



USAID
FROM THE AMERICAN PEOPLE

OFFICE OF INSPECTOR GENERAL

**AUDIT OF USAID/ECUADOR'S
DEMOCRACY AND
GOVERNANCE ACTIVITIES**

AUDIT REPORT NO. 1-518-07-003-P
DECEMBER 14, 2006

SAN SALVADOR, EL SALVADOR



USAID
FROM THE AMERICAN PEOPLE

Office of Inspector General

December 14, 2006

MEMORANDUM

TO: USAID/Ecuador Director, Alexandria Panehal

FROM: RIG/San Salvador, Timothy E. Cox /s/

SUBJECT: Audit of USAID/Ecuador's Democracy and Governance Activities (Report No. 1-518-07-003-P)

This memorandum transmits our final report on the subject audit. In finalizing the report, we carefully considered your comments and have included your comments in Appendix II.

The report includes two recommendations for USAID/Ecuador's action. Management decisions for these recommendations can be recorded when we and USAID/Ecuador agree on a firm plan of action with target dates for implementing the recommendations. The Audit Performance and Compliance Division (M/CFO/APC) will record final action on the recommendations when planned actions have been completed. In this regard, please notify my office within 30 days of the actions planned or taken by USAID/Ecuador to address the recommendation.

I appreciate the cooperation and courtesy extended to my staff throughout the audit.

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SUMMARY OF RESULTS

Ecuador is an important partner for the United States in terms of trade and the fight against narcotics trafficking. Since 1996, the political history of Ecuador has been characterized by instability. USAID/Ecuador has implemented numerous democracy and governance activities under its democracy and governance strategic objective plan since 2001. There are a large number of USAID/Ecuador-funded organizations implementing democracy and governance activities in the areas of justice, decentralization, anti-corruption, elections, and trafficking in persons. The Mission's activities in the areas of local government, municipal development and local economic development are designed to enhance the capacity of local governments to improve service delivery, develop transparent financial planning and management strategies, and provide forums for citizens to actively participate in local decision-making. Since fiscal year (FY) 2001, USAID/Ecuador has spent over \$34.4 million to implement democracy and governance activities under its strategic objective to increase support for the democratic system. (See page 2.)

The Regional Inspector General/San Salvador, as part of its fiscal year 2007 audit plan, performed this audit to determine whether USAID/Ecuador's democracy and governance activities achieved planned results and whether USAID/Ecuador's reporting on democracy and governance activities provides stakeholders with complete and accurate information on the progress of the activities and the results achieved. (See page 3.)

USAID/Ecuador's democracy and governance activities did not achieve all planned results: of 12 performance targets established in the Performance Management Plan (PMP), 5 were met, 1 was nearly met, 1 was partially met and 5 were not met. (See page 3.) USAID/Ecuador's reporting provided stakeholders with complete and accurate information on the progress of democracy and governance activities and the results achieved. However, the Mission needs to better define indicators and choose those performance indicators where the Mission activities directly influence the achievement of targets. (See pages 6 through 8.) In addition, the Mission would be better able to achieve its objectives if the Mission could find suitable partners to sign a Strategic Objective Agreement (SOAG) with the Government of Ecuador. (See page 7.)

The report includes two recommendations that USAID/Ecuador: 1) update its democracy and governance program performance indicators with indicators that are clearly defined and written and include only those indicators that the Mission can materially affect through its activities and, 2) negotiate a SOAG with the Government of Ecuador to assist in implementing the democracy and governance program. (See pages 8 and 9.)

Overall, USAID/Ecuador found the recommendations in the report to be positive and relevant, although the Mission has not yet reached firm decisions on how to address the recommendations.

BACKGROUND

Ecuador is an important partner in terms of trade and the fight against narcotics trafficking. Since 1996, the political history of Ecuador has been characterized by instability. The latest crisis in Ecuador arose after former President Gutiérrez dissolved the Supreme Court, leading to protests and his ouster. President Gutiérrez was the third president to leave office prematurely in eight years. Since no presidential candidate won an outright victory in Ecuador's October 15, 2006 election, there will be a November 26 runoff vote to determine the next president.

USAID/Ecuador has been implementing numerous democracy and governance activities under its democracy and governance strategic objective plan starting in 2001. A large number of USAID/Ecuador-funded organizations are implementing democracy and governance activities in the areas of justice, decentralization, anti-corruption, elections, and trafficking in persons. The Mission's activities in the areas of local government, municipal development and local economic development are designed to enhance the capacity of local governments to improve service delivery, develop transparent financial planning and management strategies, and provide forums for citizens to actively participate in local decision-making. Since FY 2001, USAID/Ecuador has spent over \$34.4 million to implement democracy and governance activities under its strategic objective to increase support for the democratic system.

According to USAID guidance, missions need well-designed performance indicators to effectively monitor activity progress and to measure and compare actual results against expected results. ADS Chapter 203 provides guidance on how operating units should assess whether activities are actually achieving the intended results. Specifically, it requires missions to develop and maintain a Performance Management Plan (PMP) that includes at least one broad performance indicator to measure progress towards each strategic objective and at least one intermediate result performance indicator under each strategic objective to measure progress towards essential intermediate steps. These indicators should provide useful information about the program's progress toward achieving intended results.

AUDIT OBJECTIVES

As part of its fiscal year 2007 audit plan, the Regional Inspector General/San Salvador performed this audit to answer the following questions:

- Did USAID/Ecuador's democracy and governance activities achieve planned results?
- Did USAID/Ecuador's reporting on democracy and governance activities provide stakeholders with complete and accurate information on the progress of the activities and the results achieved?

Appendix I contains a discussion of the audit's scope and methodology.

AUDIT FINDINGS

Did USAID/Ecuador’s democracy and governance activities achieve planned results?

USAID/Ecuador’s democracy and governance activities did not achieve all planned results: of 12 performance targets established in the Performance Management Plan (PMP), 5 were met, 1 was nearly met, 1 was partially met (see target 5 below) and 5 were not met. Reasons why targets were not met varied. For example, two performance targets were not met because of political instability. For another two indicators, targets were not met because USAID’s activities were too limited in scope to influence the planned result. For the remaining indicators we could not readily determine why targets were not met. See the PMP planned targets and actual results below.

Comparison of Planned and Actual Performance Results

	Performance Indicators	Year ¹	Plan	Actual	Met
1	(a) Sample polled who are satisfied with municipal services	2006	61%	57.5%	No
	(b) Sample polled who trust in municipal government		53%	47.3%	No
2	Sample polled who believe that justice system would punish a person who robbed or assaulted them and who believe that courts guarantee justice	2006	29.4%	24.6%	No
3	Sample polled who believe that payment of bribes to public officials is very or somewhat common	2006	71%	86%	No
4	Representative sample of citizens in USAID-assisted municipalities expressing: (a) satisfaction with improvements in municipal services and (b) trust in municipal government	2004 (latest data available)	54.1%	53.4%	No
			46.1%	44%	No
5	(a) Implementation of new Code of Criminal Procedures (CCP) achieved	2005 (latest data available)	Yes	No	No ²
	(b) Percent of justice personnel subgroups given advanced training		95%	97%	Yes

¹ Some indicators were measured every two years and for some FY 2006 indicators final data was not available. Therefore, all data presented is the latest available for review.

² According to USAID/Ecuador, several preliminary steps, including development of a proposed new code of criminal procedures, were accomplished in 2003. However, the code has not been passed by Congress or implemented.

	Performance Indicators	Year ³	Plan	Actual	Met
6	Number of USAID-supported municipalities where citizen groups are overseeing targeted services	2005 (latest data available)	27	28	Yes
7	Justice Coalition is effectively lobbying for Justice Reform	2005 (latest data available)	Yes	Yes	Yes ⁴
8	President of Supreme Court maintains independence	2005 (latest data available)	Yes	No	No ⁵
9	Number of USAID-aided municipalities implementing or improving at least one service chosen with broad citizen input, including marginalized	2006	30	43	Yes
10	Increased number of people, especially from vulnerable groups, receiving defense services from legal services providers that have been strengthened by USAID-funded assistance	2005 (latest data available)	1,500	1,329	No
11	Number of USAID-aided municipalities that carry out a participatory process in the selection, implementation, and monitoring of the service targeted for delivery or improvement	2006	40	49	Yes
12	Participacion Ciudadana issues formal judgment about freeness and fairness of 2004, and 2006 elections	2004 (latest data available)	Report issued	Report issued	Yes

The mission achieved its planned results for five indicators, including three planned results pertaining to work with municipalities. The mission assisted 28 municipalities where citizen groups are overseeing targeted services (planned target of 27); assisted 43 municipalities implementing or improving at least one service chosen with broad citizen input (planned target of 30); and assisted 49 municipalities that carry out a participatory process in the selection, implementation, and monitoring of the service targeted for delivery or improvement (planned target of 40).

³ Some indicators were measured every two years and for some FY 2006 indicators, final data was not available. Therefore, all data presented is the latest available for review.

⁴ We accepted this indicator as being met even though the indicator was not clearly written. The Mission provided substantial assistance in the transparent selection of new Supreme Court judges.

⁵ This indicator was clearly not met because the Supreme Court had been abolished. However, we still consider it an indicator that could be more clearly defined.



Photo taken by an OIG auditor on September 26, 2006 of the Otavalo municipal computer center which was a recipient of USAID technical assistance. The assistance was provided with the goal of providing the community with information on the municipal budget and expenditures.

However, some examples of recent political instability that affected program results are:

- Three presidents removed from office in eight years.
- Transparency International ranking of Ecuador 138 out of 163 countries in its 2006 Corruption Perception Index.
- The dismissal of the Supreme Court.
- Delay in appointing a Civic Corruption Control Commission (mandated by the Constitution) and later expulsion of two new appointees because of ethical conduct which damaged its credibility.
- The need to refocus the Mission's anticorruption program from working at the federal level to working through civic organizations.

The reason the Mission did not fully achieve two of its targets (for Indicator 5, which was partially met, and for Indicator 8) was because of recent political instability. For example, the partner working with Congress to achieve the indicator to implement a new Code of Criminal Procedures (CCP) cited the removal of the President of Ecuador as an obstacle to meeting its goal since the Congress was preoccupied with the upcoming presidential election. This partner stated that the law was well supported in Congress, but because the Congress was preoccupied with the upcoming election, the law would likely not be considered until after the new Congress is sworn in during January 2007. Another indicator that the president of Supreme Court maintains independence could not be achieved because President Gutiérrez dissolved the Supreme Court in 2005.

The Mission did not achieve another two targets (Indicators 2 and 3) because USAID's activities were too limited in scope to influence the planned result. These indicators did not directly measure the desired impact or result and in some cases were beyond the Mission's manageable interest and control.

While political stability can greatly affect the accomplishment of democracy and governance goals, we noted that the indicators must be clearly defined to measure progress and correlate with Mission activities. In addition, without the formal support and commitment of the Government of Ecuador (GOE), the Mission's democracy and governance program goals are less likely to be achieved and sustained. These concerns are discussed below in detail.

Performance Indicators Should Reflect Actual Assistance

Summary: According to ADS guidance, performance indicators should be precisely defined in the PMP, and should measure changes that are clearly and reasonably attributable, at least in part, to USAID efforts. Of the 12 performance indicators reviewed, 2 indicators were not clearly defined and for another 2 indicators the Mission's activities were too limited in scope to influence the planned result. This occurred because political conditions changed which required a change in democracy and governance activities. As a result, measurements were based on results at the national level though the Mission's activities were conducted primarily at select state and local levels. Consequently, it is difficult to ascertain if results were actually achieved if indicators are not clearly written and the Mission could not achieve the performance indicators when the Mission activities did not directly influence the achievement of targets.

According to ADS 203.3, performance indicators should be (1) precisely defined in the PMP, and (2) should measure changes that are clearly and reasonably attributable, at least in part, to USAID efforts. Other guidance states that the development of program objectives is the first step in developing a performance monitoring plan, and good objectives are necessary for good performance monitoring and measurement. A good objective is one that is specific, so that it cannot be interpreted in different ways, and is manageable, in that it can be materially affected by USAID assistance.

Of the 12 performance indicators reviewed in the original PMP, we concluded that 2 indicators were not specific and clearly defined and another 2 indicators were beyond the Mission's control because USAID's activities were too limited in scope to influence the planned result. The indicators are:

1. Justice Coalition is effectively lobbying for justice reform.
2. President of Supreme Court maintains independence.
3. Sample polled who believe that justice system would punish a person who robbed or assaulted them and who believe that courts guarantee justice.
4. Sample polled who believe that payment of bribes to public officials is very or somewhat common.

For the first two listed indicators, we were unable to determine exactly how the Mission would know when its targets were achieved. For example, the Mission needed to better define its definition on what is considered "effectively lobbying" in addition to having a

more detailed definition or criteria on how the Mission will determine if the President of Supreme Court maintains independence. The wording of the objective is important because it defines that which is to be achieved and, therefore, to be measured. If the objectives are vague or unrealistic, accurate and meaningful, measurement will be difficult at best. Therefore, the objective “President of Supreme Court maintains independence” is vague because “independence” was not defined. For example, independence might mean freedom from central government interference, or it might mean integrity and incorruptibility, or it might mean both. Therefore, it was difficult to ascertain if the results were actually achieved.

For the second two listed indicators, the Mission chose measurements based on national representative samples even though the Mission’s activities were conducted primarily at select state and local levels. While the Mission had activities under the indicator to work in the justice sectors, most of its effort was at select local communities. The fourth indicator to sample the level of corruption was at one time a valid indicator because the Mission had envisioned an anticorruption program at the national level but GOE support was withdrawn before the program even began. During January 2003, prior to the partner’s start-up, GOE President Lucio Gutiérrez was elected on the platform of anti-corruption. Subsequently, the GOE had announced a major anti-corruption effort called the Ecuadorian Anti-Corruption System (*Sistema Anti-Corrupción Ecuatoriano – SAE*). Based in part on this turn of events, USAID/Ecuador funded an anti-corruption effort. The Mission’s partner thought there was a very good chance of success given that the President was pushing SAE. However, even before the partner could begin its activities the executive branch abandoned the SAE. Thus, since the partner could no longer find support at the national level, the anticorruption effort was redirected through citizen groups. The Mission should have changed the indicator measurement from a national measurement to one that reflected the citizen groups’ activities. Consequently, the Mission did not achieve these performance indicators because the planned activities were unsuccessful and the indicators were outside the Mission’s actual influence.

To improve the accuracy of reporting on the democracy and governance program, we are making the following recommendation:

Recommendation No 1: We recommend that USAID/Ecuador (a) update its democracy and governance program performance indicators with indicators that are clearly defined and written, and (b) include only those indicators that the Mission can materially affect through its activities.

Mission Should Sign a Strategic Objective Agreement with the Government of Ecuador

Summary: According to ADS guidance, a Strategic Objective Grant Agreement (SOAG) with the Government is the principal bilateral grant agreement used by USAID. However, the Mission does not have a SOAG with the Government of Ecuador (GOE) for its democracy and governance activities. The reason the Mission has not signed a SOAG with the GOE is because of the difficulty finding suitable partners at the national level, complicated by political instability and frequent turnover of personnel heading GOE ministries. Without the formal support and commitment of the GOE, the Mission’s

democracy and governance program goals are less likely to be achieved and sustained.

According to ADS 350.3.1, the SOAG is the principal bilateral grant agreement used by USAID. Additionally, ADS 350.2 states that bureaus and operating units are responsible for preparing, negotiating, signing, and implementing bilateral grants in furtherance of their strategic plans.

However, the Mission does not have an agreement with the GOE. A SOAG with the GOE is even more critical now that the Mission has developed a new strategy for 2007 and 2008. This strategy is in support of the U.S. foreign policy goal of democracy and human rights and the U.S. FY 2008 Mission Performance Plan goal of “focused assistance to strengthen democratic stability and institutions.” The Mission’s highest priority new strategic objective — “More Effective, Democratic, and Transparent Governance,” — plans to build upon the results already achieved under the previous USAID strategy at the national and local levels. One objective is to help build the capacity of key national institutions including Congress, the executive branch, the Judiciary, and the Electoral Tribunal. Working with these national level institutions should improve their performance and lead to an increase in citizen confidence in these same institutions. USAID would also work with ministries in the executive branch, particularly the, to continue the process of transferring resources and responsibilities from the central government to municipalities.

The reason the Mission has not signed a SOAG with the GOE is because of the difficulty in finding suitable partners, complicated by political instability and frequent turnover of personnel heading GOE Ministries. According to Mission officials, this issue had been discussed over the years, but the Mission has had difficulty finding suitable partners at the national level. The difficulty in identifying suitable partners is in turn due to political instability, frequent turnover of people and parties in power, lack of political will, and weak government institutions.

Nevertheless, Mission officials acknowledged the importance of agreements with the host country, that ideally the program should have a SOAG, and that it might be helpful to enter into a SOAG with the GOE. Mission officials mentioned some possible partners such as Consejo Nacional de Modernización (CONAM), the Ministry of Finance and the Economy to assist in decentralization objectives, the Supreme Court regarding justice reform, and the Electoral Tribunal Supreme pertaining to election reform, among others. Although all entities have their limitations and weaknesses, Mission democracy and governance officials indicated that they could envision working with them and that at least some of the entities have some individuals that appear to be committed to reform.

Without the formal support and commitment of the GOE, the Mission’s democracy and governance program goals are less likely to be achieved and sustained. For example, the program has expended over \$10 million to build local governments’ capacity, institute democratic processes, and promote decentralization efforts to move more resources and authority from the national ministries to the local governments. However, a major constraint of these activities has been that the central government has not provided the budgetary resources and authority needed for decentralization to take place. To attain the decentralization objectives, it will be necessary to work with and obtain support from the Ministry of Finance and the Economy and CONAM—which are responsible for transferring resources and responsibilities from the central governments to municipalities. Furthermore, the process of entering into a SOAG could help build a

democratic consensus among the various GOE entities—a major constraint identified in a recent assessment of the program. Because no SOAG currently exists, the Mission does not have a partner(s) within the GOE in setting and carrying out democracy and governance program activities. The process of negotiating and signing a SOAG could help the Mission assess the support of the GOE and help identify which activities the GOE is currently interested in and thus willing to support. Without the formal support and commitment of the GOE, the Mission's democracy and governance program goals are less likely to be achieved and sustained.

To improve the implementation of the democracy and governance program, we are making the following recommendation:

Recommendation No 2: We recommend that USAID/Ecuador develop an action plan with targets and timeframes to negotiate a Strategic Objective Grant Agreement with national level parties to assist in implementing the democracy and governance program.

Did USAID/Ecuador's reporting on democracy and governance activities provide stakeholders with complete and accurate information on the progress of the activities and the results achieved?

USAID/Ecuador's reporting on democracy and governance activities provided stakeholders with complete and accurate information on the progress of the activities and the results achieved. We confirmed the results for 12 democracy and governance program activities and found no exceptions. With regards to the performance indicators in the PMP the results reported for fiscal year 2005, and the reported data for fiscal years 2006, the Mission's data was accurate and was readily verified by source documents. The SO-level results utilized surveys and analyses, which were professionally completed following clear and appropriate methodology. Furthermore, select data derived from implementing partner reports were verified as complete and accurate through a review of implementer submissions, source documents, and auditor site visits to a limited number of participating cities.

Concerning the performance indicators for the democracy and governance program that were reported in the Mission's annual report showing results for fiscal year 2005, we found that the information presented was accurately reported. The Mission reported results in its annual report that was directly related to its activities. In other words, indicators that the Mission included were directly attributable to Mission activities. The narrative information in the annual report matched the information collected from interviews and site visits.

EVALUATION OF MANAGEMENT COMMENTS

Overall, USAID/Ecuador found the recommendations in the report to be positive and relevant, although the Mission has not yet reached firm decisions on how to address the recommendations.

With respect to the first audit recommendation, USAID/Ecuador thought that it might be inappropriate to change performance indicators so near the end of its current strategy and so tentatively planned to implement the recommendation as part of its new democracy and governance strategy beginning in 2007. In a subsequent communication, the Mission indicated that, subject to Washington approval, it had selected three new indicators for civil society activities.

Regarding the second recommendation, USAID/Ecuador agreed that a SOAG should be considered as a possibility once the new Correa administration is in place. However, no firm decisions have been made. In a subsequent communication, the Mission suggested that the recommendation be made less specific and simply state that USAID/Ecuador should explore the possibility of signing a SOAG with the incoming Correa administration. We prefer not to make recommendations that are not specific about the action to be taken; however, the Mission, in the process of deciding what action to take on the recommendation, can either choose to implement it or set forth grounds for not implementing it.

Management decisions on both audit recommendations can be recorded once USAID/Ecuador and we have agreed on a firm plan of action with target dates for addressing the recommendations, or when USAID/Ecuador has set forth grounds for not implementing the recommendations.

SCOPE AND METHODOLOGY

Scope

The Regional Inspector General/San Salvador conducted this audit in accordance with generally accepted government auditing standards. The purpose of the audit was to determine whether USAID/Ecuador's democracy and governance activities achieved planned results and whether USAID/Ecuador's reporting on democracy and governance activities provided stakeholders with complete and accurate information on the progress of the activities and the results achieved.

In planning and performing the audit, we assessed management controls related to the development, implementation, use and management review of performance measures and indicators. Specifically, we reviewed (1) the Mission's results reported in its annual report for fiscal year 2005, (2) the Performance Management Plan for FY 2006, (3) ADS requirements related to performance measures, (4) data quality assessment procedures and results, (5) Federal Manager's Financial Integrity Act submission, and (6) the democracy and governance portfolio review. We also evaluated all of the Mission's current 12 performance indicators for democracy and governance activities as well as the performance data collected and reported under these indicators as of September 30, 2006.

The audit was conducted at the offices of USAID/Ecuador and at various implementing partner site locations in Quito. To further verify results, we also visited six additional cities in Ecuador that had participated in USAID-sponsored Governance activities. The audit was conducted from September 18 through October 5, 2006.

Methodology

To answer the audit objectives, we first obtained from the Mission its democracy and governance Performance Management Plan. We also obtained the Mission's agreements and the names of the CTOs assigned to each of the implementers. We then obtained agreements and contracts to determine work plan indicators and compared them to the democracy and governance Performance Management Plan.

To answer the audit objective about whether USAID/Ecuador's democracy and governance activities achieve planned results, we first reviewed the Mission's democracy and governance Performance Management Plan. We interviewed CTOs, implementing partners and Mission managers regarding their roles in developing and maintaining performance indicators and related performance data. We also tested various management controls relevant to performance indicators—including the Performance Management Plan, data quality assessment procedures and results for all active indicators, the FMFIA review process, and the portfolio review process—and evaluated the effectiveness of these controls.

We then evaluated the Mission's compliance with relevant Agency polices, including ADS 350 and ADS 203, including the requirements to develop and maintain useful performance indicators. Furthermore, we tested a judgmental sample of indicator results

submitted by contractors and implementing partners for FYs 2005 and 2006 to verify the Mission's data for reported project performance. Finally, our testing included site visits to seven Ecuadorian cities to verify reported performance results for selected indicators.

To answer the audit objective about whether USAID/Ecuador's reporting on democracy and governance provided stakeholders with complete and accurate information on the progress of the activities and the results achieved we compared the information gathered from implementers' progress reports and our site visits to the Mission's reports to stakeholders.

In planning the audit, we considered that exceptions to the accuracy of data reported in the Mission's Performance Management Plan of 10 percent or more of any one indicator reviewed would be considered significant and therefore reportable.

MANAGEMENT COMMENTS

TO: Timothy Cox, RIG/San Salvador

FROM: Alexandria L. Panehal, Mission Director

DATE: November 17, 2006

SUBJECT: Mission Response to Draft Program Audit of USAID/Ecuador's Democracy and Governance Activities (Audit Report No. 1-518-07-XXX-P)

I am pleased to submit USAID/Ecuador's formal response to the draft report you transmitted to us on October 27, 2006. First of all, I would like to compliment the auditors who participated in the process for their objectivity and understanding of the challenges for implementing a democracy program in the Ecuadorian context. Overall, we find the findings and recommendations made by the R/IG positive, very constructive, and relevant for our new strategy. With this in mind, we would like to provide several additional comments and reactions for your consideration for incorporation into the final report.

Indicators: Regarding the nature of the indicators we have in the PMP, the assessment is essentially accurate. The audit recommendation in this regard effectively complements those of the Data Quality Assessment. We would like to address this issue by acknowledging the recommendation and using it to develop the new performance indicators under the new strategy for FY2007-FY2009. However, these recommendations raise the question of whether the Democracy and Governance SO should change the performance indicators this close to the end of the current strategy. Appropriate changes to the current PMP would include the dropping of some of the indicators that are vague or beyond our program management capability. Since we are not doing another DVS in 2007, we shall not be reporting on the indicators tied to it, which will limit indicators against which national-level impact can be measured. Furthermore, the new Operational Plan requires us to select from a menu of indicators, and this requirement will help define how we measure impact.

SOAG Recommendation: As stated in the draft audit report the Mission has considered the SOAG option several times in the past but—due to the lack of good governance, political instability, weak public institutions and lack of consensus—the Mission has not been able to find suitable SOAG partners in the Government of Ecuador (GOE). Nevertheless, we agree with the proposal for an action plan to explore the *possibility* of a DG SOAG, once the new Government is in place. We must bear in mind, however, that the time frame for that is tight, since we would only have from late January until September 30, 2007, to accomplish this. Moreover, we may find, once again, that either the Government of Ecuador (GOE) will have other priorities than those we want to assume or, for other political reasons, a SOAG is not yet feasible. Should that be the case, we need to have a Plan B and be able to explain it. This situation will critically affect our FY2007 Procurement Plan, since we are going to have to know whether we obligate into a SOAG or other separate instruments, sooner rather than later. Since our bridge projects and other leftovers from the current SO12 Strategy end September 30, 2007, we would not have the luxury of waiting until after September 30 to do the sub-obligations under a hypothetical SOAG, if we want continuity in our program. Additionally, if we are going to combine DG and NB local governance activities into a single instrument, we are going to have to be creative in structuring that program so that it responds to two separate SOAGs. This means we have a lot of work ahead of us before the end of the current fiscal year. The other option is to sign a SOAG with the Ministry of Foreign Affairs and state in the program description that the implementation of the activities will be undertaken by contractors.

Clarifications:

1. On page 1, regarding why the Mission did not meet the target for the indicator: “Implementation of the new CCP achieved”—we would like to suggest that the report reflect a comment along the lines of the following sentence: “This partner stated that the law was well supported in Congress, however, because the Congress was preoccupied with the upcoming election, the law would likely not be considered until after the new Congress is sworn in, January 2007”. In other words, without the law, implementation was impossible. The same comment applies to the Background section, p. 3, second paragraph.
2. Audit Findings Section, p. 4: The sentence “USAID/Ecuador’s democracy and governance (DG) activities did not achieve planned results:...” should read: “USAID/Ecuador’s democracy and governance (DG) activities did not achieve all planned results:...”
3. Same Section and page: The table of planned and actual performance results, item 5 does not accurately reflect the specific measures that the Mission had set for 2005: “(v) CPC reforms passed, (vi) Reformed CPC evaluated.” As stated in the audit report, this would imply that the Mission had not met other benchmarks established including: “(i) inter-institutional committee coordinating implementation of the CPC is functioning, (ii) textual and rapid appraisal CPC diagnostic completed, and (iii) results of diagnostic disseminated to policymakers.”
4. p. 5, The 2006 Transparency International ranking of Ecuador is 138 out of 145 countries, below the 2005 rank of 112. (http://icgg.org/corruption.cpi_2006_data.html)
5. p. 5, the last complete sentence should read: “...the removal of the Supreme Court President as an obstacle to meeting its goal.” We need to avoid confusion with the removal of the President of Ecuador.

In an e-mail dated December 12, 2006, USAID/Ecuador provided additional information which it requested be included in the Management comments section of the audit report:

We would like to provide updated 2006 data on the selected performance results listed on page 4 of the draft report (Table Comparison of Planned and Actual Performance Results). We would like to ask you also to incorporate this information into the Management Comments section, if not the body of the report.

	Performance Indicators	Year	Plan	Actual	Met
5	(a) Implementation of new Code of Criminal Procedures (CCP) achieved	2005 (latest data available)	Yes	No	No
	(b) Percent of justice personnel subgroups given advanced training		95%	97%	Yes

The Mission met four of the six sub-results of indicator (a). In 2003, the Mission achieved: (i) the establishment and functioning of the Inter-institutional committee coordinating implementation of the CPC (Criminal Procedures Code); (ii) diagnostic of the implementation of the CPC; (iii) results of the diagnostic disseminated to policymakers; and (iv) reforms to the new CPC formulated and proposed to Congress. The two sub-results that have not been accomplished as of 2006 are: (v) passage of reforms to the CPC; and (vi) reformed CPC evaluated. The most severe national political and judicial crisis in 2005, and the national Presidential and Legislative elections in 2006, are major causes for the GOE’s not having advanced proposed reforms. Despite this situation, advances in implementation have been achieved, especially at the local level, with the Mission’s support.

	Performance Indicators	Year	Plan	Actual	Met
8	President of Supreme Court maintains independence	2005 (latest data unavailable)	Yes	No	No

This indicator was formulated as a contextual condition for the implementation of justice programs. Data for 2005 is accurate since the Supreme Court was dissolved in December 2004 and, until the end of CY 2005, Ecuador did not have a Supreme Court of Justice. In practice, this indicator was not applicable in 2005.

The Mission sees independence on two fronts: 'External' independence in terms of lack of interference on the part of other branches of government—as well as private and public economic and political group—in the Court's decisions; and 'internal' in terms of interference by organizations and individuals within the judiciary to block or modify Supreme Court decisions.

In 2006, however, we believe the Supreme Court of Justice demonstrated its internal independence. Actions by the Court in 2006 include: (a) Decision to re-organize the judiciary by enforcing official completion periods of judges and other judicial employees; this will require a process to be implemented by phases; (b) Removal of two members of the National Judicial Council for not advancing the re-organization of the judiciary; (c) Removal of the former president of the Federation of Judicial Employees who had major informal control and power over justice decisions; and (d) Removal of three of the thirty-one Supreme Court Magistrates who were accused of being involved in a corruption scandal. Based on improved performance in 2006, the Mission believes that the 2006 target of judicial independence has been met.

In addition, the Constitutional Tribunal and the Congress have made public their support in terms of defending the constitutionality and legitimacy of the new Court.

	Performance Indicators	Year	Plan	Actual	Met
10	Increased number of people, especially from vulnerable groups, receiving defense services from legal service providers that have been strengthened by USAID-funded assistance	2005 (latest data unavailable)	1,500	1329	No

The target for CY 2006 is 2,010 persons defended. The Mission's implementing partner has indicated that, through September 2006, preliminary data shows they have reached 70% of the planned target for the entire year, indicating that it is likely they will meet their beneficiary target for calendar year 2006.

	Performance Indicators	Year	Plan	Actual	Met
12	Participacion Ciudadana issues formal judgment about freeness and fairness of 2004 and 2006 elections	2004 (latest data unavailable)	Report issued	Report issued	Yes

In October and November 2006, Participacion Ciudadana observed the National Elections and issued a report documenting its judgment on the electoral process. In addition, it is worth noting that USAID's partner was praised by media outlets for its exemplary role throughout the electoral

process. Participacion Ciudadana was able to develop a national citizen campaign to promote responsible and informed voting; monitored campaign spending in the national media outlets; implemented a national survey on satisfaction with the electoral process and other aspects including citizens' criteria to choose their candidate; established an electronic news system linked to major international media outlets; observed the elections nationwide through the participation of over 3,000 volunteers; and developed a quick count in the first and second rounds with a level of precision of a $\pm 0.08\%$ margin of error against the official results reported by the Supreme Electoral Tribunal.

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