

No. 16620

**UNITED STATES OF AMERICA
and
LAKE CHAD BASIN COMMISSION**

Grant Agreement—*Final engineering design of two road links (with annex). Signed at N'Djamena on 25 June 1976*

Authentic texts: English and French.

Registered by the United States of America on 27 April 1978.

**ÉTATS-UNIS D'AMÉRIQUE
et
COMMISSION DU BASSIN DU LAC TCHAD**

Accord de subvention — *Plans techniques définitifs de deux liaisons routières (avec annexe). Signé à N'Djamena le 25 juin 1976*

Textes authentiques : anglais et français.

Enregistré par les États-Unis d'Amérique le 27 avril 1978.

GRANT AGREEMENT¹ BETWEEN THE AGENCY FOR INTERNATIONAL DEVELOPMENT AND THE LAKE CHAD BASIN COMMISSION (*FINAL ENGINEERING DESIGN OF TWO ROAD LINKS*)

Project No. 625-22-310-534
No. 677-76-6

GRANT AGREEMENT BETWEEN THE AGENCY FOR INTERNATIONAL DEVELOPMENT AND THE LAKE CHAD BASIN COMMISSION (*FINAL ENGINEERING DESIGN OF TWO ROAD LINKS*)

This GRANT AGREEMENT made and entered into as of the 25th day of June, 1976, by and between the GOVERNMENT OF THE UNITED STATES OF AMERICA, acting through the AGENCY FOR INTERNATIONAL DEVELOPMENT (hereinafter called "A.I.D.") and the LAKE CHAD BASIN COMMISSION (hereinafter called "Commission").

Article I. THE GRANT

Section 1.01. THE PROJECT. The purpose of the Grant is to assist the Commission in financing the final engineering design of two (2) roads, as described in Annex I, attached hereto, which Annex may be modified by written agreement between the parties. The final engineering design of the elements described in Annex I shall be hereinafter referred to as the "Project." The goods and services to be financed under the Grant shall be more fully described in the Implementation Letters referred to in Section 6.11.

Section 1.02. THE GRANT. To assist the Commission in meeting the costs of the Project, A.I.D., pursuant to the Foreign Assistance Act of 1961, as amended, hereby grants to the Commission, in accordance with the terms of this Agreement, an amount not to exceed one million United States Dollars (\$1,000,000). This Grant may be used to finance United States Dollar costs ("Dollar Costs") and local currency costs ("Local Currency Costs") of goods and services required for the project. Unless A.I.D. otherwise agrees in writing, the amount of Local Currency Costs which may be financed under the Grant shall not exceed the amount obtained by subtracting the total Dollar Costs of the Project from the amount of the Grant.

Article II. CONDITIONS PRECEDENT TO DISBURSEMENT

Section 2.01. CONDITIONS PRECEDENT TO INITIAL DISBURSEMENT. Prior to the first disbursement or to the issuance of the first Letter of Commitment under this Grant, the Commission will, 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 Chief Legal Counsel for the Commission or of other counsel acceptable to A.I.D. that this Agreement has been duly authorized and/or ratified by, and executed on behalf of, the Commission, and that it constitutes a valid and legally binding obligation of the Commission in accordance with all of its terms;

¹ Came into force on 25 June 1976 by signature, in accordance with section 6.08.

- (b) A statement of the names of the persons holding or acting in the office of the Commission specified in Section 6.02, and a specimen signature of each person specified in such statement;
- (c) An executed contract for the engineering services required for the Project acceptable to A.I.D. with a firm acceptable to A.I.D.; and
- (d) Evidence of the source and availability of funds for the Commission's contribution required by Section 3.01 as well as [a] plan and schedule for the disbursement of such funds.

Section 2.02. NOTIFICATION OF SATISFACTION OF CONDITIONS PRECEDENT. A.I.D. will promptly notify the Commission when A.I.D. determines that the conditions precedent specified in Section 2.01 have been satisfied.

Section 2.03. TERMINAL DATE FOR SATISFACTION OF CONDITIONS PRECEDENT. If all of the conditions specified in Section 2.01 have not been met within ten (10) months 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 written notice to the Commission.

Article III. GENERAL COVENANTS

Section 3.01. CONTRIBUTION OF THE COMMISSION. The Commission shall provide or shall cause to be provided all funds, in addition to the Grant, and all other resources required for the timely and effective carrying out of the Project.

Section 3.02. EXECUTION OF THE PROJECT. (a) The Commission shall carry out the Project with due diligence and efficiency, and in conformity with sound engineering, financial, and administrative practices. In this connection, the Commission shall at all times employ suitably qualified and experienced consultants to be professionally responsible for the design and execution of the Project.

(b) The Commission shall cause the Project to be carried out in conformity with all of the contracts, schedules, and other arrangements, and with all modifications therein, approved by A.I.D. pursuant to this Agreement.

Section 3.03. TAXES. (a) If A.I.D. or any public or private organization furnishing commodities through A.I.D. financing for operations hereunder in any of the Member States of the Commission (hereinafter called "Member States") is under the laws, regulations or administrative procedures of such State, liable for customs duties or import taxes on commodities imported into that State for the purpose of carrying out this Agreement, the Commission will pay such duties and taxes unless exemption is otherwise provided by international agreement.

(b) If any personnel (other than citizens and permanent residents of the Member State) whether United States Government employees, or employees of public or private organizations under contract with A.I.D., the Commission, a Member State or any other agency authorized by a Member State, who are present in such Member State to provide services which A.I.D. has agreed to furnish or finance under this Agreement, are, under the laws, regulations, or administrative procedures of such State (i) liable for income or social security taxes with respect to income upon which they are obligated to pay income or social security taxes to the Government of the United States, (ii) liable for property taxes on personal property intended for their own use, or (iii) liable for the payment of any tariff or duty upon personal or household goods brought into the Member State for their own personal use, the Commission will pay such taxes, tariff, or duty unless exemption is otherwise provided by any applicable international agreement.

Section 3.04. TRAVEL WITHIN MEMBER STATES. The Commission will take such steps as may be necessary to facilitate entry and travel within the Member States for purposes of allowing persons to perform duties, functions and services under this Grant Agreement by securing one-year multiple-entry visas, and securing subsequent visas as required.

Section 3.05. CONSULTATION. The Commission and A.I.D. shall consult as frequently as necessary concerning the execution of this Grant Agreement and the implementation of the activities contemplated by the Agreement.

Section 3.06. REPORTS. The Commission shall keep A.I.D. currently informed as to the status, including the planning and implementation of the project, and will submit to A.I.D. such reports relating thereto as A.I.D. may reasonably request.

Section 3.07. CONVERTIBILITY OF FUNDS. The Commission will make such arrangements as may be necessary so that funds introduced into the Member States by A.I.D. or any public or private agency for the purpose of carrying out obligations as A.I.D. hereunder shall be convertible into currency of that State at the highest rate which, at the time conversion is made, is not unlawful in the Member State.

Section 3.08. REFUND. If A.I.D. determines that any disbursement or expenditure charged to this Grant was not made, used, or applied in accordance with the terms of this Agreement, the Commission agrees to refund to A.I.D. within 30 days after receipt of a request therefor, the amount thereof, provided that A.I.D.'s request is made not later than five (5) years after final disbursement under this Grant.

Section 3.09. INSPECTION AND AUDIT. The parties shall have the right at any time to observe operations carried out under this Grant Agreement. It is agreed that a financial audit of the project will be made by the two parties within six months after final disbursement under this Agreement and a report on the findings made. Any party, including representatives of A.I.D. or the Comptroller General of the United States, during the term of the Grant and three years after final disbursement under this Agreement shall further have the right:

- (a) To examine any property procured through financing by that party under this Grant Agreement, wherever such property is located; and
- (b) To inspect and audit any records and accounts with respect to funds provided by, or any properties and contract services procured through financing by that party under this Grant Agreement, wherever such records may be located and maintained. Financial records, including documentation to support entries on accounting records and to substantiate charges to the Grant, shall be kept in accordance with generally accepted accounting practices. Such records shall be maintained and neither destroyed nor otherwise disposed of until three (3) years after final disbursement under this Grant Agreement, or, if questions about expenditures are raised on audit or otherwise within such time, until all such questions have been resolved. Each party, in arranging for any disposition of any property procured through financing by the other party under this Grant Agreement shall assure that the rights of examination, inspection and audit described in the preceding sentence are reserved to the party which financed the procurement of the property.

Section 3.10. USE OF PROPERTY. Any property furnished pursuant to this Agreement shall, unless otherwise agreed by the party which financed the procurement, be devoted to the Project and thereafter shall be used so as to further the objectives of the Project. Either party shall offer to return to the other or to reimburse the other for any property which it obtains through financing by the other party pursuant to the Agreement which is not used in accordance with the preceding sentence.

Section 3.11. COOPERATION OF MEMBER STATES. The Commission will assure that each of the Member States cooperates with the Contractor selected to perform the

services financed under this Grant. The Commission will take such steps as may be necessary to aid the Contractor in obtaining from the Member States all the available data and information which have a bearing upon the Project. Such material will include, but will not be limited to: charts, maps, reports, geological studies, river gauge readings, rainfall data, hydrological information, population statistics, traffic counts, soils data, test results on sand, gravel, rocks and various construction materials. The Commission shall also make available to the Contractor copies of any relevant studies to which the Commission has access.

Section 3.12. INTEREST EARNED ON GRANT FUNDS. The Commission agrees that if the use of funds provided under this Grant results in the accrual of interest income to the Commission, or any other person or organization to whom such funds are made available in carrying out the purposes of the Grant, the Commission shall pay to A.I.D. an amount equal to the amount of interest accrued.

Article IV. PROCUREMENT

Section 4.01. PROCUREMENT FROM THE UNITED STATES. Except as A.I.D. may otherwise agree in writing disbursements pursuant to Section 5.01 shall be used exclusively to finance the procurement for the Project of goods and services having their source and origin in the United States.

Section 4.02. PROCUREMENT FROM MEMBER STATES. Except as A.I.D. may otherwise agree in writing, disbursements made pursuant to Section 5.02 shall be used exclusively to finance the procurement for the Project of goods and services having their source in the Member States and their origin either in the Member States or in the United States.

Section 4.03. ELIGIBILITY DATA. No goods or services may be financed under the Grant which are procured pursuant to orders or contracts firmly placed or entered into prior to the date of this Agreement.

Section 4.04. PLANS, SPECIFICATIONS AND CONTRACTS. (a) Except as A.I.D. may otherwise agree in writing, the Commission shall furnish to A.I.D. promptly upon preparation all plans, specifications, schedules, solicitations of proposals, and contracts relating to that portion of the Project to be financed by A.I.D. and any modifications therein.

(b) Except as A.I.D. may otherwise agree in writing, all of the documents required to be furnished to A.I.D. pursuant to subsection (a) above shall be approved by A.I.D. in writing.

(c) All documents related to the solicitation of proposals relating to goods and services financed under the Grant shall be approved by A.I.D. in writing prior to their issuance.

(d) The following contracts financed under the Grant shall be approved by A.I.D. in writing prior to their execution:

- (i) contracts for engineering and other professional services,
- (ii) contracts for such other services as A.I.D. may specify, and
- (iii) contracts for such equipment and materials as A.I.D. may specify.

In the case of any of the above contracts for services, A.I.D. shall also approve in writing the contractor and such contractor personnel as A.I.D. may specify. Material modifications in any of such contracts and changes in any of such personnel shall also be approved by A.I.D. in writing prior to their becoming effective.

Article V. DISBURSEMENTS

Section 5.01. DISBURSEMENTS FOR DOLLAR COSTS. Upon satisfaction of applicable conditions precedent, the Commission may, from time to time, request A.I.D. to issue Letters of Commitment for specified amounts to one or more United States banks for payments made to contractors or suppliers, through Letters of Credit or otherwise, for Dollar Costs of goods and services procured for the Project in accordance with the terms and conditions of this Agreement. Payment by a bank to a contractor or supplier will be subject to presentation of such supporting documentation as A.I.D. may prescribe in Implementation Letters. Banking charges incurred in connection with Letters of Commitment and Letters of Credit shall be for the account of the Commission and may be financed under the Grant.

Section 5.02. DISBURSEMENT FOR LOCAL CURRENCY COSTS. Upon satisfaction of applicable conditions precedent, the Commission may, from time to time, request disbursement by A.I.D. of local currency for Local Currency Costs of goods and services, procured for the Project in accordance with the terms and conditions of this Agreement, by submitting to A.I.D. such supporting documentation as A.I.D. may prescribe in Implementation Letters.

Section 5.03. OTHER FORMS OF DISBURSEMENT. Disbursements of the Grant may also be made through such other means as the Commission and A.I.D. may agree to in writing.

Section 5.04. TERMINAL DATES FOR COMMITMENT AND DISBURSEMENT. Except as otherwise agreed by A.I.D. in writing, no Letter of Commitment, other commitment document, or amendment thereto, shall be issued by A.I.D. in response to requests received by A.I.D. after thirty (30) months, and no disbursement shall be made against documentation received by A.I.D. or any bank described in Section 5.01 after 36 months, from the date the Commission satisfies the conditions precedent to disbursements under this Agreement.

Article VI. MISCELLANEOUS PROVISIONS

Section 6.01. TITLE TO PROPERTY. Unless otherwise specified by A.I.D. in writing, title to all property financed by A.I.D. pursuant to the Grant Agreement shall be in the Commission.

Section 6.02. REPRESENTATIVES. For all purposes relevant to this Agreement A.I.D. will be represented by the individual holding or acting in the office of Director, Regional Economic Development Services Office, West Africa, and the Commission will be represented by the individual holding or acting in the office of Executive Secretary.

Section 6.03. COMMUNICATIONS. Any notice, request, document, or other communication given, made, or sent by the Commission or 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 Grantee:

Mail Address:
Executive Secretary
Lake Chad Basin Commission
P.B. 727
N'Djamena, Chad

Cable Address:
Bassintchad

To A.I.D.:

Mail Address:

Country Development Officer
American Embassy
P.B. 413
N'Djamena, Chad

Cable Address:

AmEmbassy N'Djamena

Section 6.04. LANGUAGE OF AGREEMENT. This Agreement is prepared both in English and French. The English language version shall be considered controlling for purposes of interpretation.

Section 6.05. APPLICABLE UNITED STATES LAWS AND REGULATIONS. It is expressly understood that notwithstanding anything in this Grant Agreement to the contrary, A.I.D. shall expend funds and carry on operations pursuant to this Grant Agreement only in accordance with the applicable laws and regulations of the United States Government.

Section 6.06. TERMINATION. Any party may terminate this Grant Agreement by giving the other party thirty (30) days' written notice of intention to terminate it. Termination of this Grant Agreement shall terminate any obligations of the parties to provide financial or other resources to the Project, except for payments which they are committed to make pursuant to noncancellable commitments entered into with third parties prior to the termination of the Grant Agreement. It is expressly understood that all other obligations under this Grant Agreement shall remain in force after such termination.

Section 6.07. SUCCESSOR AND ASSIGNMENTS. This Grant Agreement shall be binding upon and inure to the benefit of any successor of A.I.D. This Agreement may not be assigned nor may any obligations hereunder be delegated by the Commission without the written consent of A.I.D.

Section 6.08. ENTRY INTO FORCE. This Grant Agreement has been prepared in multiple identical copies which have been distributed by A.I.D. to the Commission. This Grant Agreement shall be in full force and effect upon the signing of a single or separate identical copies of all of the parties hereto. Should any party so request, each of the parties hereto agrees to re-execute this Agreement so as to provide each party with a fully executed form of agreement.

Section 6.09. COMPLETION REPORT. Upon completion of the project a completion report shall be drawn up, signed by appropriate representatives of A.I.D. and the Commission, and submitted to A.I.D. and the Commission. The completion report shall include a summary of the actual contributions to the project by each party to this Grant Agreement, and shall provide a record of the activities carried out, the objectives achieved and related basic data. A.I.D. and the Commission shall furnish the other with such information as may be needed to determine the nature and scope of operations under this Grant Agreement to evaluate the effectiveness of such operations. The Commission agrees to transmit written appraisals of any contractor's performance to A.I.D. on completion of such performance.

Section 6.10. ASSIGNMENT OF CAUSE OF ACTION. The Commission agrees to execute an assignment to A.I.D., upon request, of any cause of action which may accrue to it in connection with or arising out of a contractor's performance or breach of performance of any contract financed in whole or in part out of funds provided by A.I.D. under this Grant Agreement. Such a request for an assignment of a cause of action will be made only after consultation between the parties to assure that steps envisioned or taken by the Commission to recover under a cause of action are not prejudiced.

Section 6.11. IMPLEMENTATION LETTERS. A.I.D. may from time to time issue implementation letters that will prescribe the procedures applicable in connection with the implementation of this Agreement.

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

Agency for International
Development:

[Signed]

By: JOHN A. LUNDGREN
Title: Country Development Officer
Date: June 25, 1976

Lake Chad Basin
Commission:

[Signed]

By: BENSON TONWE
Title: Executive Secretary
Date: Le 25 juin 1976

Appropriation No. 72-11X1026
Allotment No. 426-60-677-00-69-61

ANNEX I

DESCRIPTION OF PROJECT

The project consists of financing the final engineering design and preparation of cost estimates and contract documents for the improvement to all-weather standards of two roads in the Lake Chad Basin area:

1. A road from Kousseri (Cameroon) to Fotokol (Cameroon), a distance of about 102 kms (64 miles).
2. A road from Magada (Cameroon) passing through Kaele (Cameroon), Kalfou (Cameroon), and Yagoua (Cameroon) to Bongor (Chad), a distance of about 151 kilometers (94 miles), including a two-lane bridge crossing of the Logone River between Yagoua and Bongor.

The Kousseri/Fotokol road will have a paved surface of a minimum width of 7.3 meters and shoulders on each side of 2.75 meters minimum width.

The Magada/Bongor road will have a paved surface of a minimum width of 7 meters and shoulders on each side of a minimum width of 1 meter.

The design standards will be such as to allow the widest possible range of potential participation in construction financing of the two roads and will conform to the technical requirements of the concerned countries.

The engineering design will take into account the ramifications of the control and diversion of flood waters caused by the road crossing the flood plains between Yagoua and Bongor so as to minimize the adverse impact of such control and diversion on the natural flow of surface water in that area.