> • Minutes of party consultations • Observation and interviews | Parties are receptive to feedback about their performance received through public opinion research |
| OBJECTIVE 3: Strengthen the ability of political parties to play a constructive role in the wider reform process | | | |
| Result | Indicators | Data Source | Risks/Assumptions |
| Result 3.1: Parties more effectively help to build consensus on electoral reform process | <p>Indicator 3.1.1: Parties establish mechanisms for regular consultation with the IIEC, its sub-national structures and civil society (output)</p> <p>Indicator 3.1.2: Parties use these mechanisms for resolving concerns and reaching consensus over disagreements (outcome)</p> <p>Indicator 3.1.3: Parties improve the capacity of Electoral Boards to carry out their role in the elections process (outcome)</p> | <ul style="list-style-type: none"> • Observation, interviews • Minutes of national and regional dialogues • Minutes of consultative meetings with election boards | <p>Parties remain committed to achieving electoral reform in Kenya</p> <p>Parties continue to be willing to consult with the IIEC</p> <p>The IIEC continues to have the capacity and willingness to consult with the political parties</p> |
| Result 3.2: Parties better understand the attitudes of citizens toward the electoral process | Indicator 3.2.1: Parties participating in NDI-facilitated forums receive an increased amount of citizen feedback about the electoral process (output) | <ul style="list-style-type: none"> • Minutes of forums • Observation and interviews • Baseline assessment • Interviews with party leadership in the mid-term and final evaluations. | Parties are receptive to feedback about their performance received through public opinion research. |

