

USAID Assistance Agreement No. 116-0001-SOA

MILLENNIUM CHALLENGE ACCOUNT THRESHOLD PROGRAM

ASSISTANCE AGREEMENT

BETWEEN

THE UNITED STATES OF AMERICA

AND

THE KYRGYZ REPUBLIC

FOR

**THE PROGRAM TO IMPROVE THE RULE OF LAW AND
CONTROL CORRUPTION**

Dated: March 14, 2008

**Millennium Challenge Account Threshold Program
ASSISTANCE AGREEMENT**

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Millennium Challenge Account Threshold Program

ASSISTANCE AGREEMENT

Dated: March 14, 2008

Between

The United States of America, acting through the United States Agency for International Development ("USAID")

and

The Kyrgyz Republic, acting through the Administration of the President of the Kyrgyz Republic (hereinafter referred to as the "Grantee")

Article 1: Purpose.

The purpose of this Assistance Agreement (the "Agreement") is to set out the understanding of the parties named above (the "Parties") in connection with the Objective described below. This Agreement is concluded within the framework of the Agreement between the Government of the United States of America and the Government of the Kyrgyz Republic regarding Cooperation to Facilitate the Provision of Assistance, dated May 19, 1993 ("1993 Bilateral Agreement").

Article 2: Objective and Results.

Section 2.1: Objective. The objective ("Objective") of the Agreement is to improve the rule of law and control corruption with a focus on reducing corruption and enhancing professionalism in the judiciary, law enforcement and criminal justice systems.

Section 2.2: Annex 1, Amplified Description. Annex 1, attached hereto, forms part of the Agreement and amplifies the above Objective, describes the program to improve the rule of law and control corruption (the "Program"), and the expected results (the "Results"). Within the limits of the above definition of the Objective in Section 2.1, Annex 1 may be changed by written agreement of the Authorized Representatives of the Parties, as defined in

Section 8.2, without ratification of the amendment, provided the amendment does not contradict the laws of the Kyrgyz Republic.

Article 3: Contributions of the Parties.

Section 3.1. USAID Contribution. *The Grant.* To help achieve the Objective set forth in this Agreement, USAID, pursuant to the Foreign Assistance Act of 1961, as amended, and Section 616 of the Millennium Challenge Act of 2003, hereby grants to the Kyrgyz Republic under the terms of the Agreement an amount not to exceed Fifteen Million Nine Hundred Ninety-Four Thousand United States ("U.S.") Dollars (\$15,994,000) (the "Grant").

Section 3.2. Grantee Contribution. The Grantee agrees to provide or cause to be provided all funds, in addition to those provided by USAID and any other donor identified in Annex 1, and all other resources required to complete, on or before the Completion Date as defined in Article 4, all activities necessary to achieve the Objective. As part of the Grantee contribution, the Kyrgyz Republic also agrees to provide or cause to be provided sufficient and adequate office work space for up to twelve (12) employees or consultants of contractors, grantees, and other organizations implementing activities financed by USAID under this Agreement.

Article 4: Completion Date.

Section 4.1. The Completion Date, which is June 30, 2010, or such other date as the Parties may agree to in writing, is the date by which the Parties estimate that all the activities necessary to achieve the Objective will be completed.

Section 4.2. Except as USAID may otherwise agree to in writing, USAID will not issue or approve documentation that would authorize disbursement of the Grant for services performed or goods furnished after the Completion Date.

Section 4.3. Requests for disbursement, accompanied by necessary supporting documentation prescribed in Implementation Letters, are to be received by USAID no later than nine (9) months following the Completion Date, or such other period as USAID agrees to in writing before or after such period. After such period USAID, at any time or times, may give notice in writing to the Grantee and reduce the amount of the Grant by all or any part

thereof for which requests for disbursement, accompanied by necessary supporting documentation prescribed in Implementation Letters, were not received before the expiration of such period.

Article 5: Conditions Precedent to Disbursement.

Section 5.1: First Disbursement. Prior to the first disbursement under the Grant, the Grantee will, except as the Parties may otherwise agree in writing, furnish to USAID in form and substance satisfactory to USAID:

(a) An opinion of counsel, or other official document acceptable to USAID that (i) this Agreement has been duly authorized or ratified by, and executed on behalf of the Grantee, (ii) this Agreement constitutes a valid and legally binding obligation of the Grantee in accordance with all of its terms, and (iii) all internal actions and approvals necessary to give effect to this Agreement have been obtained by or on behalf of the Grantee; and

(b) A signed statement in the name of the person holding or acting in the office of the Grantee specified in Section 8.2, which designates by name and title any Additional Representatives of the Grantee, as provided in Section 8.2, to manage and implement the three components of the Program, as described in Annex 1, together with a specimen signature of each person specified in such statement;

Section 5.2. Disbursement for the Court Computerization Subcomponent of Component 1 of the Program. Prior to any disbursement under the Grant for the Court Computerization subcomponent of Component 1 of the Program, the Grantee will, except as the Parties may otherwise agree in writing, furnish to USAID in form and substance satisfactory to USAID, evidence that

(a) all legislation and regulations required to establish and operate the National Council on Justice Affairs consistent with the Program have been adopted and are in effect;

(b) the National Council on Justice Affairs has been established, has adequate staff to accomplish its statutory mandate, has been operating for at least three months and has established procedures to administer the judicial qualification exam in accordance with the laws of the Kyrgyz Republic;

(c) all legislation and regulations required to establish and operate the Judicial Council consistent with the Program have been adopted and are in effect;

(d) the Judicial Council has been established, has adequate staff to accomplish its statutory mandate, has been operating for at least three months, and has approved a judicial training program for judges at the Judicial Training Center of the Kyrgyz Republic;

(e) the Judicial Council has established procedures to process complaints against judges in accordance with the laws of the Kyrgyz Republic;

(f) the Kyrgyz Republic has included sufficient funding in its budget to adequately support the operations of the National Council of Justice Affairs, the Judicial Council and the Judicial Training Center of the Kyrgyz Republic consistent with the Program;

(g) the Kyrgyz Republic has included sufficient funding in its budget to adequately support the operational, maintenance and staffing costs required to implement the Court Computerization subcomponent of Component 1 of the Program;

(h) the functional analysis for the judiciary has been completed; and

(i) implementation of the Personnel Management and Judicial Independence subcomponents of Component 1 of the Program is progressing satisfactorily in accordance with the approved Program implementation plan.

Section 5.3. Disbursement for the Training and Equipment Subcomponent of Component 2 of the Program. Prior to any disbursement under the Grant for the Training and Equipment subcomponent of Component 2, the Grantee will, except as the Parties may otherwise agree in writing, furnish to USAID, in form and substance satisfactory to USAID, evidence that

(a) all legislation and regulations required to support the establishment of the Ministry of Interior internal affairs unit and the Civilian

Review Board consistent with the Program have been adopted and are in effect;

(b) the Civilian Review Board has been created, has adequate staff to accomplish its mandate and has been operating for at least three months;

(c) the Ministry of Interior internal affairs unit has been created, has adequate staff to accomplish its statutory mandate and has been operating for at least three months;

(d) the Ministry of Interior has established a citizen's complaint procedure, and the procedure has been operating for at least three months in accordance with the laws of the Kyrgyz Republic;

(e) the Kyrgyz Republic has included sufficient funding in its budget to adequately support the operations of the internal affairs unit and the Civilian Review Board consistent with the Program;

(f) the Kyrgyz Republic has included sufficient funding in its budget to adequately support full implementation of the Training and Equipment subcomponent of Component 2 of the Program; and

(g) implementation of the Oversight and Management subcomponent and the Civilian Oversight subcomponent of Component 2 is progressing satisfactorily in accordance with the approved Program implementation plan.

Section 5.4: Notification. USAID will promptly notify the Grantee when USAID has determined that the conditions precedent in Section 5.1, Section 5.2 and Section 5.3, respectively, have been met.

Section 5.5: Terminal Dates for Conditions Precedent.

(a) The terminal date for meeting the conditions specified in Section 5.1 is 30 days from the date of this Agreement or such later date as USAID may agree to in writing before or after the above terminal date. If the conditions precedent in Section 5.1 have not been met by the above terminal date, USAID, at any time, may terminate this Agreement in whole or in part by written notice to the Grantee.

(b) The terminal date for meeting the conditions specified in Section 5.2 is 17 months from the date of this Agreement or such later date as USAID may agree to in writing before or after the above terminal date. If the conditions precedent in Section 5.2 have not been met by the above terminal date, USAID, at any time, may terminate this Agreement in whole or in part by written notice to the Grantee.

(c) The terminal date for meeting the conditions specified in Section 5.3 is 17 months from the date of this Agreement or such later date as USAID may agree to in writing before or after the above terminal date. If the conditions precedent in Section 5.3 have not been met by the above terminal date, USAID, at any time, may terminate this Agreement in whole or in part by written notice to the Grantee.

Article 6: Special Covenants.

Section 6.1. The Grantee shall appoint, hire or assign sufficient and appropriate staff to the Program management team, including appropriate personnel of senior rank who have access to senior decision-makers in the Government of the Kyrgyz Republic, including the Ministry of Internal Affairs, as well as in bodies of the Judicial Branch, the Procuracy, and members of the Parliament, so that the Grantee and its Program management team will be able to coordinate and implement the Program.

Section 6.2. If USAID determines that the achievement of the Results or the accomplishment of the Objective is improbable because the Kyrgyz Republic has failed to draft and adopt appropriate new or amended laws or to issue or amend appropriate regulations in a timely manner, then USAID may, under Annex 2, Section E.1, suspend or terminate assistance for any Component or specified activities that are affected by the failure to enact appropriate laws or issue appropriate regulations.

Section 6.3. The Grantee, in conjunction with the appropriate Kyrgyz Republic state bodies, hereby covenants and agrees to issue, renew or extend free of charge and in a timely manner all official permits, visas, documents confirming the availability of tax exemptions and any other permissions (including all approvals as may be required from time to time to ensure full access to information that is not restricted in accordance with Kyrgyz law, project sites and relevant offices) for the “Applicable Persons” (as defined below) carrying out activities financed by USAID under this Agreement (collectively, the “Required Documents”). For purposes of this provision,

Applicable Persons is defined as: (1) employees and consultants of any contractors, grantees and other organizations who are not nationals of or ordinarily resident in the Kyrgyz Republic and who are present in the Kyrgyz Republic in connection with implementing activities financed by USAID under this Agreement and (2) members of such employees' and consultants' households. Any renewals or extensions of such Required Documents that are required, or become required, in order for such employees, consultants and dependent family members to legally reside in the Kyrgyz Republic and undertake the activities contemplated by and financed under this Agreement shall also be issued free of charge.

Article 7: Procurement and Grant-Making Procedures.

Section 7.1. Unless the Parties agree otherwise in writing, USAID shall commit and subobligate all Grant funds under USAID procedures for grants and contracts for the activities described in Annex 1, the Amplified Description of the Program, through U.S. Government procedures for awarding grants and contracts. Officials of the Kyrgyz Republic or individuals designated by the Government of the Kyrgyz Republic may participate in the selection process for the award of grants and contracts to implement Component 1 of the Agreement. Grants and contracts awarded under the Agreement shall include standard provisions requiring insurance for goods financed under the Agreement and imported for the Agreement against risks incident to their transit to the point of their use under the Agreement.

Section 7.2. Details of cooperation between the Parties on procurement and grant-making procedures are provided in Annex 1, and may be further agreed by Implementation Letter, as provided in the Standard Provisions, Annex 2.

Section 7.3. The Parties agree that, in addition to Kyrgyz public bodies and private organizations, U.S. or other international implementing organizations may work under contracts or grants with USAID to provide technical assistance in order to implement the Program.

Article 8: Miscellaneous.

Section 8.1. Communications. Any notice, request, document, or other communication submitted by either Party to the other under this Agreement will be in writing or by telegram, telefax, cable or electronic mail ("e-mail"),

and will be deemed duly given or sent when delivered to such Party at the following address:

To USAID:
Mail Address:

Director
United States Agency for International Development (USAID)
Central Asian Republics Regional Mission
41 Kazibek Bi Street
050010, Almaty, Kazakhstan

Telephone: 7-727-250-2710
Telefax: 7-727-250-7636

and

Country Representative
USAID/Kyrgyz Republic
171 Mira Ave.
Bishkek 720016
Kyrgyz Republic

Telephone: 996-312-551-241
Telefax: 996-517-777-203

To the Grantee:
Mail Address:

Administration of the President
Of the Kyrgyz Republic
Government House
720003 Bishkek
Kyrgyz Republic

Telephone: 996-312-638-520
Telefax: 996-312-627-072
E-mail: office@mail.gov.kg

All such communications will be in English, unless the Parties otherwise agree in writing. Other addresses may be substituted for the above upon the giving of notice.

Section 8.2. Representatives. For all purposes relevant to this Agreement, the Grantee will be represented by the individual holding or acting in the Office of the Head of the Presidential Administration of the Kyrgyz Republic, and USAID will be represented by the individual holding or acting in the Office of the Director, USAID Regional Mission to the Central Asian Republics, (each an "Authorized Representative" and together, the "Authorized Representatives"). Each of the Authorized Representatives, by written notice, may designate additional representatives ("Additional Representatives") for all purposes other than signing formal amendments to the Agreement or exercising the power under Section 2.2 to revise Annex 1. The names and titles of the Authorized Representative and the Additional Representatives of the Grantee, with specimen signatures, will be provided pursuant to Section 5.1(b) to USAID, which may accept as duly authorized any instrument signed by such Authorized Representative or Additional Representatives (or any individuals subsequently holding or acting in the office of such representatives) in accordance with this Section 8.2, until receipt of written notice of revocation of their authority.

Section 8.3. Standard Provisions Annex. A "Standard Provisions Annex" (Annex 2) is attached to and forms part of this Agreement.

Section 8.4. Language of Agreement. This Agreement is prepared in both English and Russian, both texts being equally authentic.

IN WITNESS WHEREOF, the United States of America and the Kyrgyz Republic, each acting through its duly authorized representatives, have signed this Agreement as of the day and year first above written.

UNITED STATES OF AMERICA

KYRGYZ REPUBLIC

By: / s /

By: / s /

William Frej

Director, USAID Regional Mission
for the Central Asian Republics

Medet Ch. Sadyrkulov

Head of the Presidential
Administration of the Kyrgyz
Republic

Annex 1 to Assistance Agreement Amplified Program Description

I. Introduction

This annex describes the activities to be undertaken and the results to be achieved with the funds obligated under this Agreement. Nothing in this Annex 1 may be construed as amending any of the definitions or terms in other sections of the Agreement.

II. Background

The Kyrgyz Republic has been undertaking a number of initiatives to fight corruption. These have included the passage of legislation on the declaration of income by public officials, establishing a unit to track financial crimes, ratifying the United Nations Convention against Corruption, and developing an action plan to implement the State Strategy to Fight Corruption.

In November 2005, the U.S. Government Millennium Challenge Corporation selected the Kyrgyz Republic as eligible to receive Millennium Challenge Corporation Threshold Program assistance. In May 2006, in response to the Millennium Challenge Corporation's invitation, the Kyrgyz Republic submitted its Threshold Program proposal to the Millennium Challenge Corporation to continue and expand its reform efforts with a focus on reducing corruption and enhancing professionalism in the judiciary, law enforcement and the criminal justice system. The Millennium Challenge Corporation has approved Threshold Program assistance to help the Kyrgyz Republic in its efforts as set forth in this Agreement, described herein as the Program.

The Program includes three main approaches to combating corruption: developing an effective and fair judicial system; improving the transparency of law enforcement; and increasing the effectiveness of the criminal justice system, to include the detection and punishment of corruption. The Program will also enhance other complementary reforms undertaken directly by the Kyrgyz Republic to achieve independence of the judiciary, improve the system of checks and balances in the law enforcement sector, increase salaries of judges and the judiciary and law enforcement staff, and improve human resources administration in all participating agencies. Through these efforts, the Program is expected to have a significant effect on the society and

economy of the Kyrgyz Republic and improve the Kyrgyz Republic's performance on the indicators on which eligibility for the Millennium Challenge Corporation Compact assistance is determined.

III. Program Components; Goals; Proposed Activities

Program goals and proposed activities are outlined below in relation to each Component.

A. Component 1: Judicial Reform: Component 1 is designed to strengthen the rule of law and decrease corruption by improving the judicial personnel system and internal judicial management, improving the legal framework for handling commercial cases, and increasing public access to and management of judicial information. Critical to these efforts is improving the personnel system, the judicial selection process and disciplinary system, judicial budgeting, the enforcement of judgments, and court automation. Under Component 1 the Court Department, which carries out the administrative functions for the judicial system in the Kyrgyz Republic, will be removed from the Ministry of Justice and placed under the control of the new Judicial Council. The goal of the component is to increase independence, decrease corruption, and improve effectiveness and performance of the judiciary through four subcomponents.

1. Personnel Management: This subcomponent seeks to improve the system for selecting, dismissing and disciplining judges, and ensuring that the activities of the judiciary are organized in the most efficient way to handle current and future projected caseloads.

Proposed Activities:

- Provide technical assistance to help implement new laws concerning the judicial selection and dismissal process, including establishment of the new National Council on Justice Affairs which will carry out these functions.
- Conduct a functional analysis of the judicial system and assist in implementing recommendations to optimize the court personnel system.

2. Judicial Independence: This subcomponent seeks to develop the capacity of the judiciary to independently manage its

administration and provide for continuing education and professional development of judges. The subcomponent will support the establishment of a new Judicial Council elected from members of the judicial branch, which will resolve issues related to judicial self-governance, manage the resources for the operation of the courts, oversee the professional performance of judges, and organize their training.

Proposed Activities:

- Provide technical assistance to help establish the new Judicial Council.
- Assist the Judicial Council in budget planning and formulation.
- Help establish a system to implement adequate and transparent disciplinary procedures for judges through the Judicial Council.
- Improve the system of citizen complaints of the judiciary through the Judicial Council, and help the Judicial Council regularly publish data on the status of disciplinary complaints and disciplinary actions.
- Improve the system of judicial training with oversight from the Judicial Council.

3. Commercial Justice: This subcomponent seeks to streamline procedures for handling commercial cases and enforcing commercial judgments.

Proposed Activities:

- Provide technical assistance to improve implementation of amended and improved commercial laws.
- Strengthen the enforcement of judgments.

4. Court Computerization: This subcomponent seeks to expand the use of information management system, which will provide for mandatory random case assignments and greater access to court decisions.

Proposed Activities:

- Expand the Court Information Management System (CIMS) to at least 16 additional courts to improve the transparency and effectiveness of the courts, and train judges and court personnel on the use of the system.
- Provide technical assistance and training to adopt random case assignment and improved case management procedures in all courts.
- Enhance the system for publishing court decisions and providing access to open court proceedings.

B. Component 2: Law Enforcement Reform: As used in this Agreement, the terms police and “law enforcement bodies” refer to “Organs of Internal Affairs” in the Kyrgyz Republic (“OVD”). Component 2 of the Program will reduce public corruption within law enforcement by improving personnel selection, management and internal investigation capacities, as well as enhancing civilian monitoring of law enforcement activities. Component 2 will also assist in restructuring and reforming the OVD to develop transparent hiring and vetting procedures, create an Internal Affairs Service to investigate police misconduct, and establish a Civilian Review Board as a check on the police. The goal is to develop a more functional, effective, and trusted OVD through three Program subcomponents. All assistance under Component 2 will be provided through the Ministry of Internal Affairs of the Kyrgyz Republic.

1. Oversight and Management: This subcomponent seeks to improve personnel selection, performance evaluation and disciplinary procedures as well as ethical safeguards within the OVD.

Proposed Activities:

- Improve police recruitment and evaluation procedures and implement an Ethics Code system in the OVD by establishing a personnel management system, to include vetting of officers and merit-based selection and performance evaluations.
- Establish standard operating procedures within the OVD, with public input, to promote consistent application of the law by the police.

- Establish an internal affairs unit within the OVD to investigate and impose sanctions against police misconduct, including corruption.
- Improve financial disclosure enforcement systems within the OVD.

2. Civilian Monitoring System: This subcomponent will provide for civilian monitoring of the police.

Proposed Activities:

- Establish a Civilian Review Board to oversee police conduct.
- Improve police complaint processes.

3. Training and Equipment: This subcomponent will provide modern law enforcement tools to improve the detection, investigation and prosecution of serious corruption and organized crime.

Proposed Activities:

- Strengthen investigative capacities and abilities of the police by providing training and equipment.

C. Component 3: Criminal Justice Reform: This Component of the Program will reduce public corruption in the criminal justice area through four Program subcomponents. The Grantee will seek to reduce public corruption in the criminal justice sector by strengthening the legal framework, providing training for prosecutors and judges, improving financial disclosure mechanisms, implementing an effective witness protection system and special anti-money laundering unit, and educating the public about anti-corruption measures. Component 3 of the Program will accelerate the Kyrgyz Republic's criminal law reform efforts to make the criminal justice system more transparent and facilitate effective interaction between representatives of the procuracy and the judiciary.

1. Legislative Framework and Institutional Reform: This subcomponent seeks to improve the legislative framework for criminal cases, with a particular focus on corruption, money laundering, and organized crime, and increase institutional capacity to address these crimes.

Proposed Activities:

- Improve the system for government declaration of assets and monitoring of expenses.
- Improve the capacity of a vetted unit defined by the legislation of the Kyrgyz Republic to combat money laundering and investigate financial crimes.
- Develop an effective witness security program.
- Evaluate the role of elder courts in handling minor crimes.

2. Prosecutorial and Judicial Training: This subcomponent seeks to strengthen the professional development of the criminal justice sector (including prosecutors, judges, court staff and criminal defense attorneys), with a particular focus on the investigation and detection of organized crime, corruption and money laundering.

Proposed Activities:

- Improve the curriculum and capabilities of the Prosecutor Training Center with regard to new criminal legislation.

3. Reporting and Disclosure: This subcomponent seeks to strengthen financial disclosure procedures for public officials.

Proposed Activities:

- Improve the system for financial disclosure, including declaration of assets by civil servants and monitoring expenses.
- Enhance the prosecutor ethics code and its effective implementation, including developing enforcement provisions and providing training.

4. Public Education: This subcomponent seeks to reduce public tolerance of official corruption through mass media campaigns, work with the educational system, and greater use of the anti-corruption hotline.

Proposed Activities:

- Develop a system, including curricula, to integrate anti-corruption messages into the educational system.
- Develop, with the involvement of mass media, a public awareness campaign on the detection, investigation, and prosecution of corruption.

D. Component 4 will monitor and evaluate overall Program performance.

IV. Roles and Responsibilities of the Parties

A. Kyrgyz Republic Implementation Arrangements: The Grantee will be engaged in actively managing this Program through the Millennium Challenge Corporation Coordinating Committee. The Committee's functions will include:

- Reviewing and concurring on annual implementation plans prepared for each Program Component by Implementing Organizations;
- Concurring on amendments to the annual implementation plans;
- Ensuring timely compliance with conditions precedent outlined in Article 5 of the Agreement;
- Immediately notifying USAID of any obstacles encountered in Program implementation;
- On at least a quarterly basis, participating in a joint review with USAID of overall program progress, actual results, and reports provided by Implementing Organizations;
- Identifying linkages of the Program to other Grantee efforts, including those supported by other international donors or local organizations;
- Ensuring implementation by the relevant counterparts within the Kyrgyz Republic of accepted recommendations provided by implementing organizations;

- Appropriately publicizing overall Program status, accomplishments and progress to increase public awareness of reform efforts of the Kyrgyz Republic.

B. United States of America Implementation Arrangements: For the United States of America, the Millennium Challenge Corporation has charged USAID with responsibility for administering and overseeing overall implementation of this Agreement under Millennium Challenge Corporation principles of country ownership, accountability and emphasis on results. The Millennium Challenge Corporation is not a party to this Agreement.

USAID will enter into one or more agreements with one or more third-party implementing organizations (each, an “Implementing Organization”) to implement the Program. Such agreements may include but not be limited to grants, cooperative agreements, contracts and interagency agreements. The Implementing Organizations may be local, United States, international, governmental or nongovernmental, organizations or persons.

USAID will select the Implementing Organizations in accordance with applicable USAID regulations and policies. For the purposes of this Agreement, “Implementing Organization” will include any legal entity that has legal responsibility for implementing the Program in whole or in part on the basis of a written agreement with USAID.

USAID plans to enter into an agreement with the U.S. Department of Justice to provide the assistance required for Component 2: Law Enforcement Reform and Component 3: Criminal Justice Reform. USAID, the U.S. Department of Justice, and the United States Embassy in Bishkek will play key roles in implementation of the Program and liaison with the representatives of the Kyrgyz Republic.

V. Funding

The financial plan for the Program is set forth below.

Component 1: Judicial Reform

Personnel Management	\$750,000
Judicial Independence	\$1,500,000
Commercial Law	\$1,000,000
Court Computerization	\$2,000,000

Component 2: Law Enforcement	
Oversight and Management	\$2,007,000
Civil Monitoring	\$234,000
Training and Equipment	\$3,080,000
Component 3: Criminal Prosecutions	
Legislative and Institutional Reform	\$2,998,000
Prosecutor Training Center	\$275,000
Financial Disclosure System for Public Officials	\$1,155,000
Public Education	\$495,000
Component 4: Program Monitoring and Evaluation	\$500,000
Total Program Cost	\$15,994,000

As needed to accomplish the Program, the Parties may reallocate funds among and within the Components by exchange of countersigned Implementation Letters or other written agreements, without formal amendment to the Agreement, if such changes do not cause USAID's contribution to exceed the amount specified in Section 3.1 of the Agreement. USAID will provide the Grantee quarterly summary reports by Component and subcomponent on the use of funds under the Agreement.

VI. Highlights of Expected Results of the Program

Highlights of expected Results include:

- Improve the Rule of Law score from 3.38 (2006) to 3.68 (Freedom House Countries at the Crossroads).
- Improve the reliability of police services from 2.3 (2006) to 3.0 (Source: Global Competitiveness Report).
- Decrease the pervasiveness of money laundering through banks as reflected in a score change from 2.8 (2005) to 3.5. (Source: Global Competitiveness Report).
- Improve the Judicial Framework and Independence score from 5.5 (2006) to 5 (Freedom House Nations in Transit).
- Improve performance on the World Bank Institute's Control of Corruption Indicator from -1.0 (2005) to -0.8.

VII. Monitoring and Evaluation

Program monitoring and evaluation will be based on quantitative as well as qualitative factors, and will require cooperation of the Grantee, the Implementing Organizations and USAID. Successful implementation of the Program is expected to be indicated by the following:

- Revised transparent selection procedures used to select at least 75 percent of new judges;
- Procedures required to enforce a judgment in commercial cases from filing to payment reduced by 10 percent;
- Regular open court decisions of at least 21 courts published;
- Annual performance review of law enforcement staff increased to 100 percent;
- Incidents of excessive use of force and coercion by law enforcement decreased by 45 percent;
- Compliance by public officials with financial disclosure requirements increased to 90 percent; and
- Number of investigations and prosecutions of corruption, money laundering and organized crime increased by 50 percent.

The Parties also will use additional measures and indicators on rule of law and corruption drawn from the Millennium Challenge Corporation's "Ruling Justly" indicators to measure the effectiveness and impact of the Program.

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Standard Provisions

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Standard Provisions

Article A: Definitions and Implementation Letters.

Section A.1. Definitions. As used in this Annex, the "Agreement" refers to the Assistance Agreement to which this Annex is attached and of which this Annex forms a part. Capitalized terms used and not otherwise defined in this Annex have the same meaning or reference as in the Agreement.

Section A.2. Implementation Letters. To assist the Grantee in the implementation of the Agreement, USAID, from time to time, will issue implementation letters ("Implementation Letters") that will furnish additional information about matters stated in this Agreement. The Parties may also issue jointly agreed-upon Implementation Letters to confirm and record their mutual understanding on aspects of the implementation of this Agreement. Implementation Letters can also be issued to record revisions or exceptions which are permitted by the Agreement.

Article B: General Covenants.

Section B.1. Consultation. The Parties will cooperate to assure that the Objective and Results of this Agreement will be accomplished. To this end, the Parties, at the request of either, will exchange views on progress towards the Objective and Results, the performance of obligations under this Agreement, the performance of any consultants, contractors, or suppliers engaged under the Agreement, and other matters relating to the Agreement.

Section B.2. Execution of Agreement. The Grantee will:

(a) Carry out the Agreement and the activities required to be undertaken directly (or caused to be undertaken) by the Grantee, or cause the Agreement and such activities to be carried out with due diligence and efficiency, in conformity with sound technical, financial, and management practices, and in conformity with those documents, plans, specifications, contracts, schedules, or other arrangements, and with any modifications therein, approved by USAID pursuant to this Agreement; and

(b) Provide qualified and experienced management for, and train such staff as may be appropriate for the maintenance and operation of activities financed under the Agreement, and, as applicable for continuing activities, cause those activities to be operated and maintained in such manner as to

assure the continuing and successful achievement of the Objective and Results of the Agreement.

Section B.3. Utilization of Goods and Services. Any goods and services financed under this Agreement, unless otherwise agreed in writing by USAID, will be devoted to the Agreement until the completion or termination of the Agreement, and thereafter (as well as during any period of suspension of the Agreement) will be used to further the Objective of the Agreement and as USAID may direct in Implementation Letters.

Section B.4. Taxation.

(a) General Exemption. The Agreement and the assistance thereunder are free from any taxes imposed under laws in effect in the territory of the Grantee.

(b) Except as provided otherwise in this provision, the General Exemption in subsection (a) applies to, but is not limited to (1) any activity, contract, grant or other implementing agreement financed by USAID under this Agreement; (2) any transaction or supplies, equipment, materials, property or other goods (hereinafter collectively "goods") under (1) above; (3) any contractor, grantee, or other organization carrying out activities financed by USAID under this Agreement; (4) any employee of such organizations; and (5) any individual contractor or grantee carrying out activities financed by USAID under this Agreement.

(c) Except as provided otherwise in this provision, the General Exemption in subsection (a) applies to, but is not limited to, the following taxes:

(1) Exemption 1. Customs duties, tariffs, import taxes, or other levies on the importation, use and re-exportation of goods or the personal belongings and effects (including personally-owned automobiles) for the personal use of non-national individuals or their family members. Exemption 1 includes, but is not limited to, all charges based on the value of such imported goods, but does not include service charges directly related to services performed to transfer goods or cargo.

(2) Exemption 2. Taxes on the income, profits or property of all (i) non-national organizations of any type, (ii) non-national employees of national and non-national organizations, or (iii) non-national individual

contractors and grantees. Exemption 2 includes income and social security taxes of all types and all taxes on the property, personal or real, owned by such non-national organizations or persons. The term "national" refers to organizations established under the laws of the Grantee and citizens of the Grantee, other than permanent resident aliens in the United States.

(3) Exemption 3. Taxes levied on the last transaction for the purchase of goods or services financed by USAID under this Agreement, including sales taxes, value-added taxes (VAT), or taxes on purchases or rentals of real or personal property. The term "last transaction" refers to the last transaction by which the goods or services were purchased for use in the activities financed by USAID under this Agreement.

(d) If a tax has been levied and paid contrary to the provisions of an exemption, USAID may, in its discretion, (1) require the Grantee to refund to USAID or to others as USAID may direct the amount of such tax with funds other than those provided under the Agreement, or (2) offset the amount of such tax from amounts to be disbursed under this or any other agreement between the Parties.

(e) In the event of a disagreement about the application of an exemption, the Parties agree to promptly meet and resolve such matters, guided by the principle that the assistance furnished by USAID is free from direct taxation, so that all of the assistance furnished by USAID will contribute directly to the economic development of the country of the Grantee.

Section B.5. Reports and Information, Agreement Books and Records, Audits, and Inspections.

(a) Reports and Information. The Grantee shall furnish USAID accounting records and such other information and reports relating to the Agreement as USAID may reasonably request.

(b) Grantee Agreement Books and Records. The Grantee shall maintain accounting books, records, documents and other evidence relating to the Agreement, adequate to show, without limitation, all costs incurred by the Grantee under the Agreement, the receipt and use of goods and services acquired under the Agreement by the Grantee, agreed-upon cost sharing requirements, the nature and extent of solicitations of prospective suppliers of goods and services acquired by the Grantee, the basis of award of Grantee

contracts and orders, and the overall progress of the Agreement toward completion ("Agreement books and records"). The Grantee shall maintain Agreement books and records in accordance with generally accepted accounting principles prevailing in the United States, or at the Grantee's option, with approval by USAID, other accounting principles, such as those (1) prescribed by the International Accounting Standards Committee (an affiliate of the International Federation of Accountants) or (2) prevailing in the country of the Grantee. Agreement books and records shall be maintained for at least three years after the date of last disbursement by USAID or for such longer period, if any, required to resolve any litigation, claims or audit findings. For the avoidance of doubt, this Section B.5(b) applies solely to Grant funds expended directly by the Grantee.

(c) Grantee Audit. If \$300,000 or more of USAID funds are expended directly by the Grantee in its fiscal year under the Agreement, the Grantee shall have financial audits made of the expenditures in accordance with the following terms, except as the Parties may otherwise agree in writing:

(1) With USAID approval, the Grantee shall use its Supreme Audit Institution or select an independent auditor in accordance with the "Guidelines for Financial Audits Contracted by Foreign Recipients" issued by the USAID Inspector General ("Guidelines"), and the audits shall be performed in accordance with the "Guidelines"; and

(2) The audit shall determine whether the receipt and expenditure of the funds provided under the Agreement are presented in accordance with generally accepted accounting principles agreed to in section (b) above and whether the Grantee has complied with the terms of the Agreement. Each audit shall be completed no later than nine months after the close of the Grantee's year under audit.

(d) Sub-recipient Audits. The Grantee, except as the Parties may otherwise agree in writing, shall submit to USAID, in form and substance satisfactory to USAID, a plan for the audit of the expenditures of "covered" sub-recipients, as defined below, that receive funds under this Agreement pursuant to a direct contract or agreement with the Grantee.

(1) A "covered" sub-recipient is one who expends \$300,000 or more in its fiscal year in "USAID awards" (i.e., as recipients of USAID cost reimbursable contracts, grants or cooperative agreements and as sub-

recipients under USAID assistance and other grant agreements with foreign governments).

(2) The plan shall describe the methodology to be used by the Grantee to satisfy its audit responsibilities for covered sub-recipients. The Grantee may satisfy such audit responsibilities by relying on independent audits of the sub-recipients; expanding the scope of the independent financial audit of the Grantee to encompass testing of sub-recipients' accounts; or a combination of these procedures.

(3) The plan shall identify the funds made available to covered sub-recipients that will be covered by audits conducted in accordance with other audit provisions that would satisfy the Grantee's audit responsibilities. (A nonprofit organization organized in the United States is required to arrange for its own audits. A for-profit contractor organized in the United States that has a direct contract with USAID is audited by the cognizant U.S. Government Agency. A private voluntary organization organized outside the United States with a direct grant from USAID is required to arrange for its own audits. A host-country contractor should be audited by the Grantee's auditing agency.)

(4) The Grantee shall ensure that covered sub-recipients under direct contracts or agreements with the Grantee take appropriate and timely corrective actions; consider whether sub-recipients' audits necessitate adjustment of its own records; and require each such sub-recipient to permit independent auditors to have access to records and financial statements as necessary.

(e) Audit Reports. The Grantee shall furnish or cause to be furnished to USAID an audit report for each audit arranged for by the Grantee in accordance with this Section within 30 days after completion of the audit and no later than nine months after the end of the period under audit.

(f) Other Covered Sub-recipients. For "covered" sub-recipients who receive funds under the Agreement pursuant to direct contracts or agreements with USAID, USAID will include appropriate audit requirements in such contracts or agreements and will, on behalf of the Grantee, conduct the follow-up activities with regard to the audit reports furnished pursuant to such requirements.

(g) Cost of Audits. Subject to USAID approval in writing, costs of audits performed in accordance with the terms of this Section may be charged to the Agreement.

(h) Audit by USAID. USAID retains the right to perform the audits required under this Agreement on behalf of the Grantee by utilizing funds under the Agreement or other resources available to USAID for this purpose, conduct a financial review, or otherwise ensure accountability of organizations expending USAID funds regardless of the audit requirement.

(i) Opportunity to Audit or Inspect. The Grantee shall afford authorized representatives of USAID the opportunity at all reasonable times to audit or inspect activities financed under the Agreement, the utilization of goods and services financed by USAID, and books, records and other documents relating to the Agreement.

(j) Sub-recipient Books and Records. The Grantee will incorporate paragraphs (a), (b), (d), (e), (g), (h) and (i) of this provision into all sub-agreements with non-U.S. organizations which meet the \$300,000 threshold of paragraph (c) of this provision. Sub-agreements with non-U.S. organizations, which do not meet the \$300,000 threshold, shall, at a minimum, incorporate paragraphs (h) and (i) of this provision. Sub-agreements with U.S. organizations shall state that the U.S. organization is subject to the audit requirements contained in OMB Circular A-133.

Section B.6. Completeness of Information. The Grantee confirms:

(a) that the facts and circumstances of which it has informed USAID, or caused USAID to be informed, in the course of reaching agreement with USAID on the Agreement, are accurate and complete, and include all facts and circumstances that might materially affect the Agreement and the discharge of responsibilities under this Agreement; and

(b) That it will inform USAID in timely fashion of any subsequent facts and circumstances that might materially affect, or that it is reasonable to believe might so affect, the Agreement or the discharge of responsibilities under this Agreement.

Section B.7. Other Payments. Grantee affirms that no payments have been or will be received by any official of the Grantee in connection with the

procurement of goods or services financed under the Agreement, except fees, taxes, or similar payments legally established in the country of the Grantee.

Section B.8. Information and Marking. The Grantee will give appropriate publicity to the Agreement as a program to which the United States has contributed, identify Agreement activity sites, and mark goods financed by USAID, as described in Implementation Letters.

Article C: Procurement Provisions.

Section C.1. Source and Origin.

(a) Disbursements under this Agreement will be used exclusively to finance the costs of goods and services required for the Agreement having, with respect to goods, their source and origin and, with respect to the suppliers of goods and services, their nationality, in countries included in Geographic Code 935 as in effect at the time orders are placed or contracts entered into for such goods or services, except as USAID may otherwise agree in writing and as follows:

(1) Ocean transportation costs shall be financed under the Agreement only on vessels under flag registry of countries included in Geographic Code 935. Also see Section C.6 on use of U.S. flag vessels.

(2) The country of the Grantee is an eligible source for marine insurance.

(b) The source and origin of ocean and air shipping will be deemed to be the ocean vessel's or aircraft's country of registry at the time of shipment.

(c) Provisions concerning restricted and ineligible goods and services may be provided in an Implementation Letter.

(d) Transportation by air of property or persons financed under this Agreement will be on carriers holding United States certification, to the extent service by such carriers is available under the Fly America Act. This requirement may be further described by USAID in Implementation Letters.

Section C.2. Eligibility Date. No goods or services may be financed under the Agreement which are procured pursuant to orders or contracts

firmly placed or entered into prior to the date of this Agreement, except as the Parties may otherwise agree in writing.

Section C.3. Plans, Specifications and Contracts. In order for there to be mutual agreement on the following matters, and except as the Parties may otherwise agree in writing:

(a) The Grantee will furnish to USAID upon preparation:

(1) Any plans, specifications, procurement or construction schedules, contracts, or other documentation between the Grantee and third parties, relating to goods or services to be financed under the Agreement, including documentation relating to the prequalification and selection of contractors and to the solicitation of bids and proposals. Material modifications in such documentation will likewise be furnished USAID on preparation; and

(2) Such documentation will also be furnished to USAID, upon preparation, relating to any goods or services, which, though not financed under the Agreement, are deemed by USAID to be of major importance to the Agreement. Aspects of the Agreement involving matters under this subsection (a) (2) will be identified in Implementation Letters.

(b) Documents related to the prequalification of contractors, and to the solicitation of bids or proposals for goods and services financed under the Agreement will be approved by USAID in writing prior to their issuance, and their terms will include United States standards and measurements;

(c) Contracts and contractors financed under the Agreement for engineering and other professional services, for construction services, and for such other services, equipment, or materials as may be specified in Implementation Letters, will be approved by USAID in writing prior to execution of the contract. Material modifications in such contracts will also be approved in writing by USAID prior to execution; and

(d) Consulting firms used by the Grantee for the Agreement but not financed under the Agreement, the scope of their services and such of their personnel assigned to activities financed under the Agreement as USAID may specify, and construction contractors used by the Grantee for the Agreement but not financed under the Agreement, shall be acceptable to USAID.

Section C.4. Reasonable Price. No more than reasonable prices will be paid for any goods or services financed, in whole or in part, under the Agreement. Such items will be procured on a fair and, to the maximum extent practicable, competitive basis.

Section C.5. Notification to Potential Suppliers. To permit all United States firms to have the opportunity to participate in furnishing goods and services to be procured by the Grantee and financed under the Agreement, the Grantee will furnish to USAID such information with regard thereto, and at such times, as USAID may request in Implementation Letters.

Section C.6. Shipping/Transportation

(a) In addition to the requirements in Section C.1(a), costs of ocean or air transportation and related delivery services may not be financed under the Grant, if the costs are for transportation under an ocean vessel or air charter which has not received prior USAID approval.

(b) Unless USAID determines that privately owned United States-flag commercial ocean vessels are not available at fair and reasonable rates for such vessels, or otherwise agrees in writing:

(1) At least fifty percent (50%) of the gross tonnage of all goods (computed separately for dry bulk carriers, dry cargo liners and tankers) financed by USAID which may be transported on ocean vessels will be transported on privately owned United States-flag commercial vessels; and

(2) At least fifty percent (50%) of the gross freight revenue generated by all shipments financed by USAID and transported to the territory of the Grantee on dry cargo liners shall be paid to or for the benefit of privately owned United States-flag commercial vessels. Compliance with the requirements of (1) and (2) of this subsection must be achieved with respect to both any cargo transported from U.S. ports and any cargo transported from non-U.S. ports, computed separately.

Section C.7. Insurance. Marine insurance on goods financed by USAID which are to be transported to the territory of the Grantee may be financed under this Agreement provided (1) such insurance is placed at the most advantageous competitive rate; (2) such insurance is placed in a country which is authorized under Section C.1(a); and (3) claims thereunder are

payable in U.S. dollars or any freely convertible currency unless USAID agrees otherwise in writing.

If the Grantee (or the government of the Grantee), by statute, decree, rule, regulation, or practice discriminates with respect to USAID-financed procurement against any marine insurance company authorized to do business in any State of the United States, then all goods shipped to the territory of the Grantee financed by USAID hereunder shall be insured against marine risks and such insurance shall be placed in the United States with a company or companies authorized to do marine insurance business in the United States.

Section C.8. U.S. Government-Owned Excess Property. The Grantee agrees that wherever practicable, United States Government-owned excess personal property, in lieu of new items financed under the Grant, should be utilized. Funds under the Agreement may be used to finance the costs of obtaining such property.

Article D. Disbursements.

Section D.1. Disbursements. No disbursements to the Grantee are contemplated under this Agreement. Should disbursements to the Grantee be required, disbursements will be made through such means as the Parties agree to in writing or as set forth in Annex 1.

Section D.2. Rate of Exchange. If funds provided under the Agreement are introduced into the territory of the Grantee by USAID or any public or private agency for purposes of carrying out the obligations of USAID hereunder, the Grantee will make such arrangements as may be necessary so that such funds may be converted into local currency at the highest rate of exchange which, at the time the conversion is made, is not unlawful in the country of the Grantee to any person for any purpose.

Article E. Termination; Remedies

Section E.1. Suspension and Termination

(a) Either Party may terminate this Agreement in its entirety by giving the other Party 30 days' written notice. USAID also may terminate this Agreement in part by giving the Grantee 30 days' written notice, and suspend this Agreement in whole or in part upon giving the Grantee written notice. In

addition, USAID may terminate this Agreement in whole or in part, upon giving the Grantee written notice, if (i) the Grantee fails to comply with any provision of this Agreement, (ii) an event occurs that USAID determines makes it improbable that the Objective or Results of the Agreement or the assistance program will be attained or that the Grantee will be able to perform its obligations under this Agreement, or (iii) any disbursement or use of funds in the manner herein contemplated would be in violation of the legislation governing USAID or the Grant whether now or hereafter in effect.

(b) Except for payment which the Parties are committed to make pursuant to noncancelable commitments entered into with third parties prior to such suspension or termination, suspension or termination of this entire Agreement or part thereof will suspend (for the period of the suspension) or terminate, as applicable, any obligation of the Parties to provide financial or other resources to the Agreement, or to the suspended or terminated portion of the Agreement, as applicable. Any portion of this Agreement which is not suspended or terminated shall remain in full force and effect.

(c) In addition, upon such full or partial suspension or termination, USAID may, at USAID's expense, direct that title to goods financed under the Agreement, or under the applicable portion of the Agreement, be transferred to USAID if the goods are in a deliverable state.

Section E.2. Refunds.

(a) In the case of any disbursement to the Grantee which is not supported by valid documentation in accordance with this Agreement, or which is not made or used in accordance with this Agreement, or which was for goods or services not used in accordance with this Agreement, USAID, notwithstanding the availability or exercise of any other remedies under this Agreement, may require the Grantee to refund the amount of such disbursement in U.S. dollars to USAID within sixty (60) days after receipt of a request therefor.

(b) If the failure of the Grantee to comply with any of its obligations under this Agreement has the result that goods or services financed or supported under the Agreement are not used effectively in accordance with this Agreement, USAID may require the Grantee to refund all or any part of the amount of the disbursements under this Agreement for or in connection with such goods or services in U.S. dollars to USAID within sixty (60) days after receipt of a request therefor.

(c) The right under subsections (a) or (b) to require a refund of a disbursement will continue, notwithstanding any other provision of this Agreement, for three years from the date of the last disbursement under this Agreement.

(d) (1) Any refunds under subsections (a) or (b), or (2) any refund to USAID from a contractor, supplier, bank or other third party with respect to goods or services financed under the Agreement, which refund relates to an unreasonable price for or erroneous invoicing of goods or services, or to goods that did not conform to specifications, or to services that were inadequate, will (A) be made available first for the Agreement, to the extent justified, and (B) the remainder, if any, will be applied to reduce the amount of the Grant.

(e) Any interest or other earnings on funds disbursed by USAID to the Grantee under this Agreement prior to the authorized use of such funds for the Agreement will be returned to USAID in U.S. dollars by the Grantee, unless USAID otherwise agrees in writing.

Section E.3. Nonwaiver of Remedies. Except with respect to the rights set forth in Section E.2(c), no delay in exercising any right or remedy accruing to a Party in connection with its financing under this Agreement will be construed as a waiver of such right or remedy.

Section E.4. Assignment. The Grantee agrees upon request, to execute an assignment to USAID of any cause of action which may accrue to the Grantee in connection with or arising out of the contractual performance or breach of performance by a party to a direct U.S. dollar contract which USAID financed in whole or in part out of funds granted by USAID under this Agreement.

Article F: Prohibition on Assistance to Drug Traffickers.

USAID reserves the right to terminate this Agreement or take other appropriate measures if the Grantee is found to have been engaged in drug trafficking or a key individual of the Grantee is found to have been convicted of a narcotics offense or to have been engaged in drug trafficking as defined in 22 Code of Federal Regulations (CFR) Part 140.