



Australian Government

AusAID

2 November 2010

Mr Joseph Lelang
Secretary, Department of National Planning and Monitoring
Vulupindi Haus
PO Box 631
Waigani, National Capital District

Dear Secretary

RE: Electoral Support Program Subsidiary Arrangement

Further to my letter of 27 August 2010 to you regarding the future of the Electoral Support Program, I am writing to request your approval for an extension of Australian Government support. This will require (1) an Exchange of Letters to the current Subsidiary Arrangement, and (2) a new Electoral Support Program (Phase 3) Subsidiary Arrangement. AusAID officers have met with DNPM officers, led by Ms Linda Taman, on 17 August and 20 October 2010 to progress discussions on this.

1: Exchange of Letters to the current Subsidiary Arrangement

The Government of Australia wishes to propose an amendment to the Subsidiary Arrangement relating to the Electoral Support Program through this Exchange of Letters with the Government of Papua New Guinea. The amendment to the current Subsidiary Arrangement is necessary to accommodate an extension to the Electoral Support Program (Phase 2) with a new completion date of 28 February 2011. An additional AUD\$2.28 million will be made available during this extension phase.

2: Electoral Support Program (Phase 3) Subsidiary Arrangement

The Government of Australia also wishes to propose a new Subsidiary Arrangement for the phase 3 of Electoral Support, to commence in February 2011. A new phase of support to Papua New Guinea will build on the successes of the current phase of the program, and provide support up to and throughout the 2012 national elections. The Subsidiary Arrangement states the responsibilities and contributions of the Governments of Australia and Papua New Guinea respectively and specifies the goal of the Program, which is to contribute to strengthened Papua New Guinea electoral systems, working in partnership with the Government of Papua New Guinea. The Subsidiary Arrangement is written in line with and subject to the provisions of the Treaty on Development Cooperation between the two governments.

Enquiries concerning this matter may be directed to Simeon Namunu, Assistant Program Manager, Democratic Governance Unit on ph: 325 9333 ext: 334, or Sophie Temby, Second Secretary Democratic Governance Unit on ph: 325 9333 ext: 472.

The following changes to the current Subsidiary Arrangement are proposed:

Paragraph 1.4

Delete paragraph 1.4 and replace with the following paragraph 1.4:

1.4 *This Subsidiary Arrangement will run through to 28 February 2011. Specific activities will be detailed each year as part of the annual planning process. These annual plans will also state the funding commitment from both Governments and once completed form part of this Subsidiary Arrangement.*

Paragraph 2.1

Delete paragraph 2.1 and replace with the following paragraph 2.1:

2.1 *The Executing Authorities for the Project will be:*

- *For the GOPNG: The Department of National Planning and Monitoring (DNPM).*
- *For the GOA: The Australian Agency for International Development of the Department of Foreign Affairs and Trade (AusAID).*

Paragraph 5.1

Delete paragraph 5.1 and replace with the following paragraph 5.1:

5.1 *The GOPNG and the GOA will provide further support to the reform agenda through a major integrated program of development assistance, different from the last arrangement with the AEC and with a planned duration of five and a half years, concluding 28 February 2011. The ESP Activity adopts a program-based approach with activities to be identified within defined themes and submitted for funding approval, progressively over the life of the ESP Activity.*

Paragraph 9.1

Delete paragraph 9.1 and replace with the following paragraph 9.1:

9.1 *The contributions of the GOA are detailed in Annex 2 of this subsidiary arrangement. Subject to extending the term of the contract, the contribution of the GOA has an estimated value of up to \$26 million detailed in Annex 2.*

Paragraph 18

Delete paragraph 18 and replace with the following paragraph 18:

18. *This Subsidiary Arrangement will take effect from the date of its signature. The Australian contribution to the Project and all commitments given herein will cease four (4) years after the date of signature of this Subsidiary arrangement, or on such other date as may subsequently be established between both parties.*

Annex 2

Delete Annex 2 and replace with the following Annex 2:

Annex 2.

Summary of Costing and Contributions

The nature and timing of Project expenditure will be largely determined by proposals to conduct mini- and micro-projects received from program stakeholders and approved by the Program Board. Such expenditure will follow disbursement schedules developed by the Project Manager in consultation with the Program Board.

The GOA contribution will be up to AUD\$26 million over five and a half years.

The GOPNG contribution will not be quantified, but will be sufficient to enable the arrangements detailed in sections 9 and 10 of the Subsidiary Arrangement, related to contributions and facilitation.

If you consent to this amendment, I would be grateful if you would sign and date two copies of this letter and return one copy to AusAID. These amendments will take effect from the date of your signature below.

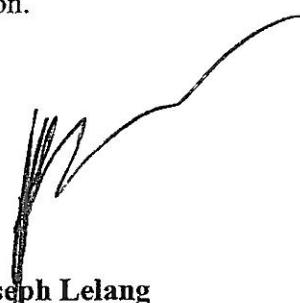
If you consent to the new Subsidiary Arrangement, I would be grateful if you would sign and date the two copies of the Subsidiary Arrangement and return to AusAID for countersignature.

Thank you for your continued cooperation.

Yours sincerely,



Stephanie Copus-Campbell
Minister Counsellor
AusAID Papua New Guinea



Joseph Lelang
Secretary
Department of National Planning and Monitoring

GOVERNMENT OF AUSTRALIA GOVERNMENT OF PAPUA NEW GUINEA

2/11/2010

2010

Copied:

Mr Joe Turia, First Assistant Secretary, Foreign Aid Division
Ms Linda Taman, Assistant Secretary – AusAID Branch Foreign Aid Division

**SUBSIDIARY ARRANGEMENT
BETWEEN
THE GOVERNMENT OF AUSTRALIA
AND
THE GOVERNMENT OF PAPUA NEW GUINEA
RELATING TO THE
ELECTORAL SUPPORT PROGRAM (PHASE 3)**

1. GENERAL

1.1. This Subsidiary Arrangement expresses the understanding of the Government of Papua New Guinea (GOPNG) and the Government of Australia (GOA) (the "Parties") and is made pursuant to the terms of the Treaty on Development Cooperation between the GOA and the GOPNG signed at Port Moresby on 7 October 1999 (the Treaty) and any subsequent amendments or replacement treaty. The terms of the Treaty apply to this Subsidiary Arrangement.

2. NAME OF ACTIVITY

2.1. The name of the activity is the Papua New Guinea Electoral Support Program (Phase 3) ("the Activity").

3. PURPOSE

3.1. The Parties will cooperate in implementing the Activity in support of the development needs of Papua New Guinea. The purpose of the Activity is to contribute to strengthened Papua New Guinea electoral systems. The Activity will build on past phases of GOA funded activities of electoral support to Papua New Guinea, and will support the current efforts of the GOPNG through the Papua New Guinea Electoral Commission (PNGEC) to plan for, and administer, elections.

4. COORDINATING AUTHORITIES

4.1. The Coordinating Authorities for this Activity will be:

For the GOA: The Australian Agency for International Development (AusAID).

For the GOPNG: The Department of National Planning and Monitoring (DNPM).

4.2. The principal participating institution in the project for GOPNG for this Electoral Support Program is the Papua New Guinea Electoral Commission (PNGEC).

- 4.3. GOA will be represented by AusAID Port Moresby, to manage and oversee implementation of the AusAID contribution to the Project and to carry out any part of its commitments under this Subsidiary Arrangement.
- 4.4. AusAID may engage suitably qualified contractors or organisations to carry out any of its functions under this Subsidiary Arrangement.
- 4.5. The Electoral Support Program Board will be responsible for oversight of the Activity and will comprise appointees of the GOA and GOPNG.

5. DURATION OF THE ACTIVITY

- 5.1. The Parties anticipate that the Activity will be implemented over two years. This Subsidiary Arrangement covers the initial period of the Activity and may be extended subject to review in accordance with a mechanism approved by both GOA and GOPNG and subject to normal Australian annual parliamentary approval of budget appropriations.
- 5.2. Either Party may advise the other Party of their withdrawal of participation in, or discontinuation of support for, the Activity in accordance with paragraph 18.1.

6. ACTIVITY LOCATION

- 6.1. The Activity will be located in Port Moresby. There will be some travel between the Activity office and Papua New Guinea Provinces.

7. ACTIVITY DESCRIPTION

Background

- 7.1. Free and fair elections are critically important to strengthening democracy, governance and stability in Papua New Guinea. Support to free and fair elections in Papua New Guinea is also of critical importance to Australia, given Australia's close relationship with, and proximity to, Papua New Guinea. GOA funded support to the Papua New Guinea Electoral Commission (PNGEC) began in April 2000 and involved strengthening the capacity of the PNGEC to plan and conduct the 2002 national elections. Phase 2 of support (ESP2), which commenced in 2005, had an additional focus of improving broader electoral systems and environment. The Activity will build on past phases of AusAID funded activities of electoral support to PNG and support the current efforts of the Government of Papua New Guinea (GOPNG) through the PNGEC to plan for, and administer, elections.

Activity Description

- 7.2. The Activity will support a series of smaller activities developed by various program partners (national and provincial government agencies, civil society organisations) either individually or jointly, to achieve one or more of the component objectives. The implementation of activities will be supported by a Contractor, with the approach designed to ensure that the Program remains

focused upon the needs of the electoral system as identified by stakeholders. There are four Program components:

Component 1

- (a) *Objective:* Strengthen Electoral Governance
- (b) *Description:* This component relates to matters of electoral governance, policy, legislation and electoral management, and will seek to address some of the broader, fundamental issues that lead to electoral problems.
- (c) *Proposed Outcome:* Improved legal and policy implementation to enable more effective electoral administration

Component 2

- (a) *Objective:* Strengthen PNGEC Capacity to Manage Elections
- (b) *Description:* This component relates to the specific assistance for planning and conducting any by-elections and recounts; assistance to the PNGEC in preparing for the 2012 national election or any other electoral events; and continuation of the PNGEC organisational capacity work so that the competency of the PNGEC to organise, plan and conduct elections is realised and sustained.
- (c) *Proposed Outcomes:* Electoral events are comparatively well-managed by the PNGEC, based on the organisation's improved capacity; and sub-national actors are more engaged with PNGEC head quarters in electoral administration

Component 3

- (a) *Objective:* Increase Papua New Guinea Electoral System and Civics Awareness
- (b) *Description:* This component relates to the funding relationships between the PNGEC and CSOs to promote the sharing of electoral awareness content and in the monitoring of awareness activities.
- (c) *Proposed Outcome:* Papua New Guinea voters have an increased understanding of their democratic rights, and how to vote.

Component 4

- (a) *Objective:* Improved Research, Analysis, Program Management and Coordination
- (b) *Description:* This component relates to monitoring and evaluation activities and research to support the mainstreaming of key development issues, funding to conduct evidence-based research, Papua New Guinea electoral coordination mechanisms, and provision of technical advice to these bodies.
- (c) *Proposed Outcomes:* Research and analysis is applied to GOPNG systems for elections management; and the PNGEC is supported by GOPNG partners at national and sub-national levels to manage elections.

8. COORDINATION AND MANAGEMENT ARRANGEMENTS

GOA

8.1. A Project Manager will be appointed to coordinate and overview project operations, establish project policy review, project planning and

implementation documentation, to act as a communication conduit between electoral stakeholders and the Program Board, manage funding allocations and ratify, if appropriate, changes to planned project implementation. A Program Manager will be engaged by AusAID to manage and implement the Australian contribution to the project and to manage any part of AusAID's commitment under this Subsidiary Arrangement.

Electoral Support Program Board

- 8.2. The Electoral Support Program Board will provide strategic direction and implementation oversight for the Activity, and be the forum for policy discussions between GOPNG, GOA and civil society representatives. The Program Board will meet every quarterly during the life of the Activity. Membership of the Program Board may include representatives from the PNG Interdepartmental Electoral Steering Committee; DNPM; PNGEC; other relevant GOPNG departments; relevant Civil Society Organisations; and AusAID.
- 8.3. The Program Manager shall be responsible for managing the establishment, facilitation and effectiveness of the Program Board, in consultation with GOPNG and AusAID;

GOPNG

- 8.4. The GOPNG will provide the following management and coordination functions to assist with the implementation, progress and monitoring of the Activity:
 - (a) Overall coordination of GOPNG participation in the Activity;
 - (b) Nominating the Chairperson and GOPNG representatives on the Electoral Support Program Board;
 - (c) Disseminating relevant information about the Activity to all participating line agencies;
 - (d) Ensuring participating line agencies are aware of their responsibilities in relation to provision of counterparts and training costs;
 - (e) Facilitating engagement with other national and local GOPNG agencies that indicate their interest in being involved in the Activity; and
 - (f) Assisting and facilitating approval of the Activity review and the Annual Plan.

9. MATERIALS, SERVICES AND EQUIPMENT TO BE SUPPLIED

GOA

- 9.1. The GOA will provide the following materials, services and equipment for the Activity:
 - (a) Funding and management of 'third-party' activities (proposed, implemented and managed by stakeholder organisations including the PNGEC);
 - (b) Recruitment and management of Activity Personnel;

- (c) Procurement of approved equipment or materials for Activity implementation;
- (d) Financial management of Program funds;
- (e) Quality assurance for delivery of all components of the Program;
- (f) Affordable service delivery that is sustainable within the budget per component or Activity;
- (g) Provision of appropriate training and support;
- (h) Strengthen the development of systems for strategic management, election planning management and evaluation, and corporate planning and management;
- (i) Development of an effective M&E system to allow continuous improvement and the sharing of examples of best practice and lessons learnt with AusAID, GOPNG and other stakeholders; and
- (j) Identifying and managing risks associated with the Program.

9.2. GOA support for the Activity will be consistent with GOPNG policies including the National Vision 2050, the Development Plan 2010-2030 and the Medium Term Development Plan.

9.3. The Parties agree that, at the Activity end date, all GOA funded supplies procured through the Activity will be handed over to GOPNG. In the event of an extension to the Activity, all GOA funded supplies procured through the Activity will remain available for the unrestricted use of the relevant activity.

GOPNG

9.4. The GOPNG will provide the following materials, services and equipment for the Activity:

- (a) GOPNG will have responsibility for the reforms that the Program will support;
- (b) GOPNG will contribute to the design and implementation of activities and activity outcomes; and
- (c) PNGEC will provide sufficient office space and personnel to work on the Activity.

10. **ACTIVITY PERSONNEL**

GOA

10.1. The GOA will provide accommodation, travel costs and remuneration for all personnel employed by the Activity.

Counterpart Staff of PNGEC

10.2. The PNGEC will nominate persons to represent the Government at the Electoral Support Program Board at the meetings and for relevant activities in accordance with specific activities approved under the Annual Plan.

11. FINANCIAL CONTRIBUTIONS

GOA

11.1. The total GOA contributions to the Activity are estimated to be up to a maximum of AUD12,000,000 from 2011 to 2013. GOA will provide funding to the Activity based on the Annual Plans to be endorsed by the Electoral Support Program Board and approved by AusAID. The GOA contributions will cover the implementation, management and monitoring of the Activity and related activities. GOA support will be additional to and not in place of GOPNG budget allocations for electoral administration in Papua New Guinea.

11.2. The provision and disbursement of GOA contributions to the Activity will be subject to the normal Australian annual Parliamentary approval of appropriations.

GOPNG

11.3. The GOPNG contributions will be sufficient to adequately resource PNGEC operations, including staffing costs, operational expenses and funding for the 2012 National Elections and by-elections as well as the adequate resourcing of government stakeholder agencies such as the RPNGC with funds for electoral related security and logistics activities.

12. MONITORING, REVIEW, EVALUATION AND REPORTING ARRANGEMENTS

Monitoring and Evaluation

12.1. The GOA and the GOPNG will undertake Activity monitoring and evaluation. The monitoring and review mandate will include the assessment of the Activity's impact, progress towards objectives, outputs and outcomes, and identification of emerging issues and problems. Evaluation and reviews of progress of the Program may be made at times arranged between, and mutually convenient to, both Parties. Any such evaluation will be carried out by a joint investigation team appointed by both Governments.

12.2. The monitoring and review process may recommend strategies for problem solving, however the Contractor retains responsibility for performance deficiencies, if any, which are identified in the course of the review process, or monitoring by any other means, and to remedy them in a pro-active manner.

12.3. An Independent Review Group (IRG), to be commissioned by AusAID to review all AusAID funded programs that support Democratic Governance in PNG, may be jointly tasked by both Parties to review the contribution of the Program to the GOPNG's strategies and policies. The Parties will make efforts to link reviews and evaluations with GOPNG's own monitoring systems and processes.

Reporting Arrangements

- 12.4. The Contractor will report to GOA on Activity implementation, for example, through six-monthly reports.
- 12.5. GOA will provide information to GOPNG on Activity implementation as required.

13. INTELLECTUAL PROPERTY

- 13.1. Despite any other paragraph in this Subsidiary Arrangement, all Intellectual Property rights with respect to the Activity that are vested in the GOA will be retained by the GOA.

14. SETTLEMENT OF DISPUTES

- 14.1. This Subsidiary Arrangement serves only as a record of the Parties' intentions and does not constitute or create (and is not intended to create) rights or obligations under domestic or international law and will not give rise to any legal process and will not be deemed to constitute or create any legally binding or enforceable rights or obligations (expressed or implied). Consequently, any dispute, controversy, or claim, which arises out of the interpretation or application of this Subsidiary Arrangement will not be subject to adjudication or arbitration, but will instead be dealt with through amicable consultations and negotiations as the only method of achieving the peaceful settlement of that dispute, controversy, or claim.

15. AMENDMENTS

- 15.1. This Subsidiary Arrangement may be amended at any time through an Exchange of Letters signed by the Parties.

16. ANTI-CORRUPTION

- 16.1. Consistent with both Parties' commitment to good governance, accountability, and transparency, each Party reserves the right to investigate, directly or through its agents, any alleged corrupt, fraudulent, collusive, or coercive practices relating to the Activity.

17. UNDERTAKING TO PREVENT FINANCING OF TERRORISM

- 17.1. Both Parties are firmly committed to the international fight against terrorism and, in particular, the financing of terrorism consistent with United Nations Security Council (UNSC) regulations relating to terrorism, including UNSC Resolution 1373 (2001), 1267 (1999) and related resolutions.
- 17.2. Both Parties reaffirm their commitment to the principles of the International Convention for the Suppression of the Financing of Terrorism (New York, 9 December 1999).
- 17.3. The Parties will cooperate to ensure that no Activity funds are used, directly or indirectly, to provide support to individuals or entities associated with terrorism.

17.4. If, during the term of this Subsidiary Arrangement, either Party discovers an organisation or individual involved in the Activity is associated with terrorism, it will immediately inform the other Party.

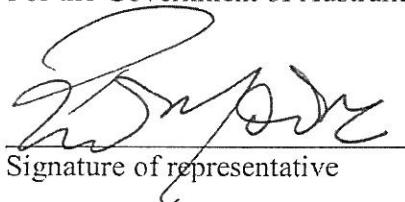
18. COMMENCEMENT AND TERMINATION

18.1. This Subsidiary Arrangement will take effect on signature by both Parties.

18.2. Either Party may terminate this Subsidiary Arrangement by giving written notice of its intention to terminate to the other Party. In the event that written notice of termination is given, this Subsidiary Arrangement will terminate three months after the date that the other party receives that notice of the intention to terminate.

Signed at Canberra this 16th day of December 2012

For the Government of Australia



Signature of representative

RICHARD MOORE

Printed name of representative

Acting Director General, AusAID

Official title of representative

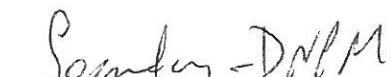
For the Government of Papua New Guinea



Signature of representative

Joseph Selany

Printed name of representative



Signature of representative

Sondy - DNM

Official title of representative