

No. 14526

**UNITED STATES OF AMERICA
and
PORTUGAL**

**Grant Agreement — *Technical Consultations and Training.*
Signed at Lisbon on 28 February 1975**

Authentic text: English.

Registered by the United States of America on 31 December 1975.

**ÉTATS-UNIS D'AMÉRIQUE
et
PORTUGAL**

**Accord de don — *Consultations et formation techniques.* Signé
à Lisbonne le 28 février 1975**

Texte authentique : anglais.

Enregistré par les États-Unis d'Amérique le 31 décembre 1975.

GRANT AGREEMENT¹ BETWEEN THE GOVERNMENT OF PORTUGAL AND THE UNITED STATES OF AMERICA (TECHNICAL CONSULTATIONS AND TRAINING GRANT)

AGREEMENT and GRANT, dated February 28, 1975, between the GOVERNMENT OF PORTUGAL ("Government") and the GOVERNMENT OF THE UNITED STATES OF AMERICA, acting through the AGENCY FOR INTERNATIONAL DEVELOPMENT ("A.I.D.").

Article I. THE GRANT

Section 1.01. GRANT. Upon the terms and conditions stated herein A.I.D. agrees to grant to the Government the sum of Seven Hundred and Fifty Thousand United States Dollars (\$750,000) (the "Grant") to finance the foreign exchange and local costs to promote the economic development of Portugal in accordance with the Program as described in Article II.

Article II. PROGRAM

Section 2.01. PROGRAM. Funds provided hereunder shall be utilized to finance the costs of (a) contracts with United States private firms, universities, individuals or other organizations (hereinafter termed "consultants") to conduct studies, to provide advisory services, or to prepare projects for implementation; and (b) training programs for Portuguese personnel directly engaged in development fields of high priority to the Portuguese Government.

Article III. CONDITIONS PRECEDENT TO DISBURSEMENT

Section 3.01. CONDITIONS PRECEDENT TO ANY DISBURSEMENT. Prior to the first disbursement or to the issuance of the first Letter of Commitment under the Grant, the Government shall, except as A.I.D. may otherwise agree in writing, furnish to A.I.D. in form and substance satisfactory to A.I.D.:

- (a) An opinion of the Attorney General (*Procurador Geral da República*) of Portugal or of other counsel acceptable to A.I.D. that this Agreement has been duly authorized or ratified by, and executed on behalf of the Government, and that it constitutes a valid and legally binding obligation of the Government in accordance with all its terms;
- (b) A statement of the names of the persons holding or acting in the office of the Government specified in Section 8.02, and a specimen signature of each person specified in such statement.

Section 3.02. ADDITIONAL CONDITIONS PRECEDENT. Prior to disbursement of any amount for a particular service financed hereunder, the Government shall, except as A.I.D. may otherwise agree in writing, furnish to A.I.D. in form and substance satisfactory to A.I.D.:

- (a) A description of the services to be obtained and a designation of the agency of the Government which will be responsible for implementation;
- (b) Evidence that a contract for services satisfactory to A.I.D. has been entered into with a consultant selected in a manner acceptable to A.I.D. The Government may

¹ Came into force on 28 February 1975 by signature, in accordance with section 7.01.

obtain previous approval of A.I.D. to contracts that shall be entered into; in such case final approval shall not be refused if final version of contract corresponds to draft approved.

Section 3.03. TERMINAL DATES FOR MEETING CONDITIONS PRECEDENT TO DISBURSEMENT. If all the conditions specified in Section 3.01 shall not have been met within ninety (90) days from the date of this Agreement, or such later date as A.I.D. may agree in writing, A.I.D. at its option, may terminate this Agreement by giving written notice to the Government. Upon giving of such notice, this Agreement and all obligations of the parties hereunder shall terminate.

Section 3.04. NOTIFICATION OF MEETING OF CONDITIONS PRECEDENT TO DISBURSEMENT. A.I.D. shall notify the Government upon determination by A.I.D. that the conditions precedent to disbursement specified in Section 3.01 and, in each case, 3.02 have been met.

Article IV. GENERAL COVENANTS AND WARRANTIES

Section 4.01. CONTRACT APPROVALS. A.I.D. reserves the right to approve all services to be financed under the Program, the consultants selected to perform services, and all contracts financed under this Grant and amendments thereto, prior to the execution of such contracts. A.I.D.'s approval of such services and contracts shall not be unreasonably withheld.

Section 4.02. EXECUTION OF THE PROGRAM. The Government will use its best efforts to facilitate the work of the consultants whose services are financed under this Grant and will insure that all contracts are carried out in accordance with their terms, as approved by A.I.D. The Government shall provide promptly as needed all funds in addition to those made available under the Grant needed for the effective carrying out of the Program.

Section 4.03. CONTINUING CONSULTATION. The Government and A.I.D. shall cooperate fully to assure that the purpose of the Grant will be accomplished. To this end, the Government and A.I.D. shall from time to time, at the request of either party, exchange views through their representatives with regard to the progress of the Program, the performance by the Government of its obligations under this Agreement, the performance of the consultants, and other matters relating to the Program.

Section 4.04. TAXATION. This Agreement shall be free from any taxation or fees imposed under the laws in effect within the country of the Government. As, and to the extent that any consultant financed hereunder, and any property or transactions relating to contracts with consultants are not exempt from identifiable taxes, tariffs, or duties and other levies imposed under laws in effect in the country of the Government, the Government shall make certain that payments which shall be financed under this Agreement shall be destined for payment of services and not for payment of such taxes, tariffs, or duties. Otherwise, the Government shall reimburse the same under Section 7.03 of this Agreement with funds other than those provided under this Grant.

Section 4.05. UTILIZATION OF SERVICES. Services financed under the Grant shall be used exclusively for the Program except as A.I.D. may otherwise agree in writing.

Section 4.06. MAINTENANCE AND AUDIT OF RECORDS. The Government shall maintain, or cause to be maintained, in accordance with sound accounting principles and practices consistently applied, books and records relating to the services performed hereunder and to this Agreement. Such books and records shall without limitation, be adequate to show:

- (a) the receipt and use made of services financed with funds disbursed pursuant to this Agreement;

- (b) the nature and extent of solicitations of prospective suppliers of services required;
- (c) the basis of the award of contracts and orders to successful bidders; and
- (d) the progress of the respective services financed hereunder.

Such books and records shall be regularly audited, in accordance with sound auditing standards, for such period and at such intervals as A.I.D. may require, and shall be maintained for five years after the date of the last disbursement by A.I.D.

Section 4.07. REPORTS. The Government shall furnish to A.I.D. such information and reports relating to the Grant and to the services financed hereunder as A.I.D. may request in order to verify accomplishment of the Program.

Section 4.08. INSPECTIONS. The authorized representatives of A.I.D. shall upon application to the Government have the right at all reasonable times to inspect the Government's books, records and other documents relating to the services performed hereunder and the Grant in order to verify accomplishment of the Program. The Government shall cooperate with A.I.D. to facilitate such inspections.

Article V. PROCUREMENT

Section 5.01. PROCUREMENT. Except as A.I.D. may otherwise agree in writing, disbursements made pursuant to Article VI shall be used exclusively to finance the procurement of services having both their source and origin in the United States or in Portugal.

Section 5.02. ELIGIBILITY DATE. Except as A.I.D. may otherwise agree in writing, only services which are contracted for and performed after the date of this Agreement will be financed under the Grant.

Section 5.03. REASONABLE PRICE. No more than reasonable prices shall be paid for any services financed, in whole or in part, under the Grant.

Article VI. DISBURSEMENTS

Section 6.01. DISBURSEMENTS — LETTERS OF COMMITMENT TO UNITED STATES BANKS. Upon satisfaction of conditions precedent, the Government may, from time to time, request A.I.D. to issue Letters of Commitment for specific amounts to one or more United States banks, satisfactory to A.I.D. committing A.I.D. to reimburse such bank or banks for payments made by them to consultants through the use of Letters of Credit or otherwise, for costs of services procured in accordance with the terms and conditions of this Agreement. Payment by a bank to a consultant will be made by the bank upon presentation of such supporting documentation as A.I.D. may prescribe in Letters of Commitment and Implementation Letters. Banking charges incurred in connection with Letters of Commitment and Letters of Credit shall be for the account of the Government and may be financed under the Grant.

Section 6.02. OTHER FORMS OF DISBURSEMENT. Disbursement of the Grant may also be made through such other means as the Government and A.I.D. may agree in writing. It is agreed that such other means shall include reimbursement to Sociedade Financeira Portuguesa (S.F.P.) for payments made by it pursuant to this Agreement upon presentation of such documentation as agreed between the Government and A.I.D.

Section 6.03. TERMINAL DATE FOR DISBURSEMENT. Except as A.I.D. may otherwise agree in writing, no Letter of Commitment or other commitment document which may be called for by another form of disbursement under Section 6.02, or amendment thereto shall be issued in response to requests received by A.I.D. after February 28, 1977, and no disbursements shall be made against documentation received by A.I.D. or any bank described in Section 6.01 or 6.02 after June 30, 1977. A.I.D. at its option, may at any time or times after June 30, 1977, reduce the Grant by all or any part hereof

for which documentation has not been received by such date. In case of need Government may request and A.I.D. shall accept that date of June 30, 1977, be changed to June 30, 1978.

Article VII. TERMINATION AND REMEDIES

Section 7.01. TERMINATION. This Agreement and Grant shall enter into force when signed by both parties. Either party may terminate its respective obligations under this Grant by giving notice in writing to the other party not less than 60 days prior to the date specified for termination.

Section 7.02. TERMINATION OF DISBURSEMENT. In the event that at any time:

- (a) Government shall fail to comply with any provision contained herein; or
- (b) An event has occurred which A.I.D. determines to be an extraordinary situation which makes it improbable that the purposes of the Grant will be attained or that the Government will be able to perform its obligations hereunder; or
- (c) Any disbursement would be inconsistent with the legislation governing A.I.D.; or
- (d) A default shall have occurred under any other agreement between the Government or any of its agencies and the United States or any of its agencies,

then A.I.D. may decline (i) to make any further disbursements hereunder; or (ii) decline to make disbursements other than for outstanding commitments.

Section 7.03. REFUNDS. (a) If A.I.D. determines that any disbursement is not supported by valid documentation in accordance with this Agreement, or is in violation of the law governing A.I.D. or that the services financed under this Agreement have not been financed or used in accordance with the terms of the Agreement, the Government shall pay to A.I.D. in U.S. dollars within thirty (30) days after receipt of request, an amount not to exceed the amount of such disbursement. Refunds paid by the Government to A.I.D. resulting from violations of the terms of this Agreement shall be considered as a reduction in the amount of A.I.D.'s obligation under the Agreement, and shall not, unless A.I.D. agrees otherwise in writing, be available for reuse under the Agreement. A.I.D.'s right to require such a refund shall continue for three (3) years following the date of such disbursement, notwithstanding the fact that A.I.D. may have invoked its right to terminate the Agreement.

(b) In the event that A.I.D. receives a refund from any consultant, supplier, or banking institution, or from any other third party connected with the Grant, with respect to services financed under the Grant, and such refund relates to an unreasonable price for services, or to services that were inadequate, A.I.D. shall first make such refund available for the cost of services procured hereunder to the extent justified, the remainder shall revert to A.I.D. and the amount of the Grant shall be reduced by the amount of such remainder.

Section 7.04. WAIVERS OF DEFAULT. No delay in exercising or omitting to exercise, any right, power to remedy accruing to A.I.D. under this Agreement shall be construed as a waiver of such right, power or remedy or any other right, power or remedy hereunder.

Section 7.05. EXPENSES OF COLLECTION. All reasonable costs incurred by A.I.D. (other than salaries of its staff) in connection with the collection of refunds due under this Agreement may be charged to Government and reimbursed as A.I.D. may specify.

Article VIII. MISCELLANEOUS

Section 8.01. COMMUNICATIONS. Any notice, requests, document or other communication given, made or sent by the Government to A.I.D. pursuant to this Agreement

shall be in writing or by telegram, cable or radiogram and shall be deemed to have been duly given, made or sent to the party to which it is addressed when it shall be delivered to such party by hand or by mail, telegram, cable or radiogram at the following addresses:

To Government:

Mail

and Cable Address: Secretaria de Estado do Planeamento Económico
Ministério das Finanças
Avenida Infante d. Henrique
Lisboa, Portugal

To AID:

Mail

and Cable Address: Counselor for Economic and Commercial Affairs
Embassy of the United States of America
Lisbon, Portugal

Other addresses may be substituted for the above upon the giving of notice. All notices, requests, communications and documents submitted to A.I.D. hereunder shall be in English, except as A.I.D. may otherwise agree in writing.

Section 8.02. REPRESENTATIVES. For all purposes relative to this Agreement, the Government will be represented by the individual holding or acting in the office of the Secretaria de Estado do Planeamento Económico, and A.I.D. will be represented by the individual holding or acting in the office of the Director, Office of Capital Development, Bureau for Near East and South Asia. Such individuals shall have the authority to designate by written notice additional representatives. In the event of any replacement or other designation of a representative hereunder, the Government shall submit a statement of the representative's name and specimen signature in form and substance satisfactory to A.I.D. Until receipt by A.I.D. of written notice of revocation of the authority of any of the duly authorized representatives of the Government designated pursuant to this Section, it may accept the signature of any such representative or representatives on any instrument as conclusive evidence that any action effected by such instrument is duly authorized.

Section 8.03. IMPLEMENTATION LETTERS. A.I.D. shall from time to time issue Implementation Letters that will, with the concurrence of the Government, prescribe the procedures applicable or give notice of approvals required in connection with the implementation of this Agreement.

IN WITNESS WHEREOF, the Government and the United States of America, each acting through its respective duly authorized representative have caused this Agreement to be signed in their names and delivered as of the day and year first above written.

Government of Portugal:

By: *[Signed]*

Name: Dr. JOSÉ DA SILVA LOPES

Title: Minister of Finance

United States of America:

By: *[Signed]*

Name: FRANK C. CARLUCCI

Title: Ambassador of the United States of America