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December 21, 2001

U. S. AGENCY FOR
INTERNATIONAL
DEVELOPMENT
ACTION MEMORANUUM

NOTE: SEE APPROVAL AND NOTE ON
ITEM 5B ON PAGE 5
cc: Winter, Rogers, Garvelink, Lynch,
OFDA (Tami), OTI (A.Lee -Nurick (Dra_

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Chron

TO: The Administrator

FROM: A-AA/DCHA, Leonard Rogers /s/

SUBJECT: Post-Crisis Planning and Implementation
USAID Policies and Regulations

ISSUES FOR DECISION

Several internal working groups and lessons-learned studies have identified possible program and procedural reforms to facilitate planning and implementing activities in post-crisis or post-emergency situations. As part of the charter and work plan you recently approved for the Emergency Response Council, we have obtained consensus from the members, and senior managers in their respective bureaus, on recommended actions. This action memorandum requests your approval of post-crisis planning and implementation policies and procedures in the following areas: 1) strategic planning; 2) funding mechanisms; 3) procurement authorities; 4) legislative authorities; and 5) staffing.

ESSENTIAL FACTORS

USAID missions and regional bureaus--experienced long delays in redirecting programs and obtaining resources to respond to reconstruction needs after a major crisis. In the major disasters caused by Hurricane Mitch in 1998 and the southern Africa floods, missions faced many months of uncertainty and indecision related to the design and implementation of new programs. Delays in transitioning from a development program to crisis, transition, and reconstruction programming are the result of:

- Five-year program strategies that do not anticipate a need for redirection of resources in the event of a crisis;

- Lack of authority at the field level to revise strategies or create special objectives (SPOs) without review and approval by USAID/Washington;
- Reluctance on the part of senior managers in the field and Washington to disrupt ongoing programs, and uncertainty about their authorities to do so, even in the face of a large-scale disaster;
- Resources that are tied up in grants and contracts, not allowing for redirection to other activities without amending these instruments;
- Earmark and account restrictions on the use of USAID program funds;
- Procurement regulations that require a lengthy process of solicitation, review of proposals, and the processing of an award by procurement officers;
- The lack of staff to design and implement new programs, as well as focus attention exclusively on procurement and administration of new awards; and
- The lack of uniformity and knowledge of "best practices" on the design and implementation of post-crisis transition and reconstruction programs.

The Emergency Response Council discussed the options for addressing these constraints in the following areas: strategic planning; funding; procurement; legislative authorities and staffing. These areas are discussed in detail in the attachment. We also provide options for facilitating post-crisis or reconstruction planning and implementation within each of these areas.

RECOMMENDATIONS:

1. Strategic Planning--The Crisis Modifier

That the ERC in collaboration with regional bureaus' senior managers, put together a list of countries in which the crisis modifier would be an appropriate clause for inclusion in strategies and implementation instruments. GC will work with OP and the regional bureaus to draft appropriate language for use in the above documents. Guidance on the use of the Crisis Modifier will be forwarded to the missions by cable from DCHA, PPC, and the regional bureaus. (The crisis modifier is explained on page 1 of the attachment.)

Approve:

Disapprove:

Date:

2. Funding Alternatives

That you consider the options identified and select the one(s) you determine are most appropriate and feasible for USAID to pursue. As a practical matter, at this stage in the budget process, given limited funds and other priorities, option B is the most feasible alternative. (Funding alternatives are explained beginning on page 1 of the attachment.)

a. New Appropriation for Reconstruction Activities:

Approve:

Disapprove:

Date:

b. Increased Borrowing Authority for Reconstruction Activities:

Approve:

Disapprove:

Date:

c. Regional Bureau Set-Asides for Reconstruction Activities:

Approve:

Disapprove:

Date:

3. Procurement Authorities

That you direct GC and OP to develop a package of waivers, similar to the HIV/AIDS omnibus waiver package, for reconstruction activities. explained beginning on page 3 of the attachment.)

Approve:

Disapprove:

Date.

4. Legislative Authorities

That you direct LPA and GC to develop strategies for obtaining the flexibility needed in the areas identified as constraints to reconstruction programming. (Explained beginning on page 4 of the attachment.)

Approve:

Disapprove:

Date:

5. Staffing

a. That you direct M/HR to proceed with the development of a skills data base of internal resources available for deployment on reconstruction design teams. (Explained beginning on page 4 of the attachment.)

Approve:

Disapprove:

b. That you direct M, PPC, GC and the regional bureaus to work on developing a contract mechanism to address the administrative staffing constraint. The contract would be funded centrally or regionally, depending on the funding alternatives selected above.

Approve:

Disapprove:

Date:

Attachment:

Discussion of pros and cons of each recommendation

CLEARANCE PAGE FOR ACTION MEMORANDUM

Requesting decision on Post-Crisis Planning and
Implementation

Clearances:

ES:D.Aller

P . Callen, AFR/EY draft

D.Boyd, LAC/SA draft

G.Winter, GC draft

M. Korin, E&E draft

R.Cohn, ANE draft

H.Gray, M/B draft

S. Isralow, AFR/SD draft

T. Halmrast-Sanchez, DCHA/OFDA draft

A-Lee, DCHA/OTI draft

L.Lynch, DCHA/PPM draft

S.Isralow, AFR/SD draft

W.Renison, PPC/PDC draft

W.Garvelink, DAA/DCHA draft

J.Gardner, GC draft

W.Garvelink, DAA/DCHA

Drafted:KNurick, DCHA/PPM:x25024;12/14/01 revised

ATTACHMENT**Discussion of Areas for Program Reform and
Pros and Cons of Each Funding Option****1. Strategic Planning: The Crisis or Program Modifier**

Some of our missions have developed creative approaches to dealing with these constraints. USAID/Eritrea, for example, designed its five-year strategy, recognizing that a major humanitarian crisis could occur over the planning period and would require a redirection of resources within established strategic objectives. Last year the mission activated a "program modifier clause" in its strategy, with the concurrence of Africa Bureau and the host government. This allowed for immediate availability of resources to provide relief to the disaster area.

A crisis or program modifier clause is a particularly useful tool for crisis-prone missions and non-presence countries with long-standing emergencies. The clause can't be included in selected, appropriate USAID grants and contracts and other implementation instruments so that resources can be immediately tapped for emergency needs.

One limitation of the modifier clause is that account and earmark restrictions still apply, unless authorities are granted to remove them. The funds, therefore, can only be used for activities "similar" to their original objective. The missions/bureaus would also still need to ask for Washington review if new activities involved a sector not anticipated in the strategy or program modifier clause.

In some cases, however, the program or crisis modifier would be sufficient to avoid delays caused by revising their strategies and amending implementation instruments.

2. Funding Alternatives

In the absence of supplemental appropriations for reconstruction activities after a major crisis, missions and regional bureaus have to look to current portfolio resources, pipelines, and uncommitted funds. This limits

the Agency's capacity to respond without causing long delays and disruptions in current programs. We have identified the following options for tapping resources immediately, either for natural disasters or complex emergencies. A discussion of the pros and cons of pursuing each of these options is included below.

- **New Appropriation for Reconstruction Programs.** The creation of a central or regional fund for post-crisis reconstruction would allow funds to be held in reserve and carried over at the end of the FY. The fund would be appropriated specifically for reconstruction activities and not be earmarked for use in specified sectors, as are earmarked funds. The **A/AID** or his designee would approve the use of these resources on a case-by-case basis.
- **Increased Borrowing Authority.** **USAID** could request increased borrowing authority for reconstruction purposes. This would tap currently available **USAID** resources programmed for other activities. The approach is similar to OFDA's borrowing authority for the emergency phase of disasters. One possibility would be to expand OFDA's borrowing authority and make it available to the regional bureaus for reconstruction activities. The **A/AID** would approve the regional bureaus' requests for exercising this authority on a case-by-case basis.
- **Regional Bureau Set-asides.** A certain percentage of regional OYBs could be set-aside each year for reconstruction activities.

Pros and Cons of Each Funding Option

New Appropriation for Reconstruction Programs

The advantage of this option is that funds would be **accessible immediately**. It also recognizes the reality that in some regions, a major disaster, requiring substantial additional funding, occurs almost every year. If these funds are appropriated for reconstruction after a major disaster, without earmark restrictions, this allows the greatest flexibility in design and implementing appropriate programs.

On the negative side, it may be difficult to obtain congressional approval for the creation of a fund that resembles IDA funding. It may be more appropriate to request a substantial increase in IDA funds for reconstruction programming which is already part of the legislation governing the use of IDA funds. Further, if not obligated, the funds would be available only for the period of the appropriation, not indefinitely.

Increased Borrowing Authority

This option provides relatively quick access to additional funds. Congressional approval may be less difficult to obtain than for the first option since borrowing authority already exists for IDA funds.

However, funding would be diverted from the already limited DA account. Internal conflicts would need to be managed by the budget and/or A/AID's office. In the past, OMB has not favored the borrowing authority option.

Regional Bureau Set-asides

This option is less contentious internally and provides faster accessibility to funds than increasing the borrowing authority.

Earmark restrictions would continue to pose a problem and place limitations on the type of reconstruction activities to be funded unless USAID obtains congressional approval for relief from these restrictions. There are other possibilities currently in the legislation under FAA, section 451, an ESF contingency fund, which requires STATE approval, and under FAA, section 610 which provides authority to transfer funds between accounts. These options have not been used in the past because of lengthy approval processes.

3. Procurement Authorities

The usual 6-8 month delay in preparing solicitation documents, reviewing proposals, and making an award is a major obstacle to programming reconstruction resources in natural disasters and complex emergencies. To avoid these long delays, waivers are available, but senior managers are

reluctant to use them. In the case of IDA funds, notwithstanding authority is available for the obligation of these funds. In the case of the HIV/AIDS supplemental, the expanded response task force worked with GC to draft an "omnibus waiver" package that allows for the purchase of certain commodities (e.g. test kits) without regard to source and origin and provides for specific authorities analogous to the "notwithstanding" provisions. The advantage of the pre-approved package is that senior manager approval is not required on a case-by-case basis.

4. Legislative Authorities

The following requirements are major obstacles to quick and efficient programming of resources for reconstruction. They require review and action by GC and LPA.

- The congressional notification process. Approval to bypass the notification process for every individual reconstruction activity would expedite the start-up of programs. Instead, USAID could notify annually of the amount and criteria for using these funds with illustrative examples of crisis-prone complex emergencies, where they may be used.
- Relief on de-earmarking D.A. funds.
- ESF flexibility and areas of support.

5. Staffing

Over the past year, BHR/OFDA has established several mechanisms for strengthening internal and external surge capacity for disaster response. USAID is **seriously lacking** staff resources to participate in the design and initial phases of implementing reconstruction activities. The Hurricane Mitch Working Group recommended the creation of a SWAT (similar to a DART) with a set of position descriptions and a data bank of USAID personnel (USDH, PSC, FSNS, fellows, PASAs/RSSA) and other USG personnel available worldwide for short-term deployment to design teams.

The most serious deficit of personnel is in the administrative area - contract officers, executive officers, and controllers - for short assignments in the field. If central funding were available, we could set up a contract mechanism similar to OFDA's RATS, to ensure a

ready supply of administrative officers (retired USAID and other USG personnel) for deployment to the field. The RATS contract provides the services of a group of individuals on a retainer basis, ensuring a certain number of work days annually.