

**SUBSIDIARY ARRANGEMENT UNDER THE MEMORANDUM OF  
UNDERSTANDING BETWEEN  
THE GOVERNMENT OF AUSTRALIA AND THE  
GOVERNMENT OF THE REPUBLIC OF THE FIJI ISLANDS  
RELATING TO DEVELOPMENT COOPERATION**

**SPECIFIC ACTIVITY: REGIONAL AUSAID AID IN KIND PROJECTS  
BASED IN FIJI**

**1 GENERAL**

1.1 **THIS SUBSIDIARY ARRANGEMENT** expresses the understandings of the Australian Agency for International Development (AusAID) and the Fiji Ministry of Finance (MOF) (hereafter referred to as 'the Parties') concerning the responsibilities and contributions respectively of the Parties in regard to Regional AusAID Aid In Kind Projects (hereafter referred to as 'the Projects') located in Fiji.

1.2 This Subsidiary Arrangement is concluded pursuant to and is subject to the Memorandum of Understanding between the Government of Australia and the Government of the Fiji Islands on Development Cooperation, signed at Suva on 7 September 1995 (the 'Understanding'). All provisions of the Understanding will apply to this Subsidiary Arrangement unless otherwise expressly stated herein.

**2 COORDINATING AUTHORITIES**

2.1 The Coordinating Authorities for the Project will be:

- The Ministry of Finance (MOF)
- The Australian Agency for International Development (AusAID)

2.2 AusAID may engage suitably qualified contractors or organisations to carry out any of its functions under this Subsidiary Arrangement.

**3 DURATION OF THE PROJECTS**

This Subsidiary Arrangement covers the Projects listed in **Annex 1** which may be extended subject to review in accordance with a mechanism approved by both AusAID and relevant Fiji Executing Agency and subject to normal Australian annual parliamentary approval of budget appropriations.

Either Party may advise the other Party of their withdrawal of participation in, or discontinuation of support for, the Projects in accordance with **paragraph 14.2**.

**4 CONTRIBUTIONS**

**4.1 AusAID**

AusAID will fund the implementation of the Project's listed in **Annex 1** for the duration of the respective Project.

The provision and disbursement of AusAID contributions to Projects will be subject to the normal Australian annual Parliamentary approval of appropriations.

**4.2 Ministry of Finance**

MOF will provide all necessary approvals/authorities (including visas, permits etc) and financing tax exemptions in accordance with **paragraph 5** below for carrying out Project activities.

#### 4.3 Fiji Executing Agencies

The contribution of Fiji Executing Agencies as listed in **Annex 1** will include all measures necessary for the smooth implementation of the Project, including but not limited to allowing Project personnel to efficiently and economically carry out Project activities.

### 5 TAX INCLUDING VAT

Goods which are Australian Project supplies as defined in the Memorandum of Understanding and goods and services funded from the contribution of the GoA, including such goods and services as those acquired within Fiji, are exempt from all taxes and any obligation or duty which may be imposed by any law in Fiji, including but not limited to Value Added and Provisional Tax.

### 6 SUPPLIES

6.1 Clause 12 of the Understanding will apply to Project supplies procured by Project.

6.2 Project supplies may be transferred to another AusAID project or transferred to a relevant Fijian Ministry at the completion of the Project.

### 7 ANTI-CORRUPTION

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 Project.

### 8 UNDERTAKING TO PREVENT FINANCING OF TERRORISM

8.1 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.

8.2 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).

8.3 The Parties will cooperate to ensure that no Project funds are used, directly or indirectly, to provide support to individuals or entities associated with terrorism.

8.4 If, during the term of the Subsidiary Arrangement, either Party discovers a link between any organisation or individual involved in the Activity who is associated with terrorism, it will immediately inform the other Party.

### 9 NO WAIVER OF PRIVILEGE OR IMMUNITY

Nothing in this Subsidiary Arrangement will be deemed a waiver of any of the privileges and immunities of the Parties.

## 10 SETTLEMENT OF DISPUTES

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.

## 11 LEGAL EFFECT

While the Parties acknowledge that this Subsidiary Arrangement is not legally enforceable, this does not diminish the intention of the Parties to comply with the terms, conditions, responsibilities and undertakings stipulated in this Subsidiary Arrangement.

## 12 IMPLEMENTATION

The foregoing represents the understandings reached between the Parties upon the matters referred to herein, and both Parties will do everything possible to effectively implement in the areas of collaboration covered in this Subsidiary Arrangement.

## 13 AMENDMENTS

Amendments to this Subsidiary Arrangement may be made at any time by an Exchange of Letters in writing between the Parties upon mutual agreement.

## 14 COMMENCEMENT AND DURATION

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

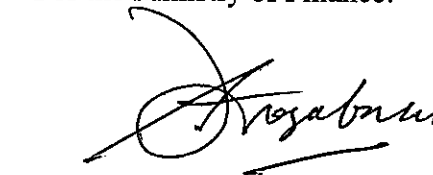
14.2 Either Party may terminate this Subsidiary Arrangement by giving written notice of its intention to terminate to the other Party. In the event that written notice of termination is given, this Subsidiary Arrangement will terminate three months after the date that the other Party receives that notice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

SIGNED at SWA, in duplicate, this 28<sup>th</sup> day of MARCH 2011.

For the Australian  
Agency for International  
Development:

  
Sarah Goulding  
Counsellor Development Cooperation

For the Ministry of Finance:

  
Filimoni Waqabaca  
Permanent Secretary

## ANNEX 1

### AusAID Regional Aid In Kind Activities

<b>Title of Aid In Kind Project</b>	<b>Fiji Executing Agency</b>	<b>AusAID Implementing Partner</b>
Australia Pacific Technical College Stage II (APTC)	Ministry of Education	Contractor (TBC)
Market Development Facility (MDF)	Ministry of Finance	Contractor (TBC)
Pacific Horticultural and Agricultural Market Access Program (PHAMA)	Ministry of Finance	Contractor (TBC)
Strengthening Capacity of the Fiji School of Medicine 2008 – 2012	Ministry of Education	Fiji School of Medicine