

Acuerdos Bilaterales

Clasificación: 87-2005

Fecha de Ingreso: 26 de Octubre de 2005

Nombre de Acuerdo: Memorandum of Understanding between the Trust for the Americas, Inc. and the General Secretariat of the Organization of American States through the Executive Secretariat for Integral Development

Materia:

Partes: SG/OEA & The Trust for the Americas

Referencia: TA

Fecha de Firma: 20 de junio de 2005

Fecha de Inicio:

Fecha de Terminación:

Lugar de Firma:

Unidad Encargada:

Persona Encargada:

Original:

Claves:

Cierre del proceso:

MEMORANDUM OF UNDERSTANDING

Between

THE TRUST FOR THE AMERICAS, INC.

And

THE GENERAL SECRETARIAT OF THE ORGANIZATION OF AMERICAN STATES
THROUGH THE EXECUTIVE SECRETARIAT FOR INTEGRAL DEVELOPMENT

THE PARTIES to the present Memorandum of Understanding (hereinafter referred to as the "MOU") are the General Secretariat of the Organization of American States (hereinafter referred to as "GS/OAS"), through its Executive Secretariat for Integral Development (hereinafter referred to as the "SEDI"), and The Trust for the Americas, Inc. (hereinafter sometimes referred to as "The Trust").

WHEREAS:

That, the general purposes of The Trust, as stated in its Articles of Incorporation and Bylaws are to promote and foster integral development and to fight poverty in the Western Hemisphere through programs, projects and activities focused on social development and the creation of productive employment, education, economic diversification and integration, trade liberalization and market access, scientific exchanges and technology transfer, strengthening of democratic institutions, tourism, sustainable development and protection of the environment, and culture;

That, on September 18, 1998, the Parties entered into a Cooperative Agreement (hereinafter the "September 18, 1998 Agreement") pursuant to which they agreed to "cooperate mutually to conduct, support, and develop inter-American cultural, scientific, and educational activities...."

That, The Trust, is a not for profit organization incorporated under the laws of the District of Columbia, and it is tax exempt under Section 501(c)(3) of the U.S. Internal Revenue Service Code (the "IRS Code");

That, contributions made to The Trust for the Americas are deductible and receive a special treatment for U.S. tax purposes;

That, SEDI has a portfolio of projects for Latin America and the Caribbean for which it is interested in obtaining funds from external donors such as private companies, cooperation agencies, multilateral institutions, foreign governments, and the like;

That Annex D of Executive Order 05-03 Corr. 1 which was issued on January 25, 2005, by the OAS Secretary General provides that SEDI's responsibilities and functions include "support [of] the Trust for the Americas, in keeping with the framework cooperation agreement between the Trust and the General Secretariat";

That, SEDI has expressed an interest in using The Trust as a channel for donations from external donors pursuant to which the donors would be able to take a tax deduction;

That, The Trust has agreed to serve as a channel for donations intended for the implementation of programs by SEDI which are within the scope of the Trust's purposes; and

That paragraph 5.3 of the September 18, 1998 Cooperative Agreement provides that the Parties shall enter into a separate Memorandum of Understanding, Project Agreement, or exchange of letters, for each joint GS/OAS-Trust Project in which they participate, and that each "such document shall

identify the sources of financing for the project, scope of work, and the respective obligations, rights, and privileges of the Parties”;

NOW, WHEREFORE, THE PARTIES AGREE TO ENTER INTO THE FOLLOWING MEMORANDUM OF UNDERSTANDING (“MOU”):

FIRST- NEGOTIATION OF GRANTS AND CONTRIBUTIONS.

1.1 The GS/OAS, through SEDI, will negotiate independently with potential grantors for the donation of funds and other resources for the implementation of its programs. Once funds are approved and prior to their disbursement, the GS/OAS through SEDI, will expressly notify its donors that funds will be received by The Trust for the exclusive use of the GS/OAS’ SEDI, identifying for that purpose the beneficiary program and the conditions for its execution.

1.2 The GS/OAS through SEDI, shall make clear to its donors that The Trust acts only as a channel for the processing of the funds and the issuance of tax certificates, and that after receiving such funds The Trust will transfer them to GS/OAS’ SEDI for the execution of a given program.

SECOND- RECEIPT AND TRANSFER OF FUNDS.

2.1 Donations received by The Trust on behalf of SEDI for programs and/or projects consistent with The Trust’s purposes will be transferred by The Trust to the GS/OAS for the accounts of SEDI.

2.2 GS/OAS, through SEDI and the Office of Budget and Financial Services (“OBFS”), will produce, as required, reports for both the donor and The Trust stating that: (1) funds were received in The Trust’s accounts; and (2) funds were then transferred from The Trust’s accounts and deposited into SEDI’s accounts.

2.3 The OBFS may charge a fee for the management of the funds. In this case, SEDI will negotiate directly with OBFS regarding the specific fee to be charged and assume such costs. Unless otherwise negotiated, a fee of 2% will be charged by OBFS against all funds channeled through The Trust under this MOU. If not paid out of the channeled monies, SEDI will reimburse any fee that the GS/OAS might charge to The Trust for receiving and processing the funds from donors, or for their transfer to SEDI pursuant to this MOU.

THIRD - PROGRAM EXECUTION.

3.1 The GS/OAS through SEDI is solely and entirely responsible for the correct use of the funds donated to it through The Trust, in accordance with the timing, terms, conditions and limitations, if any, set by the donor.

3.2 The GS/OAS through SEDI is consequently responsible for the implementation, execution and termination of the programs for which funds were donated, and will be in charge of such matters as selecting and supervising its staff, purchasing its equipment, managing its relations with partner institutions, and conducting audits. The Trust assumes no responsibility for the management of funds or the implementation of the programs.

FOURTH - BUDGETARY AND PROGRAM CHANGES.

4.1 The GS/OAS through SEDI will ensure that funds are spent according to the agreement with the funding source.

4.2 Any changes that are made by SEDI to the budget of an ongoing program must be made in conformity with the rules of the GS/OAS and the requirements of the funding source, providing a previous written notice and written authorization are given.

4.3 Any proposed change to the budget, schedule of expenditures, and/or purpose of the program or the terms of the grant that, pursuant to the terms of the grant require donor authorization, must be presented to The Trust in writing for its review and comment before being submitted to the donor for its approval. If, within three (3) full business days of the Trust's receipt of this notification, no written comments on the proposed changes are conveyed by the Trust to SEDI, the proposed changes shall be deemed to have been approved by The Trust, and SEDI may send the proposed changes to the donor.

FIFTH - REPORTING OBLIGATIONS.

5.1 SEDI will directly assume the responsibility of reporting to the donors on the status of a given project and the use of funds disbursed through the GS/OAS. However, considering the fact that funds will be channeled through The Trust, some donors might require The Trust to act as guarantor, producing reports on the status of the program on behalf of SEDI. In such case, SEDI will prepare and revise the reports with the highest standard of quality following the reporting requirements set by the donor, present them to OBFS for certification, and then forward them to The Trust for the Trust's review and for subsequent presentation to the donor.

5.2 SEDI will inform The Trust on the status of implementation of each program as well as on its financial status based on the budget and the schedule of expenditures approved by the donor. These reports will conform in format and frequency to the requirements indicated by the donor in the terms of the grant. For this purpose, before sending reports to the donor, SEDI will first present them to The Trust for its review and written comments. If no written comments on the reports are conveyed to SEDI by The Trust within three days of their receipt, the reports shall be deemed to have been approved by The Trust, and SEDI may send the reports to the donor.

SIXTH - ADMINISTRATIVE FEE.

6.1 In the case of SEDI, The Trust will waive the administrative fee it may charge to other Departments or Offices of the GS/OAS for the receipt, processing and channeling of funds.

SEVENTH - INDEMNIFICATION.

7.1 The GS/OAS will defend, indemnify and hold harmless The Trust and its Board of Directors, Executive Director, employees and contractors from any legitimate demands, claims, damages, liabilities, expenses or harms, including reasonable attorneys fees, arising in connection with the execution of a program for which funds are received by and channeled through The Trust to GS/OAS for a SEDI project or program.

EIGHT - SCOPE OF THIS MEMORANDUM OF UNDERSTANDING.

8.1 The rights, limitations and reporting obligations set forth by this document pertaining to The Trust and GS/OAS' SEDI are limited to projects for which funds are donated to the Trust and then transferred by the Trust to GS/OAS for SEDI's use. GS/OAS and The Trust are autonomous in the management of funds and projects that do not fall under this condition.

NINTH - AMENDMENTS.

9.1 Any changes, modifications, additions or amendments to the terms of this Memorandum of Understanding shall be made in writing and signed by a duly authorized representative of each Party.

TENTH - DISPUTE RESOLUTION.

10.1 The Parties shall attempt to resolve any controversy, claim, or dispute related in any way to the performance or interpretation of this MOU through consultations with each other. If that proves unsuccessful, then upon written notice by either Party to the other, the dispute shall be resolved through a mutually agreed upon dispute resolution mechanism.

ELEVENTH - PRIVILEGES AND IMMUNITIES.

11.1 Nothing in this MOU constitutes a waiver, express or implied by GS/OAS and/or its personnel of their respective privileges and immunities under the OAS Charter, the laws of the United States of America or under international law.

TWELFTH- APPLICABLE LAW.

12.1 The law applicable to this MOU is the law of the District of Columbia,
USA. THIRTEENTH - NOTICE.

13.1 For purposes of receiving written notice under this MOU, the duly appointed representatives of the Parties are as follows:

a. For The Trust:

Name and Title: Linda Eddleman, Executive Director
Address: The Trust for the Americas
General Secretariat of the Organization of American States
1889 F Street, 7th Floor
Washington, DC 20006
Telephone: 202/458-6978
Facsimile: 202/458-3822

b. For GS/OAS:

(i) For the SEDI:

Name and Title: Antoine Chevrier, Chief of Staff
Address: , SEDI

Organization of American States
1889 F Street, Washington, DC 20006
Telephone: 202/458-6259
Facsimile: 202/458-3526

(ii) For the Office of Budgetary and Financial Services:

Name and Title: Alfonso Munevar, Director and Treasurer
Address: Office of Budgetary and Financial Services of the
Department for Administration and Finance
General Secretariat of the Organization of American States
1889 F Street
Washington, DC 20006
Telephone: 202/458-3076

13.2 Either Party may change its appointed representative(s) under this Section by written notice to the other Party.

FOURTEENTH- DURATION, AMENDMENT, AND TERMINATION.

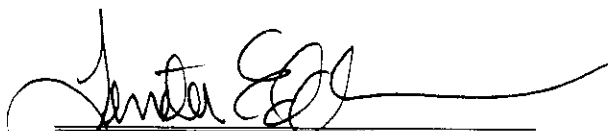
14.1 This MOU shall remain in effect until terminated in writing by either Party upon at least sixty (60) days' advance written notice to the other Party.

14.2 Any change, modification, addition or amendment to this MOU shall be made in writing, signed by the duly authorized representatives of the Parties, and attached to this MOU.


WHEREFORE, the Parties, by their duly authorized representatives, hereby sign this MOU in duplicate originals in Washington, D.C. on the 20 of JUNE, 2005.

For The Trust for the Americas

For the General Secretariat of the
Organization of American States



Linda Eddleman
Executive Director
The Trust for the Americas



Brian Stevenson
Executive Secretary for Integral
Development a.i.