

DEED OF AMENDMENT

BETWEEN

COMMONWEALTH OF AUSTRALIA

represented by the Australian Agency for International Development
(AusAID)

ABN 62 921 558 838

and

The Australian National University

ABN 52 234 063 906

FOR

THE CENTRE FOR DEMOCRATIC INSTITUTIONS

AUSAID AGREEMENT NO. 49654

THIS DEED OF AMENDMENT is made this *ninth* day of *June* 2010

BETWEEN:

The **COMMONWEALTH OF AUSTRALIA**, represented by the **AUSTRALIAN AGENCY FOR INTERNATIONAL DEVELOPMENT**, ABN 62 921 558 838 of the Department of Foreign Affairs and Trade ("the Commonwealth") of the one part

AND

The **AUSTRALIAN NATIONAL UNIVERSITY**, ABN 52 234 063 906 of University Executive, Building 10, Chancelry, Canberra, ACT 0200, Australia (the "Organisation").

WHEREAS:

- A. On 6 March 2009 the Commonwealth and the Organisation entered into **Funding Agreement Deed 49654** in writing for the provision of the Activity described in the Agreement.
- B. The Parties have now agreed to alter the Funding Agreement Deed as set out herein.

NOW THEREFORE THIS DEED WITNESSETH as follows:

- 1. In this Deed unless the contrary intention appears, a reference to the "Agreement" is to the Agreement referred to in Recital A.
- 2. Subject to Clause 3 herein the Agreement is amended as set out below:

Delete definition of 'Activity Proposal' in Clause 1.1 (Definitions – 'Activity Proposal') and replace with new definition of 'Activity Proposal':

"Activity Proposal":

for the period 6 March 2009 – 5 March 2010 means the activities outlined in Schedule 1 to this Agreement and also in Annual Plan (1) (in accordance with this Agreement and as accepted in writing by AusAID). It also means the detailed budget outlined in Annual Plan (1) as accepted in writing by AusAID, and must be in accordance with clause headed "Funds and Payment" in this Agreement.

for the period 6 March 2010 – 5 March 2011 means the activities outlined in Schedule 1 to this Agreement and also in Annual Plan (2) (in accordance with this Agreement and as accepted in writing by AusAID). It also means the detailed budget outlined in Annual Plan (2) as accepted in writing by AusAID, and must be in accordance with clause headed "Funds and Payment" in this Agreement.

for the period 6 March 2011 – 5 March 2012 means the activities outlined in Schedule 1 to this Agreement and also in Annual Plan (3) (in accordance with this

Agreement and as accepted in writing by AusAID). It also means the detailed budget outlined in Annual Plan (3) as accepted in writing by AusAID, and must be in accordance with clause headed "Funds and Payment" in this Agreement.

for the period 6 March 2012 – 5 March 2013 means the activities outlined in Schedule 1 to this Agreement and also in Annual Plan (4) (in accordance with this Agreement and as accepted in writing by AusAID). It also means the detailed budget outlined in Annual Plan (4) as accepted in writing by AusAID, and must be in accordance with clause headed "Funds and Payment" in this Agreement.

Delete Clause 2.1 (Term of the Agreement) and replace with new Clause:

Clause 2.1 - Term of the Agreement

The Organisation must commence the Activity on **6 March 2009** ("Activity Start Date") and conclude the Activity by **5 March 2013**.

Delete Clause 9.1 (Intellectual Property Rights) and replace with new Clause 9.1 as follows:

Clause 9.1 – Intellectual Property Rights

The title to all intellectual property rights in or in relation to Agreement Material created during the course of the Activity shall vest in the Organisation upon its creation. The Organisation grants to AusAID a world-wide, irrevocable, royalty-free licence to use the Agreement material.

Delete Clause 13.1 (Reports) and replace with:

Clause 13.1 - Reports

The Organisation shall submit four (4) Annual Plans and four (4) Annual Reports to AusAID as prescribed here in Table 1:

Table 1:

Annual Plans	For the Period	Final to be submitted by
Annual Plan (1)	6 MARCH 2009 – 5 MARCH 2010	1 April 2009
Annual Plan (2)	6 MARCH 2010 – 5 MARCH 2011	6 MARCH 2010
Annual Plan (3)	6 MARCH 2011 – 5 MARCH 2012	6 MARCH 2011
Annual Plan (4)	6 MARCH 2012 – 5 MARCH 2013	6 MARCH 2012
Annual Reports	For the Period	Final to be submitted by

Annual Report (1)	6 MARCH 2009 – 5 MARCH 2010	5 MAY 2010
Annual Report (2)	6 MARCH 2010 – 5 MARCH 2011	5 MAY 2011
Annual Report (3)	6 MARCH 2011 – 5 MARCH 2012	5 MAY 2012
Annual Report (4)	6 MARCH 2012 – 5 MARCH 2013	5 MARCH 2013

Delete Clause 13.10 (Annual Reports) and replace with new Clause 13.10 as follows:

Clause 13.10 - Annual Reports

The Organisation must submit four (4) Annual Reports to AusAID (in accordance with Table 1 of **Clause 13.1**) which must include:

- (a) a summary of the Activities (including projects, research and events), clearly and separately outlining activities undertaken with 'IPD Funds' during the period of the report as detailed above at Table 1;
- (b) progress achieved during the period of the report towards the objectives of the Activity;
- (c) evaluation of CDI's effectiveness against the Performance Evaluation Framework (Annex 1 to Schedule 1 of this Agreement);
- (d) financial acquittal, clearly and separately of 'Core Funds' and 'IPD Funds'. The financial acquittal must acquit the funds against the budget in the Annual Plan (in accordance with this Agreement) and must be signed by the senior financial officer or head of the Organisation or the CDI Director as its delegate, indicating that the Funds have been spent in accordance with the terms of this Agreement.
- (e) any lessons from the assessment of Activity progress; and
- (f) any other information as required or agreed to by AusAID in writing.

Delete Clause 13.11 (Annual Reports) and replace with new Clause 13.11 as follows:

Clause 13.11 - Annual Reports

The fourth Annual Report (Annual Report (4)) shall provide an outline of the completed Activity and in more detail cover key outcomes compared with objectives, development impact, sustainability and lessons learned.

Delete Clause 13.12 (Annual Reports) and replace with new Clause 13.12 as follows:

Clause 13.12 - Annual Reports

The Organisation must submit to AusAID a draft copy of each Annual Report in electronic format compatible with Microsoft Office, four (4) weeks in advance of the final due date, and a final copy of each Annual Report in electronic format along with 5 hardcopies to: Joe Hedger, Director, Governance and Anti-Corruption Section, Australian Agency for International Development, GPO Box 887, CANBERRA ACT 2601 AUSTRALIA; email address: joe.hedger@ausaid.gov.au.

Delete Clause 13.14 (Annual Reports) and replace with new Clause 13.14 as follows:

Clause 13.14 - Annual Reports

The CDI Performance Evaluation Framework for the Activity will be as outlined in Annex 1 to this Schedule 1, and may be amended or updated as agreed in writing by both parties. The indicators in the framework are required to be reported by the Organisation in the Annual Reports.

Delete Clause 14.1 (Funds and Payment) and replace with new Clause 14.1 as follows:

Clause 14.1 - Funds and Payment

Funds of AUD 7,000,000 plus GST if any up to a maximum amount of AUD 700,000 shall be payable as follows, and as outlined in this clause headed 'Funds and Payment':

- (a) 'Core Funds' up to AUD 6,000,000 plus GST of up to a maximum of AUD 600,000.
- (b) 'IPD Funds' up to AUD 1,000,000 plus GST of up to a maximum of AUD 100,000.

Delete Clause 14.2 (Core Funds) and replace with new Clause 14.2 as follows:

Clause 14.2 - Core Funds

Funds for the 'Core Funds' component outlined in **Clause 14.1(a)** above shall be payable by AusAID as an acquittable grant by AusAID in five tranches divided as follows:

Indicative Date	Tranche Number	Amount of Funds
6 March 2009	1	AUD 480,822
1 August 2009	2	AUD 1,500,000
1 August 2010 (but no earlier than 1 July 2010)	3	AUD 1,500,000
1 August 2011 (but no earlier than 1 July 2011)	4	AUD 1,500,000
1 August 2012 (but no earlier than 1 July 2012)	5	AUD 1,019,178
	Total	AUD 6,000,000

Delete Clause 14.3 (Core Funds) and replace with new Clause 14.3 as follows:

Clause 14.3 - Core Funds

Tranche 1 'Core Funds' shall be payable by AusAID within thirty (30) days of the date of this Agreement and receipt of a valid invoice. Subsequent tranches of the 'Core Funds' shall be payable subject to the provision of a statement of acquittal against the detailed budget in the Activity Proposal, of 80% of the previous tranche (but no earlier than the beginning of the financial year scheduled for that tranche payment, as indicated and according to Clause 14.2), a valid invoice and subject to satisfactory progress as determined by AusAID. The statement of acquittal must be signed by the senior financial officer or the head of the Organisation indicating that the Funds being acquitted have been expended, in accordance with the terms of this Agreement.

Delete Clause 14.4 (Funds and Payment) and replace with new Clause 14.4 as follows:

Clause 14.4 - Funds and Payment

Conditions relating to the provision of 'Core Funds' shall be as follows:

- (a) Funds for the provision of activities such as training, workshops, study tours, research and other activities outlined in the Activity Proposal shall be paid with the 'Core Funds'.

- (b) Costs of personnel may be paid with the 'Core Funds'.
- (c) A management fee of AUD 60,000 per annum for the period 6 March 2010 to 5 March 2011 and of AUD 120,000 per annum for the periods 6 March 2011 to 5 March 2012 and 6 March 2012 to 5 March 2013. The management fee will meet administrative costs including incurred by the Organisation associated with the hosting of CDI (including costs of heat, lighting, office space, facilities for events, and the Organisation's internal resources, such as human resources, information technology, management, financial services, and insurance) and shall be paid with the 'Core Funds';
- (d) The percentage of 'Core Funds' available for research activities shall not exceed 15% of the total 'Core Funds'; and
- (e) Leave accrued for CDI personnel shall be taken before the date for conclusion of the Activity specified in clause 2.1 and in accordance with the Organisation's policies. Leave accrued but not taken before that date will not be paid out by AusAID.

Delete Clause 14.5 (Institute for Peace and Democracy) and replace with new Clause 14.5 as follows:

Clause 14.5 - Institute for Peace and Democracy (IPD Funding)

Funds for the 'IPD Funds' component (outlined in **Clause 14.1(b)** above) shall be payable by AusAID as an acquittable grant by AusAID in two tranches divided as follows:

Indicative Date	Tranche Number	Amount of Funds
6 March 2009	1	500,000
6 March 2010	2	500,000

Delete Clause 14.6 (Institute for Peace and Democracy (IPD) Funding) and replace with new Clause 14.6 as follows:

Clause 14.6 - Institute for Peace and Democracy (IPD) Funding

Tranche 1 of the 'IPD Funds' shall be payable by AusAID within thirty (30) days of the date of this Agreement and receipt of a valid invoice. Subsequent tranches of the 'IPD Funds' shall be payable subject to the provision of a statement of acquittal against the detailed budget in the Activity Proposal, of 50% of the previous tranche, a valid invoice and subject to satisfactory progress as determined by AusAID. The statement of acquittal must be signed by the senior financial officer or the head of the Organisation indicating that the Funds being acquitted have been expended, in accordance with the terms of this Agreement.

Delete Clause 14.7 (Institute for Peace and Democracy (IPD) Funding) and replace with new Clause 14.7 as follows:

Clause 14.7 – Institute for Peace and Democracy (IPD) Funding

Conditions relating to the provision of ‘IPD Funds’ shall be as follows:

- (a) The ‘IPD Funds’ shall support the development of the relationship between IPD and CDI, and shall include, (but not be limited to) the following activities:
 - (i) joint activities, research, exchanges of personnel and academics;
 - (ii) travel for CDI and IPD representatives to relevant regional meetings and to and from Australia;
 - (iii) forms of skills development;
 - (iv) subject to agreement between CDI and IPD, the short term placement of CDI or other academic staff at the IPD;
 - (v) subject to agreement between CDI and IPD, regional conferences or workshops to bring together regional stakeholders to further the direction and development of the IPD;
 - (vi) retaining additional CDI human resources to facilitate engagement with the IPD and supporting IPD staff.

Delete Clause 14.8 (Institute for Peace and Democracy (IPD) Funding) and replace with new Clause 14.8 as follows:

Clause 14.8 Institute for Peace and Democracy (IPD) Funding

Within thirty (30) days of completion of the Activity, the Organisation shall submit a statement acquitting all of the Funds provided under this Agreement (herein referred to as the “final funds acquittal”). The Funds expended with the ‘Core Funds’ and the ‘IPD Funds’ must be clearly and separately outlined in the one acquittal. The final funds acquittal must acquit funds against detailed budgets in the four approved Annual Plans (in accordance with this Agreement) and must be signed by the senior financial officer or head of the Organisation, indicating that the Funds have been spent in accordance with the terms of this Agreement. Any unspent funds, interest earned or exchange rate gains, must be repaid to AusAID with the final Funds acquitted. The final Funds acquittal acquitting all Funds provided under this Agreement shall be subject to the internal and external auditing procedures laid down in the rules and regulations applicable to the Organisation and must also be Independently Audited and certified. The cost of an independent external audit required by this clause may be payable from the Funds.

In Schedule 1 (Activity Proposal), delete Clause 1 and replace with new Clause 1 as follows:

Clause 1

This Activity Proposal sets out the parameters for a 48-month Activity for the Organisation to execute, namely the Centre for Democratic Institutions (CDI) which will support parliamentary and political party democratic reform in partner countries in the Asia-Pacific region and support cooperation with the Bali Institute for Peace and Democracy (IPD).

In Schedule 1 (Activity Proposal), delete Clause 2 and replace with new Clause 2 as follows:

Clause 2

The purpose of the CDI is to respond to the needs of developing countries in the field of good governance and democratic processes and institutions. This is to be achieved by harnessing Australian and international best practice to support regional country partners in strengthening their parliaments and political parties.

In Schedule 1 (Activity Proposal), delete Clause 3.2.

In Schedule 1 (Activity Proposal), delete Clause 4.1 (Core business (Core Funds)) and replace with new Clause 4.1 as follows:

Clause 4.1 - Core business (Core Funds)

CDI's major activity will be the design and delivery of short term, intensive and high quality training and capacity development projects that focus on improving parliamentary and political party processes, systems and integrity by engaging with both elected representatives and relevant party secretariats and officials.

In Schedule 1 (Activity Proposal), delete Clause 4.2 (Core Business (Core funds)) and replace with new Clause 4.2 as follows:

Clause 4.2 - Core Business (Core funds)

The emphasis of CDI's activities will be on providing hands-on opportunities to participants in an effort to transfer skills and build capacity, and to develop knowledge resources in partner countries.

In Schedule 1 (Activity Proposal), delete Clause 4.5 (Core Business (Core funds)) and replace with new Clause 4.5 as follows:

Clause 4.5 - Core Business (Core funds)

The design of CDI's courses and work program will be responsive to partner country demands, draw on local expertise, take place in-country where ever possible (and subject to the availability of appropriate resources), and be responsive to emerging Government priorities and initiatives.

In Schedule 1 (Activity Proposal), delete Clause 6.2 (Geographic Focus) and replace with new Clause 6.2 as follows:

Clause 6.2 - Geographic Focus

On a case by case basis as appropriate, CDI activities will also respond to the needs of Pacific nations outside of Melanesia, with emerging democracies in the Asia region, or with other emerging Australian Government priorities and initiatives.

In Schedule 1 (Activity Proposal), delete Clause 7.1 (Co-ordination of activities) and replace with new Clause 7.1 as follows:

Clause 7.1 - Co-ordination of activities

CDI will communicate regularly with relevant AusAID and DFAT staff in Canberra and at Posts to ensure:

- (a) coherence between the CDI's program and AusAID's or Australian Government initiatives;
- (b) the sustainability of outcomes from activities delivered by CDI;
- (c) consistency of CDI's activities with AusAID policies, particularly AusAID's anti-corruption and gender policies;
- (d) coordination of activities with the Australian Political Parties for Democracy program; and
- (e) consistency of CDI's activities with AusAID country programs and strategies.

In Schedule 1 (Activity Proposal), delete Clause 7.2 (Co-ordination of activities) and replace with new Clause 7.2 as follows:

Clause 7.2 - Co-ordination of activities

CDI will co-ordinate relevant activities with other entities operating in the field of parliamentary process and political party strengthening in the countries nominated in paragraph 6.1, including the following bodies:

- (a) Australian government departments and agencies;
- (b) Australian political parties under the Australian Political Parties for Democracy Program;
- (c) initiatives of other donor agencies;
- (d) the World Bank and the Asian Development Bank;
- (e) the United Nations and its various programmes;

- (f) other relevant bilateral and multilateral organisations;
- (g) relevant local non-governmental organisations;
- (h) other academic institutions focused on governance and democracy; and
- (i) other bodies nominated by AusAID.

In Schedule 1 (Activity Proposal), after Clause 7.2 (Coordination of activities) insert with new Clause 7.3 as follows:

Clause 7.3 - Coordination of activities

CDI will participate in relevant Australian Government mechanisms to support the coordination of political governance support.

In Schedule 1 (Activity Proposal), delete Clause 10.1 (Meetings) and replace with new Clause 10.1 as follows:

Clause 10.1 - Meetings

The CDI Director ('the Director') and any other CDI staff as required must attend meetings in Canberra as required by AusAID to review or discuss this Funding Agreement or the activities of CDI.

In Schedule 1 (Activity Proposal), delete Clause 11.1 (Personnel) and replace with new Clause 11.1 as follows:

Clause 11.1 - Personnel

The Director will be CDI's senior representative responsible for the overall management and direction of the CDI. The Director will be the key point of contact with relevant stakeholders, and will be based in Canberra.

In Schedule 1 (Activity Proposal), delete Clause 11.4 (Personnel) and replace with new Clause 11.4 as follows:

Clause 11.4 - Personnel

The Organisation should note that, in the event that recruitment of a new Director is required, AusAID in conjunction with the Organisation (and having regard to the Organisation's human resources procedures) will undertake the selection and recruitment process. The Director is an employee of the Organisation, however, as the position is considered a 'significant government appointment', the Prime Minister or Cabinet are required to give final approval for any candidate nominated for the position of Director.

In Schedule 1 (Activity Proposal), delete Clause 11.5 (Personnel) and replace with new Clause 11.5 as follows:

Clause 11.5 - Personnel

AusAID will provide input into the Organisation's performance management processes for the Director.

In Schedule 1 (Activity Proposal), delete Clause 11.6 (Personnel) and replace with new Clause 11.6 as follows:

Clause 11.6 - Personnel

With the exception of the Director, the nomination of personnel to ensure the delivery of all required activities will be at the discretion of the Organisation.

In Schedule 1 (Activity Proposal), delete Clause 11.7 (Personnel) and replace with new Clause 11.7 as follows:

Clause 11.7 - Personnel

If the Organisation is required to deliver activities outside Australia, the Organisation will be responsible for the immediate development and implementation of a Security Plan to ensure the safety and security of personnel, including associates and subcontractors. The Security Plan should incorporate prevention strategies and response plans, including evacuation plans where appropriate.

In Schedule 1 (Activity Proposal), delete Clause 13.4 (Annual Plans) and replace with new Clause 13.4 as follows:

Clause 13.4 – Annual Plans

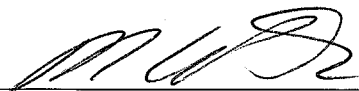
CDI will meet twice annually with the said Assistant Director General and other relevant AusAID and DFAT staff following submission to AusAID of each draft Annual Plan and Report.

3. In all other respects the parties confirm the Agreement.

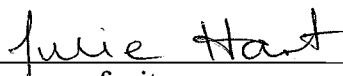
IN WITNESS whereof this Deed has been executed by the Commonwealth, by an authorised officer, and has been executed by the Organisation by its authorised officer.

SIGNED for and on behalf of the
COMMONWEALTH OF AUSTRALIA
represented by the Australian Agency for
International Development by:

in the presence of:


Signature of FMA Act s44 Delegate

Murray Proctor


Signature of witness

JULIE HART
Name of witness
(Print)


~~Deputy Director General, Program Enabling~~
Division

SIGNED for and on behalf of
The Australian National University by

PROFESSOR LAWRENCE CRAM
..... DEPUTY VICE-CHANCELLOR.....
AUSTRALIAN NATIONAL UNIVERSITY
CANBERRA ACT 0200 AUSTRALIA


Signature

By executing this Deed of Amendment the signatory warrants that the signatory is duly authorised to execute this Deed of Amendment on behalf of the Organisation.

in the presence of -

KITTI WHITWORTH
EXECUTIVE ASSISTANT
AUSTRALIAN NATIONAL UNIVERSITY
.....CANBERRA ACT 0200 AUSTRALIA.....
Name of Witness
(Print)


Signature of Witness