

AGREEMENT No. 133
(of April 24, 2007)

“Whereby Articles 3, 4, and 6 of the Contracting Regulations are amended,
and Article 27-A is added to the Panama Canal Authority Finance Regulations”

THE BOARD OF DIRECTORS
OF THE PANAMA CANAL AUTHORITY

WHEREAS:

Article 320 of the Political Constitution of the Republic of Panama, Title XIV on the Panama Canal, establishes that the Administrator shall be in charge of the implementation of the budget, which shall be monitored by the Board of Directors or its designee, and only through subsequent control, by the Office of the Comptroller General of the Republic of Panama.

Article 18.5.f. of Organic Law 19 of June 11, 1997, on the Panama Canal Authority confers to its Board of Directors the authority to approve the financial planning regulations applicable to accounting and treasury standards, the auditing of Panama Canal finances, and budget preparation and execution.

Articles 3, 4, and 6, of the Panama Canal Authority Contracting Regulations, under their current text and sequence, have been interpreted and applied to obligate the Authority to have available, at the time it accepts bids and awards contracts, the full funds to meet its pertinent contractual obligations, even when such funds are to be disbursed in future fiscal periods.

The Panama Canal Authority Finance Regulations do not contain an express provision for the entering into contracts that may impose the obligation of making payments against future budgets, or regarding the sources of the funds to meet these payments.

In view of the above, the Administration finds it necessary to amend Articles 3, 4, and 6, of the Contracting Regulations, and to add Article 27-A to the Finance Regulations, in order to enter into contracts that impose the obligation of making payments against one or more fiscal periods subsequent to the making of contracts, from sources of specific funds to meet the appropriate payments.

AGREES:

ARTICLE ONE: To amend Articles 3, 4, and 6, of the Contracting Regulations, which shall read as follows:

“Article 3. Except for the provisions in the following Article, the Authority may contract obligations derived solely from contracts provided the Chief Financial Officer certifies that appropriate funds to meet the contract have been allocated in the budget.

Article 4. With the prior authorization of its Board of Directors, the Authority may make contracts and undertake, under the terms of such contracts, the obligation of making payments which, as agreed therein, shall be charged to the budget of one or more fiscal periods subsequent to the date on which the contract is awarded, provided:

- a) The Authority undertakes in such contracts to allocate the pertinent funds in the budgets of the years in which the respective payments shall be made; and,
- b) When entering into any such contract, the Authority obtains a certification signed by the Chief Financial Officer of the Authority issued in accordance with the provisions of Article 27-A of the Finance Regulations, stating that, in the years in which the pertinent payments are to be made, the Authority will have the necessary resources to meet the above mentioned contractual obligations.

Paragraph: The authorization of the Board of Directors to which this article refers shall only be required when the total amount of the contractual obligations to be charged and paid from future budgets exceeds two hundred fifty thousand balboas (B/.250,000.00).

Article 6. If it becomes necessary to incur in an unexpected expenditure not allocated in the annual budget, which is urgent and necessary to maintain the uninterrupted operation of the international public service provided by the Panama Canal, the Administrator shall make the necessary disbursements by charging them to the budget item which has funds available at the time, and shall recommend the corresponding budgetary adjustments to the Board of Directors.”

ARTICLE TWO: Add Article 27-A to the Finance Regulations, as follows:

“Article 27-A. In order to enable the Authority to enter into contracts that impose the obligation of making payments to be charged to the budget of one or more fiscal periods subsequent to the awarding of a contract, the Chief Financial Officer of the Authority must certify that, in the years in which the pertinent future payments are to be made, the Authority will have the resources to enable it to allocate funds in the budgets of such fiscal periods, in order to authorize the appropriate disbursements. Such resources may come from any of the following sources, to wit:

- a) The capital reserves of the Authority.
- b) Financing commitments granted to the Authority in accordance with Article 50 of the Organic Law of the Panama Canal Authority.
- c) The application of future fund flows of the Authority, according to the projections of such flow as forecast.

In the event the funds must come from more than one source, the certification required by this Article shall indicate the amount to be obtained from each source.”

ARTICLE THREE: This agreement shall become effective upon its publication in the Panama Canal Record.

Issued in Panama, on April 24, 2007.

FOR PUBLICATION AND ENFORCEMENT.

Dani Kuzniecky

Diógenes de la Rosa

Chairman, Board of Directors

Secretary