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LOAN NUMBER 929 UNI

# Project Agreement

(Third Education Project)

BETWEEN

INTERNATIONAL BANK FOR RECONSTRUCTION  
AND DEVELOPMENT

AND

BENUE PLATEAU STATE

DATED AUGUST 16, 1973

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## **PROJECT AGREEMENT**

AGREEMENT, dated August 16, 1973, between INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT (hereinafter called the Bank) and BENUE PLATEAU STATE (hereinafter called Benue Plateau).

WHEREAS by the Loan Agreement of even date herewith between the Federal Republic of Nigeria (hereinafter called the Borrower) and the Bank, the Bank has agreed to make available to the Borrower an amount in various currencies equivalent to fifty-four million dollars (\$54,000,000), on the terms and conditions set forth in the Loan Agreement, but only on condition that Benue Plateau agree to undertake such obligations toward the Bank as hereinafter set forth;

WHEREAS by a subsidiary loan agreement to be entered into between the Borrower and Benue Plateau, part of the proceeds of the loan or the equivalent thereof provided for under the Loan Agreement will be made available to Benue Plateau on the terms and conditions therein set forth; and

WHEREAS Benue Plateau, in consideration of the Bank's entering into the Loan Agreement with the Borrower, has agreed to undertake the obligations hereinafter set forth;

NOW THEREFORE the parties hereto hereby agree as follows:

### **ARTICLE I**

#### **Definitions**

Section 1.01. Wherever used in this Agreement, unless the context shall otherwise require, the several terms defined in the Loan Agreement and in the General Conditions (as so defined) have the respective meanings therein set forth.

### **ARTICLE II**

#### **Execution of Part B of the Project**

Section 2.01. (a) Benue Plateau shall carry out, or cause to be carried out, Part B of the Project described in Schedule 2 to the Loan Agreement with due diligence and efficiency and in conformity with appropriate, administrative,

financial, educational and engineering practices, and shall provide, or cause to be provided, promptly as needed, the funds, facilities, services and other resources required for the purpose and for the operation of the educational institutions included in Part B of the Project.

(b) Benue Plateau shall cause the educational institutions included in Part B of the Project to be operated so as to promote the educational objectives of Benue Plateau.

(c) Benue Plateau shall cause the physical plant and equipment of said institutions to be adequately maintained and shall cause from time to time all necessary renewals, additions and repairs to be made thereto.

Section 2.02. In order to assist Benue Plateau in carrying out Part B of the Project, Benue Plateau shall use the services of the firm of architectural consultants employed by the Borrower pursuant to Section 3.03(A) of the Loan Agreement.

Section 2.03. In carrying out Part B of the Project, Benue Plateau shall employ, or cause to be employed, executive architects and contractors acceptable to the Bank upon terms and conditions satisfactory to the Bank.

Section 2.04. Except as the Bank shall otherwise agree, the goods and services (other than services of consultants) required for Part B of the Project and to be financed out of the proceeds of the Loan, shall be procured on the basis of international competition under procedures consistent with the Guidelines for Procurement under World Bank Loans and IDA Credits, published by the Bank in April 1972, as revised in October 1972, and in accordance with, and subject to, the provisions set forth in Schedule 1 to this Agreement.

Section 2.05. (a) Benue Plateau undertakes to insure, or cause to be insured, or make, or cause to be made, adequate provision for the insurance of, the imported goods to be financed out of the part of the proceeds of the Loan relented to it by the Borrower against hazards incident to the acquisition, transportation and delivery thereof to the place of use or installation, and for such insurance any indemnity shall be payable in a currency freely usable by Benue Plateau to replace or repair such goods.

(b) Except as the Bank may otherwise agree, Benue Plateau shall cause all goods and services financed out of the part of the proceeds of the Loan relented to it by the Borrower to be used exclusively for Part B of the Project.

Section 2.06. (a) Benue Plateau shall furnish, or cause to be furnished, to the Bank for its comments, promptly upon their preparation, the preliminary plans for the civil works, the master lists of furniture and equipment, the specifications, contract documents and construction and procurement schedules for Part B of the Project, and any material modifications thereof or additions thereto, in such detail as the Bank shall reasonably request.

(b) Benue Plateau: (i) shall maintain, or cause to be maintained, records adequate to record the progress of Part B of the Project (including the cost thereof) and to identify the goods and services financed out of the part of the proceeds of the Loan relented to it by the Borrower, and to disclose the use thereof in Part B of the Project; (ii) shall enable the Bank's representatives to examine Part B of the Project, the goods financed out of such proceeds and any relevant records and documents; and (iii) shall furnish, or cause to be furnished, to the Bank all such information as the Bank shall reasonably request concerning Part B of the Project, the expenditure of the part of the proceeds of the Loan so relented to it and the goods and services financed out of such proceeds.

Section 2.07. Benue Plateau shall duly perform all its obligations under the Subsidiary Loan Agreement to which it is a party. Except as the Bank shall otherwise agree, Benue Plateau shall not take or concur in any action which would have the effect of amending, abrogating, assigning or waiving such Subsidiary Loan Agreement or any provision thereof.

Section 2.08. Benue Plateau shall establish and maintain, or cause to be established and maintained, in its Ministry of Education a Project Unit with such powers, responsibilities and staff as are set forth in Schedule 2 to this Agreement, and with adequate facilities and resources, to carry out and supervise Part B of the Project.

Section 2.09. Benue Plateau shall, within twenty-four months from the date of this Agreement: (i) cause a study, of scope and extent satisfactory to the Bank, to be made of its current policies in respect of providing boarding and staff housing facilities for its schools, and shall, promptly upon completion, furnish, or cause to be furnished, such study to the Bank for its review; and (ii) cause to be prepared its plan for expansion of education showing, *inter alia*, recurrent expenditures and capital requirements for such expansion.

Section 2.10. Benue Plateau shall, within twenty-four months from the date of this Agreement, review or cause to be reviewed, its primary teacher training policies, and shall promptly upon completion, furnish or cause to be furnished to the Bank, the results of such review.

Section 2.11. Benue Plateau shall take, or cause to be taken, all such action as shall be necessary to acquire all such lands and rights in respect of land as shall be required for the construction of schools and facilities included in Part B of the Project, and, except as the Bank shall otherwise agree, shall furnish to the Bank evidence satisfactory to the Bank prior to the award of contract for construction thereof that such land and rights in respect of land are available for purposes related to Part B of the Project.

### ARTICLE III

#### Consultation, Information and Inspection

Section 3.01. The Bank and Benue Plateau shall cooperate fully to assure that the purposes of the Loan will be accomplished. To that end, the Bank and Benue Plateau shall from time to time, at the request of either party, exchange views through their representatives with regard to the performance of their respective obligations under this Agreement, the administration, operations and financial condition of the schools included in Part B of the Project and other matters relating to the purposes of the Loan.

Section 3.02. The Bank and Benue Plateau shall promptly inform each other of any condition which interferes with, or threatens to interfere with, the accomplishment of the purposes of the Loan, the performance by either of them of its obligations under this Agreement or the performance by Benue Plateau of its obligations under the Subsidiary Loan Agreement to which it is a party.

### ARTICLE IV

#### Effective Date; Termination; Cancellation and Suspension

Section 4.01. This Agreement shall come into force and effect on the date upon which the Loan Agreement becomes effective.

Section 4.02. (a) This Agreement and all obligations of the Bank and of Benue Plateau thereunder shall terminate on the earlier of the following two dates:

- (i) the date on which the Loan Agreement shall terminate in accordance with its terms; or
- (ii) a date twenty years after the date of this Agreement.

(b) If the Loan Agreement terminates in accordance with its terms before the date specified in paragraph (a)(ii) of this Section, the Bank shall promptly notify Benue Plateau of this event.

Section 4.03. All the provisions of this Agreement shall continue in full force and effect notwithstanding any cancellation or suspension under the Loan Agreement.

## ARTICLE V

### Miscellaneous Provisions

Section 5.01. Any notice or request required or permitted to be given or made under this Agreement and any agreement between the parties contemplated by this Agreement shall be in writing. Such notice or request shall be deemed to have been duly given or made when it shall be delivered by hand or by mail, telegram, cable, telex or radiogram to the party to which it is required or permitted to be given or made at such party's address hereinafter specified or at such other address as such party shall have designated by notice to the party giving such notice or making such request. The addresses so specified are:

For the Bank:

International Bank for  
Reconstruction and Development  
1818 H Street, N.W.  
Washington, D.C. 20433  
United States of America

Cable address:

INTBAFRAD  
Washington, D.C.

For Benue Plateau State:

Ministry of Finance  
Jos  
Benue Plateau State  
Nigeria

Cable address:

SECFINANCE  
Jos, Nigeria

Section 5.02. Any action required or permitted to be taken, and any documents required or permitted to be executed, under this Agreement on behalf of Benue Plateau may be taken or executed by its Commissioner of Education or such other person or persons as the Commissioner of Education shall designate in writing.

Section 5.03. Benue Plateau shall furnish, or cause to be furnished, to the Bank sufficient evidence of the authority and the authenticated specimen signature of the person or persons who will, on behalf of Benue Plateau, take any action or execute any documents required or permitted to be taken or executed by Benue Plateau pursuant to any of the provisions of this Agreement.

Section 5.04. This Agreement may be executed in several counterparts, each of which shall be an original, and all collectively but one instrument.

IN WITNESS WHEREOF, the parties hereto, acting through their representatives thereunto duly authorized, have caused this Agreement to be signed in their respective names and delivered in the District of Columbia, United States of America, as of the day and year first above written.

INTERNATIONAL BANK FOR  
RECONSTRUCTION AND DEVELOPMENT

By /s/ E. Peter Wright  
*Director, Country Programs Department  
Western Africa Regional Office*

BENUE PLATEAU STATE

By /s/ A. J. Adeka  
*Authorized Representative*



**SCHEDULE 1****Procurement**

1. *Contracts for Civil Works.* With respect to contracts for civil works:

(a) Contractors shall be prequalified in accordance with paragraph 1.3 of the Guidelines referred to in Section 2.04 of this Agreement.

(b) Before bids are invited, the following shall be sent to the Bank for its comments:

- (i) list of all contracts for civil works to be awarded in carrying out Part B of the Project, indicating the estimated value of each contract and the forecast timetable for obtaining it;
- (ii) description of the proposed international advertising coverage to ensure international competitive bidding, draft bid notices, prequalification questionnaires and description of prequalification procedures;
- (iii) the report and recommendation of the consultants referred to in Section 2.02 of this Agreement, on the prequalification data submitted and the proposed list of prequalified contractors; and
- (iv) drafts of bidding documents, invitations to bid and contracts. The invitations to bid shall, *inter alia*, specify that the bidder may submit bids in respect of each educational institution included in Part B of the Project or of all of them, together with related facilities, or any combination thereof, the bids therefor to be opened simultaneously and Benue Plateau to have the option of awarding to one contractor one contract in respect of all such institutions and facilities or separate contracts in respect of several such institutions or facilities to different contractors.

Such additions or deletions in the proposed list of prequalified contractors and such modifications in the draft bidding documents, invitations to bid and draft contracts as the Bank shall reasonably request shall be made.

(c) With respect to contracts estimated to cost \$50,000 equivalent or more, after bids have been received and evaluated and before a final decision on the

award is made, the Bank is to be informed of the name of the bidder to whom it is intended to award the contract and is to be furnished, in sufficient time for its review, a detailed report, by the consultants referred to in Section 2.02 of this Agreement, on the evaluation and comparison of the bids received, together with the recommendations for award of the said consultants, and the reasons for the intended award. The Bank shall, if it determines that the intended award would be inconsistent with the procedures set forth or referred to in Section 2.04 of this Agreement, promptly inform the Borrower and Benue Plateau and shall state the reasons for such determination.

(d) The terms and conditions of the contract shall not, without the Bank's concurrence, materially differ from those on which bids were asked.

(e) Two conformed copies of the contract shall be furnished to the Bank promptly after its execution and prior to the submission to the Bank of the first application for withdrawal from the Loan Account in respect of any such contract.

(f) The Bank's approval shall be required for any proposed change in a contract involving a price increase of more than 10% of the contract price or more than \$25,000 equivalent, whichever is less. An explanation of the proposed change shall accompany the request for the Bank's approval.

(g) With respect to contracts estimated to cost less than \$50,000 equivalent, promptly after bids have been evaluated and a contract has been awarded and before submission to the Bank of the first application for withdrawal of funds in respect of such contract, the following shall be sent to the Bank:

- (i) certificate signed by the Project Director referred to in Schedule 4 to the Loan Agreement or an officer who in the absence of such Project Director is temporarily authorized to exercise his functions by the Permanent Secretary, Federal Ministry of Education, that the goods tendered for are in accordance with the quantities and specifications in the lists approved by the Bank;
- (ii) summary of the tenders received;
- (iii) brief analysis of the tenders and justification for Benue Plateau's decision in making the award; and
- (iv) conformed copy of the contract.

The Bank shall, if it determines that the award is inconsistent with the procedures set forth or referred to in Section 2.04 of this Agreement, promptly inform the Borrower and Benue Plateau and shall state the reasons for such determination.

2. *Contracts for Furniture and Equipment.* With respect to contracts for furniture and equipment:

(a) Before inviting bids, Benue Plateau shall send to the Bank for its comments the following:

- (i) lists of all items of furniture and equipment required for Part B of the Project showing the specifications and the estimated unit and total price of each item. Items will be indexed, coded and numbered for identification with the Project school or institution in question and the spaces for which they are required. The items to be purchased will be grouped in lots so as to permit bulk procurement consistent with sound technical and procurement practices. Insofar as practicable, each lot of such items shall be for not less than \$40,000 equivalent; and
- (ii) draft standard documents for inviting tenders, forms of contracts and description of the procedures and proposed advertising coverage to be used for obtaining bids on an international basis.

(b) Procurement shall be limited to those items of furniture and equipment specified in the lists mentioned in subparagraph 2(a)(i) above and identified in contract documents by the same indices, codes and numbers as in the lists. Modifications to the equipment and furniture lists (paragraph 2(a)(i) above) involving a change in the price not exceeding the equivalent of \$1,000 for any one item or in aggregate 10% of the total and which are in accordance with appropriate educational practices, may be made without obtaining the prior comments of the Bank. All other amendments of the lists shall be submitted to the Bank for its comments.

(c) If a contract is intended to be awarded to a bidder other than the lowest evaluated bidder (within the meaning of paragraph 3) or if the contract involves a price difference of 10% or more from the original estimate as shown pursuant to subparagraph 2(a)(i) above, the Bank shall, after the bids have been evaluated and before making the awards, be furnished in sufficient time for its review, a summary and analysis thereof and a brief justification of the decision on the award. The Bank shall promptly inform the Borrower and Benue Plateau

whether it has any objection to the intended award on the ground that it would be inconsistent with the provisions of such Guidelines or with the Loan Agreement, and shall state the reasons for any such objection.

(d) Promptly after bids have been evaluated and a contract has been awarded and before submission to the Bank of the first application for withdrawal of funds in respect of such contract, the following shall be sent to the Bank:

- (i) certificate signed by the Project Director referred to in Schedule 4 to the Loan Agreement or an officer who in the absence of such Project Director is temporarily authorized to exercise his functions by the Permanent Secretary, Federal Ministry of Education, that the goods tendered for are in accordance with the quantities and specifications in the lists approved by the Bank;
- (ii) summary of the tenders received;
- (iii) brief analysis of the tenders and justification for Benue Plateau's decision in making the award; and
- (iv) conformed copy of the contract.

(e) The Bank shall, if it determines that the intended award may be inconsistent with the procedures set forth or referred to in Section 2.04 of this Agreement, promptly inform the Borrower and Benue Plateau and shall state the reasons for such determination.

### 3. *Supplemental Rules on Bid Evaluation and Comparison for Furniture and Equipment*

A. For the purpose of evaluation and comparison of bids, customs duties and other import taxes on imported goods, and sales and similar taxes on locally produced goods, shall be excluded, except to the extent hereinafter provided, and bidders shall be required to state in their bid the c.i.f. (port of entry) price for imported goods, or the ex-factory price for locally produced goods. The cost to Benue Plateau of inland freight and other expenditures incidental to the delivery of goods to the place of their use or installation shall be taken into account in the evaluation of bids in accordance with paragraph 4.7 of the Guidelines for Procurement.

B. For purposes of the provisions hereinafter set forth, the following terms shall have the following meanings:

(a) Preferred Domestic Bid means a bid offering goods manufactured in Nigeria if the bidder shall have established to the satisfaction of Benue Plateau and the Bank that the manufacturing cost of such goods includes a value added in Nigeria of not less than 20% of the ex-factory bid price.

(b) Non-preferred Domestic Bid means any other bid offering goods manufactured in Nigeria.

(c) Foreign Bid means any bid other than those specified in (a) or (b) above.

C. For goods included in Categories II and III of the table set out in paragraph 1 of Schedule 1 to the Loan Agreement, a margin of preference may be granted by Benue Plateau to Preferred Domestic Bids. Such preference shall be granted by adding to each Foreign Bid, for the purpose only of comparison with Preferred Domestic Bids, an amount (hereinafter called "Domestic Preference Margin") equal to the smaller of (i) the amount of customs duties and other import taxes which a non-exempt importer would have to pay for the goods offered in the bid, or (ii) 15% of the c.i.f. bid price of such goods.

D. If Preferred Domestic Bids are received, the comparison among all evaluated bids for each contract shall be made in the stages and with the preferences indicated below:

<i>Stage</i>	<i>Bids to be Compared</i>	<i>Preference</i>
I.	All Preferred Domestic Bids and Non-preferred Domestic Bids.	None
II.	(a) Lowest evaluated bid under Stage I, if Preferred Domestic Bid, with all Foreign Bids;	Add Domestic Preference Margin to Foreign Bids
	<i>or</i>	
	(b) Lowest evaluated bid under Stage I, if Non-preferred Domestic Bid, with all Foreign Bids.	None
III.	If lowest evaluated bid under Stage II (a) is not the lowest evaluated bid under Stage I, all Foreign Bids.	None

E. The bidding documents shall clearly indicate any preference which will be granted to Preferred Domestic Bids, the information required to establish the eligibility of a bid for such preference and the methods and stages that will be followed in the evaluation and comparison of bids to give effect to such preference.

**SCHEDULE 2****The Project Unit**

A Project Unit shall be established in Benue Plateau directed by a full-time Project Manager selected in consultation with the Bank and responsible to the Permanent Secretary, Ministry of Education. The Project Unit shall be staffed with adequate supporting personnel, premises, equipment, means of communication and transport and have the necessary powers to implement Part B of the Project, including, *inter alia*:

(a) liaison with the Bank through the Project Office referred to in Section 3.02 of the Loan Agreement;

(b) preparation, with the help of the consultants, of a comprehensive implementation schedule of coordinated activities and responsibilities on which the carrying out of all aspects of Part B of the Project will be based;

(c) the selection, briefing, coordination and supervision of such executive architects or firms of architects and engineers as may be required, and contractors, with the advice of the architectural consultants provided for in Section 2.02 of this Agreement;

(d) the approval of the civil works design of the educational institutions included in Part B of the Project;

(e) the preparation with the assistance of the consultants of detailed lists of furniture and equipment required for Part B of the Project;

(f) the procurement of civil works, furniture and equipment, including the preparation of bidding documents, the analysis of bids and the making of recommendations regarding the award of contracts;

(g) the regular inspection of all construction work and installation procedures for furniture and instructional equipment; and

(h) the keeping of accounts for Part B of the Project and the preparation of reports to and for the Project Office.