

**ACUERDOS BILATERALES/BILATERAL AGREEMENT/ACORDOS  
BILATERAIS/ACCORDS BILATERAUX**

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Data de Admissão:

Nombre del Acuerdo:  
Name of the Agreement: Financial Agreement for the Projet "Supporting the  
Observation of the 2019 Local Elections in  
Colombia"

Nom de L'accord:  
Nome do Acordo:

Materia:  
Subject: To set forth the general terms and conditions of the  
financial agreement of the projet "Supporting the  
Observation of the 2019 Local Elections in  
Colombia" from October 10, 2019 to April 30, 2020.

Sujet:  
Materia:

Partes:  
Parties Involved: GS/The Federal Republic of Germany  
Parties:  
Partes:

Referencia:  
Reference: The Federal Republic of Germany  
Référence:  
Referência:

Fecha de Firma:  
Signature Date: October 9, 2019  
Date de la Signature:  
Data de Assinatura:

Fecha de Inicio:  
Start Date:  
Date du Commencement:  
Data de Início:

Fecha de Terminación:  
End Date:  
Date de Résiliation :  
Data de Rescisão:

Lugar de Firma:  
Place of Signature: Washington, DC  
Lieu de la Signature:  
Lugar de Assinatura:

Unidad Encargada:  
Unit in Charge:  
Unité Responsable:  
Unidade Encarregada:

Persona Encargada:  
Person in Charge:  
Personne Responsable:  
Pessoa Encarregada:

Cierre del Proceso:  
Closure of Proceedings:  
Clôture des Procédures:  
Fechamento do Processo:

Notas Adicionales/ Additional Notes/Notes Supplémentaires/Notas Adicionais:



Organisation of American States, 1889 F Street N.W.,  
Washington, D.C. 20006, acting through Mr. Luis Almagro, Secretary General  
hereinafter referred to as "the recipient"

The **Federal Republic of Germany**, represented by the **Federal Minister for Foreign Affairs**, the latter acting through the agency of **Mr. Karl Matthias Klause, Head of the Economics Department, Embassy of the Federal Republic of Germany in Washington**, 4645 Reservoir Road NW, Washington DC 20007,

hereinafter referred to as "**the donor**",

and

the **General Secretariat of the Organisation of American States**, 1889 F Street N.W., Washington, D.C. 20006, acting through **Mr. Luis Almagro, Secretary General**

hereinafter referred to as "**the recipient**",

shall, on the basis of German law, conclude the following

## **Agreement**

### **1. Granting of an allocation**

The donor shall grant the recipient in the deficit financing mode a non-repayable allocation of up to

**Euro 90,000.67**

(in words: Ninety Thousand Euro, 67/100)

**(2019: Euro 66,959.64, 2020: Euro 23,041.03)**

for the project '**Supporting the Observation of the 2019 Local Elections in Colombia**' (intended purpose of the allocation) referred to in the application dated 30 September 2019 in the final version of 09 October 2019.

**The allocation may be used as follows:**

**The recipient shall request the funds necessary from the donor in accordance with the progress of the project.**

The allocation may only be requested and used to achieve the intended purpose of the allocation when the recipient's own and other funds envisaged for the project have been exhausted.

If a deficit is to be financed pro rata by several donors, the allocation may only be requested pro rata with the financial promotion from the other donors.

Only funds needed to achieve the intended purpose of the allocation within the next **six-weeks** may be requested and paid.

The recipient may agree or effect payments prior to completion of the relevant service or purchase only where this is customary or where justified in special circumstances.

The equivalent in Euro of the approved allocation shall be calculated on the basis of the exchange rate valid for the donor's cash office on the day of disbursement of the allocation.

The recipient shall bear the risk of any exchange rate fluctuations.

The allocation is approved on the basis of the above mentioned project application (version dated 09 October 2019) and the Financing Plan (version dated 09 October 2019), both of which are integral elements of this Agreement.

The allocation is intended exclusively to defray outlays necessary for the achievement of the intended purpose of the allocation.

## **2. Authorized period**

The **authorized period** shall be the time **from 10 October 2019 to 30 April 2020**.

**Euro 66,959.64** of the allocation referred to in paragraph 1 of the present Agreement **shall be approved for the 2019 financial year** (10 October 2019 to 31 December 2019) and **Euro 23,041.03** of the allocation referred to in paragraph 1 of the present Agreement **shall be approved for the 2020 financial year**.

Parts of the allocation for 2019 not disbursed by 31 December 2019 **cannot be carried forward to the succeeding 2020 financial year**, parts of the allocation for 2020 not disbursed by 31 December 2020 **cannot be carried forward to the succeeding 2021 financial year**.

### **3. Provision of the allocation**

The provision of the full amount of the allocation by the donor is dependent on whether the full amount of the allocation is actually available in the budget of the Government of the Federal Republic of Germany for the 2019 and 2020 financial year (budget proviso).

The donor reserves the right subsequently to reduce the allocation or to terminate the present Agreement in the event that all or part of the funds required for the allocation should be unavailable due to unforeseeable circumstances (e.g. owing to a budget freeze).

The recipient is aware that in any event it is required to meet in full all obligations arising under the present Agreement.

The recipient expressly confirms that the project referred to in paragraph 1 of the present Agreement has not begun before 10 October 2019.

### **4. Financing Plan**

In accordance with paragraph 1 of the present Agreement and with regard to the items eligible for allocations, the Financing Plan in the version dated 09 October 2019 shall be deemed binding.

Individual items of the Financing Plan may be exceeded by up to a maximum of 20%, provided that the excess on each individual item is offset by savings elsewhere.

If, after it has been approved, the total expenditure envisaged in the Financing Plan for the intended purpose of the allocation decreases, if the covering funds increase or new covering funds are obtained, the allocation shall be reduced accordingly. This paragraph only refers to the project measures financed by German funds and does not rule out that other measures under the EOM will be financed by additional donors.

The allocation must be used economically.

The allocation must not be used to create reserves.

### **5. Provisions of procurement law**

The recipient shall implement the project alone and on its own responsibility. In the event that contracts have to be awarded to third parties for supplies, construction work or services, the recipient must comply with its internal procurement law. If such law does not apply, the following principles must be observed:

### **5.1 Awarding of contracts (awarding of contracts for supplies, construction work and services)**

The recipient must act in compliance with competition law when awarding contracts for supplies, construction work and services.

In particular, the recipient must obtain tenders from at least 3 different tenderers; in general the contract should be awarded to the most economical tender; the recipient should document that the correct procedure has been followed.

- This does not apply to small contracts valued at up to 500.00 EUR (or its equivalent in local currency).

### **5.2 Procurement of goods**

- In procuring goods customary trade discounts should be used and agreed.
- The procured goods must be used until the end of the authorized period and for the intended purpose of the allocation specified in paragraph 1 of this Agreement.

Upon expiry of this period the recipient may dispose freely of the procured goods.

If the acquisition value (without value added tax) of an individual item exceeds Euro 800.00 (or its equivalent in local currency), the item must be inventoried on procurement. An inventory note must be made on the relevant bill.

The donor must be informed in writing of any loss, substantial damage or theft of inventoried items.

The donor is entitled to examine or to instruct his representative to examine the inventoried items in situ.

## **6. Safeguarding of rights**

In the case of allocations relating to publications, the recipient undertakes to make available to the donor 3 free copies of each publication.

The recipient undertakes to allow the results of academic / scientific works to be used by the public.

The recipient undertakes to make public reference to the financial support in an appropriate manner in agreement with the donor.

## **7. Prevention of corruption**

The recipient undertakes to take appropriate personnel, organisational and administrative measures in order to prevent the allocation from being misappropriated, as well as to avoid the influence of corruption on project activities.

The recipient shall in addition stop all practices that could lead to allegations of corruption. The donor must be informed immediately if there are indications of violations of the stated aim of the allocation, other evidence of corruption or actions that could lead to criminal charges.

The donor may demand repayment of any already disbursed contributions if there are good grounds to believe that these payments have been misappropriated. The recipient will be given an opportunity to comment in advance.

## **8. Payment modalities**

### **8.1. Completion of payments by the recipient**

The recipient may make payments in advance of the consideration only to the extent that this is customary or justified in special circumstances. Any such special circumstances must be detailed in the Proof of Employment of Funds.

### **8.2. Request for the allocation by the recipient**

The recipient shall request the allocation in part (instalments) only to the extent that and not until it is needed for defraying outlays eligible for allocations which are likely to fall due within six-weeks of such request.

The letter requesting the allocation must give details of the income and expenditure envisaged for the next six-weeks, as well as of the own funds and third-party funds already defrayed.

Each request from the recipient should be submitted to the donor approx. 1 week prior to payment of the allocation in case there are any outstanding questions and to allow enough time for the request and payment to be processed.

### **8.3. Payment of the allocation by the donor**

The allocation shall be transferred at the recipient's request in instalments to the following bank account:

**Name of the recipient:** General Secretariat of the Organisation of American States

**Name of the bank:** Bank of America

**Account number:** 002080125354

**SWIFT code:** bofaus3n

**IBAN:** 0260-0959-3

**Reference:** DEMO 16/2019 (DEMO)

## **9. Interest**

### **9.1. Interest on the allocation**

The recipient shall administer the allocation in accordance with its internal policies and procedures as they relate to projects financed by external donors, as follows:

- A project must have a minimum equity balance of USD 100,000 in order to qualify for interest accreditation; and
- Interest accreditation will only be recorded if the project earned a yield of at least USD 200 during the quarter.

Any interest so accrued shall be reported to the donor in writing as part of the statement of account as specified in this agreement. In addition, any such accrued interest may be returned to the donor if so requested.



The accrued interest may not be used to offset bank charges incurred.

## **9.2. Default interest**

The donor shall be entitled to demand default interest from the recipient if

- a) an allocation is not used within six-weeks of payment for the fulfilment of the intended purpose of the allocation,
- b) the recipient requests the donor to pay an allocation even though his own funds or funds from third parties are to be used in the first instance or pro rata,
- c) the recipient fails to repay immediately and without being asked
  - unused parts of an allocation remaining after conclusion of the project or after expiry of the approved period, or
  - (accrued) interest earned.

The annual default interest rate shall be fixed from the date of the obligation to pay/repay until the date on which it is received by the donor at five percentage points higher than the relevant basic interest rate of the German Bundesbank.

## **10. Accounting and repayment modalities**

The recipient undertakes to keep a current record of his finances with regard to the project specified in paragraph 1 of the present Agreement.

Should it become clear during or after completion of the project that any part of the allocation is not or is no longer needed for the intended purpose, such part – plus any (accrued) interest incurred – shall be returned 30 days after the submission of the statements of accounts mentioned in paragraph 14 of the present Agreement.

Such interests shall be paid by check to the donor's cash office (German Embassy) quoting the project number. The donor must at the same time be informed in writing that this has been done.

## **11. Recipient disclosure requirements**

The recipient is required to inform the donor without delay

- if, after the application for the allocation has been submitted, the recipient applies for and/or receives additional financial support from another public institution of the Federal Republic of Germany for the same purpose. The same holds for financial support from third parties;
  
- if the intended purpose or other circumstances crucial to the approval of the allocation change or no longer apply;
  
- if it becomes clear that the intended purpose cannot or can no longer be fulfilled with the allocation authorized;
  
- if parts of an allocation already paid cannot be used within six-weeks of payment;
  
- if items manufactured or procured using the allocation can no longer be used or are no longer required to fulfil the intended purpose within the authorized time;
  
- if bankruptcy proceedings have been opened or applied for with regard to the recipient's assets, or if the recipient ceases his activities for other reasons.

## **12. Right of audit**

The donor and the German auditing bodies shall be entitled to request books, receipts and other business documents and, if deemed necessary, to examine – or to have representatives examine – on site whether the allocation is being used in accordance with the intended purpose.

To this end, the recipient must have all receipts and documentation available and provide any necessary information during the audit.

The recipient undertakes to keep all original receipts proving income and expenditure, as well as all other documents relating to the financial support, for at least five years starting from the date of submission of the Proof of Employment of Funds.

## **13. Breach of agreement**

The donor reserves the right to withhold or reclaim payment of the allocation or parts thereof, in particular if

- incorrect or incomplete information has been provided in order to obtain the allocation;
- the allocation is not or is no longer being used for the intended purpose;
- it becomes apparent that the intended purpose cannot be achieved, or cannot be achieved with the approved allocation;
- circumstances arise which alter or nullify the intended purpose;
- the total expenditure for the intended purpose falls, if the recipient's own funds or third-party funds increase or if the recipient or third parties come up with new funds;

- the allocation is not used for the intended purpose within six-weeks of its payment;
- if the items manufactured or procured using the allocation can no longer be used or are no longer required to fulfil the intended purpose within the authorized time;
- conditions imposed by the donor cannot be achieved or cannot be achieved within the set period, in particular if the required Proof of Employment of Funds cannot be submitted on time and if the disclosure requirements set forth in paragraph 11 of the present Agreement are not met;
- bankruptcy proceedings have been opened or applied for with regard to the recipient's assets. In this context it must be remembered that all payments must immediately be discontinued and any funds already disbursed must be audited.
- The approved funds shall be repaid if they are not used or if they are not duly used in accordance with the intended purpose. The amount to be repaid is the amount in euros (in the case of partpayments the total in euros) as noted by the cash office (accounts) at the Embassy upon disbursement.

In the event of repayment in local currency, the amount in euros resulting from the exchange rate valid for the cash office on the day of payment shall be deemed to have been paid.

The donor shall give the recipient the opportunity to present his position before payments are discontinued or reclaimed.

#### **14. Proof of Employment of Funds**

The recipient shall submit an interim **Proof of Employment of Funds** to the donor by **10 February 2020**. This shall comprise a **substantive report and a statement of account (without list of receipts)**.

The recipient shall submit a **Proof of Employment of Funds** in duplicate to the donor by **31<sup>st</sup> October 2020** at the latest. The **Proof of Employment of Funds shall comprise a substantive report, a statement of account and a list of receipts**. The recipient must use the

forms made available for this purpose.

The **substantive report** must give detailed information about how the allocation was used, describe the measures implemented, present the result achieved and state to what extent the intended purpose has been achieved. In the **report** the recipient should explain the main positions of the statement of account and justify the necessity and appropriateness of the completed project activities.

The **statement of account** must give separate information about income and expenditures in chronological order – in accordance with the Financing Plan of 09 October 2019. The statement of account must contain all income and expenditure in connection with the intended purpose.

The **list of receipts** should be drawn up in accordance with the form provided.

#### **14.2 Confirmation**

The Proof of Employment of Funds must contain confirmation that the expenditures were necessary, that the allocation was used economically and that the figures contained therein coincide with those in the books and original receipts.

#### **14.3 Submission of original receipts with translations**

If the donor so requires, the recipient is obliged to submit copies of relevant receipts. The original documents have to be kept for at least five years and shall be available for review by the donor. If receipts are so requested, foreign-language receipts (except those in English, French or Spanish) must be accompanied by a German translation giving the essential information contained in the receipts.

#### **15. Jurisdiction/arbitration clauses**

The contracting parties shall take measures to settle any problem concerning a dispute, difference of opinion or claim arising from or relating to this Agreement by direct negotiation. The same shall apply to issues concerning the breach, termination or invalidity of this Agreement.

If the Parties are unable to reach a mutually satisfactory solution, they shall submit the matter to a mutually agreed upon procedure of arbitration. The decision shall be final and binding and not subject to appeal.

**16. Privileges and Immunities**

The donor and the recipient mutually recognize the privileges and immunities they enjoy by virtue of the relevant agreements and laws on the subject and general principles and practices of international law.

**17. Amendments**

The Allocation Agreement may only be amended in whole or in part by written agreement between the donor and the recipient.

**18. Entry into force**

This Agreement shall enter into force immediately upon signature by the duly authorized representatives of the contracting parties and shall remain valid until the donor and the recipient have fulfilled all their obligations thereunder.

Washington, *October 9, 2019*

(place, date)

*Karl Matthias Klause*

(signature of Mr. Karl Matthias Klause)

*[Handwritten signature of Mr. Luis Almagro]*

(signature of Mr. Luis Almagro)