



USAID | UKRAINE

FROM THE AMERICAN PEOPLE

Issuance Date: January 22, 2010
Deadline for Questions: February 4, 2010, 05:00 PM Kyiv, Ukraine local time
Closing Date and Time: March 4, 2010, 05:00 PM Kyiv, Ukraine local time

Subject: Request for Applications (RFA) 121-10-002
Title: The Access to Justice and Legal Empowerment Project in Ukraine

The United States Agency for International Development (USAID), is seeking applications (proposals for funding) from U.S. or non-U.S. non-profit or for-profit nongovernmental organizations (NGOs), and other qualified non-USG organizations to implement the Access to Justice and Legal Empowerment Project in Ukraine. Please refer to the Program Description (RFA section C) for a complete statement of goals and expected results. The authority for this RFA is found in the Foreign Assistance Act of 1961, as amended.

Subject to the availability of funds, USAID plans to provide a maximum of \$3,200,000 to be allocated over a four-year period. USAID intends to award a single cooperative agreement as a result of this solicitation. Cost sharing is required at 5%.

Pursuant to 22 CFR 226.81, it is USAID policy not to award profit under assistance instruments. However, all reasonable, allocable, and allowable expenses, both direct and indirect, which are related to the program and are in accordance with applicable cost standards (22 CFR 226, plus OMB Circular A-122 for non-profit organizations, OMB Circular A-21 for universities, and the Federal Acquisition Regulation Part 31 for for-profit organizations), may be paid under the award. USAID/Ukraine reserves the right to fund any or none of the applications submitted.

For the purposes of this program, this RFA is being issued and consists of this cover letter and the following:

1. Section A - Application Format;
2. Section B - Selection Criteria;
3. Section C - Program Description;
4. Section D - Certifications, Assurances, and Other Statements of Applicant/Recipient; and
5. Section E - Annexes

To be eligible for award, the applicant must provide all required information in its application, including the requirements found in any attachments to this www.grants.gov opportunity. Any future amendments to this RFA can be downloaded from www.grants.gov. It is the responsibility of the recipient of the application document to ensure that it has been received from www.grants.gov in its entirety.

If you decide to submit an application, it must be received by the closing date and time indicated at the top of this cover letter at the place designated for receipt of applications. See RFA Section A.I.b regarding late applications. Applicants should take account of the expected delivery time required by the application transmission methods, and are responsible to ensure that proposals are received at USAID in Kyiv by the due date and time specified above.

Applicants shall confirm with the undersigned that their submissions were successfully received by the required due date and time. Applicants are requested to submit the technical and cost portions of their applications in separate volumes so that they may be reviewed separately. Applicants should retain for their records one copy of all enclosures which accompany their application.

Award will be made to that responsible applicant(s) whose application(s) best meets the requirements of this RFA and the selection criteria contained herein. Issuance of this RFA does not constitute an award commitment on the part of USAID, nor does it commit USAID to pay for costs incurred in the preparation and submission of an application. Further, USAID reserves the right to reject any or all applications received. In addition, final award of any resultant cooperative agreement cannot be made until funds have been fully appropriated, allocated, and committed through internal USAID procedures. While it is anticipated that these procedures will be successfully completed, potential applicants are hereby notified of these requirements and conditions for award. Applications are submitted at the risk of the applicant, and all preparation and submission costs are at the applicant's expense.

In the event of any inconsistency between the sections comprising this RFA, it shall be resolved by the following order of precedence:

- (a) Section B - Selection Criteria;
- (b) Section A - Application Format;
- (c) Section C - The Program Description; and
- (d) This Cover Letter.

Applicants shall upload applications to www.grants.gov and shall also submit hard copies.

1. Hard copy submission: Applications and modifications thereof shall be submitted in envelopes with the name and address of the applicant and the RFA number (referenced above) inscribed thereon, to:

(By U.S. Mail)
Marina Orlova, Acquisition and Assistance Specialist
USAID/RCO
Dept. of State
5850 Kiev Place
Washington, D.C. 20521-5850

(By All Other Means of Delivery)
Marina Orlova, Acquisition and Assistance Specialist
U.S. Agency for International Development
19 Nizhny Val Street
04071 Kyiv
Ukraine

Complete Application packages must be received no later than the closing date and time, March 4, 2010, 05:00 PM Kyiv, Ukraine local time.

2. Electronic submission through www.grants.gov: Complete Application packages shall be submitted electronically through grants.gov, and must be received no later than the closing date and time, March 4, 2010, 05:00 PM Kyiv, Ukraine local time.

Applications shall be submitted in two separate parts: (a) technical and (b) cost or business application. Both the technical and cost portions of the application shall have a cover page which includes the point of contact for the organization, including name, title, address, phone and fax numbers and e-mail address. Applications (hard copy and electronic copy) must be in **MS Word** format in Font size 11 with 1" margins on top, bottom, left and right. Budget spreadsheets **must** be in **Excel** format, signed pages in Word or PDF format.

Faxed applications are not acceptable.

Any questions concerning this RFA should be submitted in writing to the Acquisition and Assistance Specialist Ms. Marina Orlova, via email at morlova@usaid.gov. The deadline for submitting questions is February 4, 2010, 05:00 PM Kyiv, Ukraine local time.

Thank you for your interest in USAID programs.

Sincerely,



Philip Lamade
Regional Agreement Officer
USAID Regional Mission for Ukraine,
Moldova and Belarus

TABLE OF CONTENTS	Page
SECTION A – APPLICATION FORMAT	5
I. PREPARATION AND SUBMISSION GUIDELINES	5
II. TECHNICAL APPLICATION FORMAT	6
III. COST APPLICATION FORMAT	11
IV. COOPERATIVE AGREEMENT AWARD.....	12
V. AUTHORITY TO OBLIGATE THE GOVERNMENT	13
VI. APPLICABLE REGULATIONS & REFERENCES	13
SECTION B – SELECTION CRITERIA	14
SECTION C – PROGRAM DESCRIPTION	17
SECTION D – CERTIFICATIONS, ASSURANCES OF APPLICANTS.....	32
PART I - CERTIFICATIONS AND ASSURANCES.....	32
PART II - OTHER STATEMENTS OF RECIPIENT.....	37
SECTION E - ANNEXES.....	40
COST APPLICATION FORMAT	40
ENVIRONMENTAL COMPLIANCE FACESHEET (ATTACHED)	

SECTION A - APPLICATION FORMAT

I. PREPARATION AND SUBMISSION GUIDELINES

a. All applications (both hard and electronic copy) received by the deadline (March 4, 2010, 05:00 PM Kyiv, Ukraine local time) will be reviewed for responsiveness and programmatic merit in accordance with the guidelines herein. Section B addresses the evaluation procedures for the applications. Applications shall be submitted in two separate parts: (a) technical, and (b) cost or business application. In addition to electronic submission via www.grants.gov, an original and four (4) hard copies of the technical application and an original and two (2) hard copies of the cost application shall be submitted as described in the cover letter of this RFA. Both the technical and cost portions of the application shall have a cover page which includes the point of contact for the organization, including name, title, address, phone and fax numbers and e-mail address.

b. Applications which are received late or are incomplete run the risk of not being considered in the review process. Such late or incomplete applications will be considered in USAID's sole discretion depending on the status of USAID's application review process as of the time of receipt and/or the quality of other applications received.

c. Applications should be prepared according to the instructions set forth below. Technical applications should be specific, complete and presented concisely. A lengthy application does not in and of itself constitute a well thought out proposal. Applications shall demonstrate the applicant's capabilities and expertise with respect to achieving the goals of this program. Applications should take into account the evaluation criteria found in Section B.

d. To facilitate the competitive review of the applications, applications should conform to the format prescribed below.

e. Preparation of Applications

1. Applicants are expected to review, understand, and comply with all aspects of this RFA. Failure to do so will be at the applicant's risk. Applications (hard copy and electronic copy) **must** be in **MS Word** format in Times New Roman Font size 11 with 1" margins on top, bottom, left and right. Budget spreadsheets **must** be in **Excel** format, signed pages in Word or PDF format.
2. Each applicant shall furnish the information required by this RFA. On the hard copies of applications, the applicant shall sign the application and certifications and print or type its name on the cover page of the technical and cost applications. Erasures or other changes must be initialed by the person signing the application. Applications signed by an agent shall be accompanied by evidence of that agent's authority, unless that evidence has been previously furnished to the issuing office.
3. Applicants which include data that they do not want disclosed to the public for any purpose or used by the U.S. Government except for evaluation purposes should:

(i) Mark the title page with the following legend:

"This application includes data that shall not be disclosed outside the U.S. Government and shall not be duplicated, used, or disclosed - in whole or in part - for any purpose other than to evaluate this application. If, however, a grant is awarded to this applicant as a result of - or in connection with - the submission of this data, the U.S. Government shall have the right to duplicate, use, or disclose the data to the extent provided in the resulting grant. This restriction does not limit the U.S. Government's right to use information contained in this data if it is obtained from another source without restriction. The data subject to this restriction are contained in pages____."; and

(ii) Mark each sheet of data it wishes to restrict with the following legend:

"Use or disclosure of data contained on this sheet is subject to the restriction on the title page of this application."

Applicants shall acknowledge receipt of any amendment to this RFA by signing and returning the amendment. The Government must receive the acknowledgement by the time specified for receipt of applications.

Explanation to Prospective Applicants

Any prospective applicant desiring an explanation or interpretation of this RFA must request it in writing not later than February 4, 2010, 05:00 PM Kyiv, Ukraine local time to allow a reply to reach all prospective applicants before the submission of their applications. Oral explanations or instructions given before award of an Agreement will not be binding. Any information given to a prospective applicant concerning this RFA will be furnished promptly to all other prospective applicants as an amendment of this RFA, if that information is necessary in submitting applications or if the lack of it would be prejudicial to any other prospective applicants.

II. TECHNICAL APPLICATION FORMAT

The technical application will be the most important item of consideration in selection for award of the proposed cooperative agreement. Therefore, it should be specific, complete and concise. The technical application should be divided into ten sections as presented below and separated by tabs, and should not exceed 40 pages in length, exclusive of resumes, past performance references and other appendices. Elaborate art work, expensive paper and bindings, and expensive visual and other presentation aids are neither necessary nor wanted.

- a. Technical Approach
- b. Gender Statement
- c. Implementation Plan
- d. Staffing Plan
- e. Performance Monitoring and Evaluation Plan (PMEP)
- f. Institutional Capability
- g. Past Performance References

- h. Branding Strategy and Marking Plan
- i. Environmental Compliance
- j. Annexes

a. Technical Approach

The technical approach must set forth in detail the conceptual approach, methodology and techniques for the accomplishment of the stated objectives, taking into consideration the special considerations stated in this RFA. The rationale for the appropriateness of the suggested approach in Ukraine should be provided. The technical approach must clearly demonstrate the application of innovative tools and lessons learned from other programs, including programs in Ukraine, where appropriate. It must also clearly demonstrate plans to build Ukrainian capacity, e.g. local Ukrainian NGOs and organizations' capacities to implement the proposed activities.

b. Gender Statement

It is important to note that USAID is committed to gender equality. The application should outline the most significant gender issues related to access to justice in Ukraine by reflecting on the following questions: (a) how will gender relations affect the achievement of sustainable results? (b) How will proposed results affect the relative status of men and women?

The applicant shall place considerable focus on the integration of gender considerations throughout project implementation, ensuring that men and women are equally supported through USAID-funded activities and that gender awareness and gender dynamics are taken into consideration in all project activities. The program shall ensure that 1) women and men have the same opportunities and are treated identically and without discrimination; 2) resources are fairly distributed, taking into account the different needs of women and men; 3) the wide-ranging societal, political and economic effects of differences in gender roles are taken into account. The applicant shall determine an appropriate percentage for participation of women and men at all project levels. The applicant should demonstrate its gender expertise and capacity through proposing meaningful approaches to address gender issues identified in the Program Description.

c. Implementation Plan

Applicants shall submit a draft implementation plan for the entire period of performance which should clearly outline links between the proposed results, conceptual approach, performance milestones, and a realistic timeline for achieving the semi-annual, annual, and end-of-program results. The implementation plan serves several purposes including a guide to program implementation, a demonstration of links between activities, strategic objectives and intended results, a basis for budget estimates and the foundation for the monitoring and evaluation plan.

The implementation plan, at a minimum, shall include:

- Brief situation analysis in the context of what other donors and implementing partners and host-country governments are contributing;
- Life-of-program results;
- Milestones (or benchmarks) toward achieving those results over the duration of the program;

- Partner involvement and contributions to achieving the results;
- Timeline.

d. Staffing Plan

Applicants must submit a detailed Staffing Plan for USAID's review. Staffing Plans must, as a minimum, address the following:

- Placement of the program team within the larger organization(s); Program organizational charts with linkages to the key staff's parent organization are recommended.
- Identification of key personnel and long-term staff, including their technical and managerial roles and responsibilities and qualifications and abilities of proposed key personnel relevant to successful implementation of the proposed technical approach. Note: only the Chief of Party and Deputy Chief of Party will be designated as Key Personnel under the resulting award.
- A clear chain of authority on the project/program team, including subawardee staff;
- A clear line of communication and reporting which allows for early identification and proposed resolution of problems by the prime awardee and provision of related information to USAID;
- A clear, regular, and concrete means of communication between program staff in the field and their backstop officers in the headquarters office that functions without creating unnecessary overlap;
- A clear, regular, and concrete means of communication between the prime recipient and its subawardees which ensures a cohesive working relationship and achievement of results;
- A use of both international and Ukrainian expertise, with attention to gender balance, and the development of indigenous Ukrainian capacity.
- The method of identifying sub awardees, and the tasks/functions they will be performing. Applicants shall state whether or not they have existing relationships with these other organizations and the nature of the relationship (e.g., subgrantee, subcontractor, partnership, etc) and shall discuss the technical resources and expertise of proposed subcontract/subrecipient organizations.
- A regular means of informal communication with the Agreement Officer's Technical Representative (AOTR), in addition to the required programmatic and financial reporting.

e. Performance Monitoring and Evaluation Plan (PMEP)

The application shall contain an illustrative Performance Monitoring and Evaluation Plan (PMEP) for the indicators proposed in Section C, IV, B. Program Objectives, Expected Results and Distribution of Resources by Objectives of the Program Description (several indicators are listed). Applicants are encouraged to propose other indicators which will assist in managing project performance. The PMEP shall contain project objectives and results, performance indicators, data sources and collection methods, baseline information or a timeline for collecting it, targets, and names of responsible individuals. Performance indicators should comply with the following criteria: direct, objective, practical, adequate, and useful in managing for results. PMEP data should be based on the fiscal year calendar.

The PMEP will have the following suggested structure:

- List of key project objectives, expected results and project outputs (output is a count of services delivered or items produced) as well as a brief description of the linkages between the project outputs and its expected results.
- Definition and detailed description of the performance indicators to be tracked including: unit of measure and disaggregation by gender, as appropriate and feasible; justification/management utility; annual baselines/targets; schedule for data collection; individual responsibility for data collection and availability of data at USAID; and, detailed plans for data analysis, review and reporting.

f. Institutional Capability

Applicants must provide evidence of their technical and managerial resources and expertise (or their ability to obtain such resources and expertise) in program management, grants management and training, as well as their experience in managing similar programs in the past. Information in this section should include (but is not limited to) the following:

- Brief description of organizational history/expertise;
- Accomplishments in developing and implementing similar programs using similar approaches;
- Institutional strength as represented by breadth and depth of experienced personnel in project relevant disciplines/areas;
- Sub-awardee or subcontractor capabilities and expertise; and
- Financial controls.

g. Past Performance References

Applicants must describe all contracts, grants and cooperative agreements which the organization, both the primary applicant as well as any substantive sub-grantees, has implemented involving similar or related programs over the past three years. Please include the following: name and address of the organization for which the work was performed; current telephone number and e-mail address of responsible representative of the organization for which the work was performed; contract/grant name and number (if any), and beginning and ending dates; brief description of the project/assistance activity.

h. Branding Strategy and Marking Plan

USAID's framework legislation, the Foreign Assistance Act of 1961, as amended, section 641, requires that all programs under the Foreign Assistance Act be identified appropriately overseas as "American Aid." Applicants are required to submit a branding strategy and marking plan. Agency branding and marking guidance can be found at <http://www.usaid.gov/branding/> and at <http://www.usaid.gov/policy/ads/300/320.pdf>.

i. Environmental Compliance

1) The Foreign Assistance Act of 1961, as amended, Section 117 requires that the impact of USAID's activities on the environment be considered and that USAID include environmental sustainability as a central consideration in designing and carrying out its development programs. This mandate is codified in Federal Regulations (22 CFR 216) and in USAID's Automated Directives System (ADS) Parts 201.5.10g and 204 (<http://www.usaid.gov/policy/ADS/200/>), which, in part, require that the potential environmental impacts of USAID-financed activities are identified prior to a final decision to proceed and that appropriate environmental safeguards are adopted for all activities. Applicant's environmental compliance obligations under these regulations and procedures are specified in the following paragraphs of this RFA.

2) In addition, the recipient must comply with host country environmental regulations unless otherwise directed in writing by USAID. In case of conflict between host country and USAID regulations, the latter shall govern.

3) No activity funded under this award will be implemented unless an environmental threshold determination, as defined by 22 CFR 216, has been reached for that activity, as documented in a Request for Categorical Exclusion (RCE), Initial Environmental Examination (IEE), or Environmental Assessment (EA) duly signed by the Bureau Environmental Officer (BEO). (Hereinafter, such documents are described as "approved Regulation 216 environmental documentation.")

4) The award will be covered by the following IEE: 2009-UKR-009 (Attached, Section E.). USAID has determined that a **Negative Determination with conditions** applies to one or more of the proposed activities. This indicates that if these activities are implemented subject to the specified conditions, they are expected to have no significant adverse effect on the environment. The Recipient shall be responsible for implementing all IEE conditions pertaining to activities to be funded under this award. The Negative Determination with conditions is as follows: the implementing partner will ensure that (a) consultations, training materials and any other project outputs encourage the established public-private partnership and assisted legal advocacy groups and other civil society organizations to support environmentally sustainable development of the served communities, and (b) the procurement, storage, transportation, and use of any office equipment shall be done in an environmentally sound manner. The implementer will provide USAID with evidence that the recipient organization(s) followed all applicable environmental laws.

5) As part of its initial Implementation Plan, and all Annual Implementation Plans thereafter, the Recipient, in collaboration with the USAID Agreement Officer's Technical Representative and Mission Environmental Officer or Bureau Environmental Officer, as appropriate, shall review all ongoing and planned activities under this award to determine if they are within the scope of the approved Regulation 216 environmental documentation.

6) If the Recipient plans any new activities outside the scope of the approved Regulation 216 environmental documentation, it shall prepare an amendment to the documentation for USAID review and approval. No such new activities shall be undertaken prior to receiving written USAID approval of environmental documentation amendments.

7) Any ongoing activities found to be outside the scope of the approved Regulation 216 environmental documentation shall be halted until an amendment to the documentation is submitted and written approval is received from USAID.

j. Annexes

In the annex the applicant shall include resumes for all key personnel candidates. Resumes may not exceed three pages in length and shall be in chronological order starting with most recent experience. Each resume shall be accompanied by a SIGNED letter of commitment from each candidate indicating his/her: (a) availability to serve in the stated position, in terms of days after award; (b) intention to serve for a stated term of service; and (c) agreement to the compensation levels which correspond to the levels set forth in the cost application. As references may be checked for all proposed key personnel, a minimum of four references for each proposed key personnel is required. Applicants should provide current phone, fax and email address for each reference contact. Applicants shall also include signed letters of commitment for sub awardees and any partners that will have significant role in the implementation of the proposed project.

III. COST APPLICATION FORMAT

The cost or business application is to be submitted under separate volume from the technical application. Certain documents are required to be submitted by an applicant in order for an Agreement Officer to make a determination of responsibility. While there is no page limit for this portion, applicants are encouraged to be as concise as possible while providing the necessary detail for USAID to make an informed decision. The following sections describe the documentation that applicants for assistance awards must submit to USAID prior to award.

a. Budget

The budget should include an accompanying budget narrative which provides in detail the total costs for implementation of the program your organization is proposing. The budget should be submitted using Standard Forms 424, 424A and 424B which can be downloaded from the USAID web site at: http://www.grants.gov/agencies/aapproved_standard_forms.jsp#1, and accompanied by a spreadsheet showing the components of each element of cost, and a narrative providing support for the proposed costs. At a minimum the budget and supporting documentation should include:

- The breakdown of all costs according to each partner organization (or sub-awardee) involved in the program, in the format described herein.
- The costs associated with home office, expatriate, and local in-country labor, i.e. identification of positions, daily or hourly compensation, hours/days to be worked, etc.
- A breakdown of all other direct costs, to include cost elements (communications, office supplies, equipment, vehicles, office rent, subcontracting, etc.), unit of measure (monthly estimate, cost per unit), number of units, basis of the estimate and programmatic need for the expenditure. [Note: the authorized geographic code for procurement of goods and services under this award will be 000 and 110 – see Section C.VIII. Title of property shall vest in the recipient.]
- Details of travel, per diem and other transportation expenses, to include number of international trips, expected itineraries, cost of travel, number of per diem days and per diem rates.

- Indication of the amount of funds to be set aside for small grants to Ukrainian organizations (if applicable).
- Support for any indirect costs and fringe benefits charged by the prime and all sub partners.
- Support for proposed cost sharing contributions, documented in accordance with 22 CFR 226.23.
- Applicants will be expected to cost-share a minimum of 5% of the program's cost.

b. Other Required Documents

In addition to the requirements for the budget described above, the business or cost application submission should also include the following:

- A current Negotiated Indirect Cost Rate Agreement (NICRA).
- Any required certifications and representations (as attached and as stated in the Section D).
- Certificate of Compliance: Please submit a copy of your Certificate of Compliance if your organization's systems have been certified by USAID/Washington's Office of Acquisition and Assistance.

Applicants who have never received a grant, cooperative agreement or contract from the U.S. Government shall also submit the following information:

- Copies of the applicant's financial reports for the previous 3-year period, which have been audited by a certified public accountant or other auditor satisfactory to USAID;
- A projected annual budget, annual cash flow projection and organizational chart;
- A copy of the organization's accounting manual.

Applicants should also submit any additional evidence of responsibility deemed necessary for the Agreement Officer to make a determination of responsibility. The information submitted should substantiate that the Applicant:

- Has adequate financial resources or the ability to obtain such resources as required during the performance of the award;
- Has the ability to comply with the award conditions, taking into account all existing and currently prospective commitments of the applicant, nongovernmental and governmental;
- Has a satisfactory record of performance. Past unsatisfactory performance is ordinarily sufficient to justify a finding of non-responsibility, unless there is clear evidence of subsequent satisfactory performance;
- Has a satisfactory record of integrity and business ethics; and
- Is otherwise qualified and eligible to receive a grant under applicable laws and regulations (e.g., EEO).

IV. COOPERATIVE AGREEMENT AWARD

The Agreement Officer may conduct negotiations with one or more applicants but reserves the right to make an award without discussions. USAID's objective is to award a cooperative agreement to the organization or consortium whose application is in USAID's sole discretion the most likely to achieve

USAID's goals as described in the RFA. The awardee will be the applicant whose application is determined by the Agreement Officer to be the most advantageous to the United States Government.

Negotiations or discussions conducted after receipt of an application do not constitute a rejection or counteroffer by the Government. Neither financial data submitted with an application nor representations concerning facilities or financing, will form a part of the resulting cooperative agreement unless explicitly stated otherwise in the agreement.

To be eligible for award of a cooperative agreement, in addition to other conditions of this RFA, organizations must have a politically neutral humanitarian mandate, a commitment to non-discrimination with respect to beneficiaries and adherence to equal opportunity employment practices. Non-discrimination includes equal treatment without regard to race, religion, ethnicity, gender, age, and political affiliation.

Applicants are reminded that U.S. Executive Orders and U.S. law prohibits transactions with, and the provision of resources and support to, individuals and organizations associated with terrorism. It is the legal responsibility of the recipient to ensure compliance with these Executive Orders and laws. This provision must be included in all subcontracts/subawards issued under this contract/agreement.

V. AUTHORITY TO OBLIGATE THE GOVERNMENT

The Agreement Officer is the only individual who may legally commit the Government to the expenditure of public funds. No costs chargeable to the proposed agreement may be incurred before receipt of either a fully executed Agreement or a specific written authorization from the Agreement Officer.

VI. APPLICABLE REGULATIONS & REFERENCES

Mandatory Standard Provisions for U.S., Nongovernmental Recipients

<http://www.usaid.gov/pubs/ads/300/303maa.pdf>

22 CFR 226 (http://www.access.gpo.gov/nara/cfr/waisidx_02/22cfr226_02.html)

OMB Circular A-122

OMB Circular A-110

Federal Grants and Cooperative Agreement Act

ADS Series 300 Acquisition and Assistance (<http://www.usaid.gov/pubs/ads/>)

SECTION B - SELECTION CRITERIA

The criteria presented below have been tailored to the requirements of this RFA. The Applicant should note that these criteria serve to identify the significant issues that Applicants should address in their applications, and to set standards against which all applications will be evaluated. While the point system described below is a guide to determining award, it does not bind the discretion of the Agreement Officer to make an award to the most advantageous applicant.

Applications will be evaluated in accordance with the evaluation criteria set forth below:

- Technical merits of the applications;
- Cost effectiveness and cost realism of the application;
- Past performance of the applicant.

I. TECHNICAL EVALUATION CRITERIA

The technical evaluation criteria will be evaluated as follows:

Technical Approach (55 points)

- A. Extent to which the proposed approach is well-conceived, clear, detailed, technically sound, and ambitious, yet feasible in achieving all three of the program objectives as well as the special considerations identified in this RFA;
 - Extent to which the application sets forth a maximum of three clear and justifiably sound legal issue areas upon which the program will focus;
- B. Extent to which the application demonstrates knowledge and understanding of the issues and challenges faced in the rule of law sector and by Ukrainian legal advocacy organizations and the appropriateness of the suggested approach(es) to the Ukrainian context in accomplishing the three program objectives identified in this RFA;
- C. Extent to which the application demonstrates original, creative, and innovative approaches to increasing access to justice in Ukraine;
- D. Extent to which the application demonstrates lessons learned reflected in the proposed approach to access to justice issues;
- E. Extent to which the application demonstrates an understanding and analysis of potential opportunities for private sector engagement, including innovative ideas for partnerships that contribute to the overall sustainability of access to justice initiatives in Ukraine;
- F. Extent to which the application demonstrates applicant's ability to develop innovative approaches to addressing gender issues during program implementation.

Project Team (25 points)

- A. Experience and capability of key personnel in managing complex rule of law or related programs, particularly in transitional countries. Proven track record of successfully managing diverse teams of employees, both American and local staff. Expertise in analysis of political and legal issues, democratization, and democracy programming at large; demonstrated effective interpersonal skills, creative problem-solving and ethical management; and prior experience in working with USAID and/or other international donors in Ukraine, Central and Eastern Europe and the former Soviet Union; and
- B. Appropriateness of the composition and organizational structure of the in-country and home-office project team, including a clear, sound, and effective staffing pattern with roles and responsibilities among different positions adequately delineated, including the use of qualified local personnel proposed as an integral part of the applicant's workforce.

Institutional Capacity and Past Performance (20 points)

- A. Demonstrated organizational knowledge, capability, past performance and understanding of USAID rules and regulations by the applicant in planning, managing and monitoring similar rule of law programs;
- B. Demonstrated organizational knowledge, capability and past performance of any proposed implementing partners (i.e. proposed sub-grantees and sub-contractors) in successfully planning, managing, and monitoring similar programs; and
- C. Demonstrated knowledge, capability and past performance of the applicant in quickly and effectively staffing a project and launching program activities;
- D. Demonstrated organizational knowledge, capability, past performance or potential of the applicant to develop public-private partnerships.

USAID reserves the right to obtain past performance information from other sources beyond those named in the application.

Total (Technical Evaluation Criteria)

100 Points

II. COST EVALUATION

Cost has not been assigned a score but will be evaluated for cost reasonableness, allocability, allowability, cost effectiveness and realism, adequacy of budget detail and financial feasibility and cost sharing. The minimum requested cost sharing for this award is 5%. Applicants that do not meet this requirement will not be considered for this award.

While cost may be a determining factor in the final award(s) decision, especially between closely ranked applicants, the technical merit of applications is substantially more important under this RFA. The percentage of funds spent on programming versus administrative costs will be taken into consideration,

i.e. the cost of staff salaries, equipment, and facilities vs. costs of field activities and interventions that directly impact the target beneficiaries.

An analysis of the proposed cost will be conducted to determine the validity and the extent to which it reflects performance addressed in the technical application. An assessment will be made of the applicant's capability to accomplish the objectives within the estimated cost proposed. The cost application will be used as an aid to determine the applicant's understanding of Technical Requirements.

To aid in evaluating cost realism, a cost proposal format has been provided in the Annex section of this RFA. While it is not required, the Government requests that you use it when submitting the Cost Application required by this Section.

SECTION C – PROGRAM DESCRIPTION

I. EXECUTIVE SUMMARY

USAID/Ukraine is seeking assistance to improve access to justice in Ukraine through: (1) strengthening the capacity of Ukrainian legal advocacy organizations to effectively advocate for citizens' interests; (2) building a sustainable nationwide network of legal advocacy organizations that address citizen demands for legal services and creating direct linkages between the work of legal advocacy organizations and national legal reform efforts; and (3) attracting private resources to expand programmatic efforts through public-private partnerships.

II. LINK TO STRATEGIC FRAMEWORK

Program Objective: 2: Governing Justly and Democratically
Program Area: 2.1: Rule of Law and Human Rights
Program Element: 2.1.3: Justice System

Measures to improve access to justice have linkages to other USAID Program Objectives, including: *Investing in People*, Program Area: *Social Services and Protection for Especially Vulnerable Populations*.

One of the goals targeted by the FY2011 Mission Strategic Plan (MSP) for Ukraine is the provision of assistance which seeks to advance the country's capacity for governing justly and democratically, building upon the democratic gains of recent years. As the MSP states, "USG assistance programs will help Ukraine replace Soviet-era judicial and criminal justice legislation; implement structural changes to judicial institutions so they comport with European concepts; and strengthen these institutions' capacity to implement democratic norms. Our assistance will also seek to limit the various forms of corruption that have a corrosive effect on the rule of law and expansion of the private sector in Ukraine." The Plan also notes the importance of assisting civil society organizations to improve public awareness about rule of law reform, monitor the work of courts, and engage in the fight against corruption. Activities under the proposed program would work directly to harness the capacity of civil society organizations to improve public legal awareness, and also to build additional constituencies not only for improvements in access to justice, but for other related reforms as well.

III. DEVELOPMENT CONTEXT

Overview and Analytical Summary

Access to justice remains a significant problem in Ukraine. Given the prohibitively high costs of paid legal services in Ukraine, an overwhelming majority of the country's population cannot afford to pay for legal services, and the current legal aid system fails to address the justice needs of the country's most vulnerable citizens. Moreover, as no unified bar association exists in Ukraine that can provide oversight to and set standards for the legal profession, private lawyers and law firms are under no ethical obligation to engage in pro bono work and rarely do so.

While theoretically counsel is provided to defendants in criminal cases, the system for the appointment and supervision of pro bono attorneys in criminal matters and the absence of adequate compensation for their services fails to ensure timely and quality legal assistance. Some limited legal aid services are also provided by the state through pilot public defenders offices, but these pilots are limited in scope and have not been replicated in other areas of the country. While lawyers, law firms, legal advocacy organizations, and university-based legal clinics are allowed to register as legal aid providers, they may only represent clients in civil matters. Unfortunately, such pro bono services are often of low quality, and there is no central bar association that could take on the responsibility of ensuring quality legal assistance.

While citizens officially enjoy the right to legal aid in civil matters, few mechanisms are in place to enable eligible citizens to receive legal aid. Thus, citizens in need of representation depend on the services of a small cadre of lawyers willing to provide pro bono legal services, the staffs of university-based legal clinics, or legal advocacy organizations. These legal advocacy organizations provide legal representational services to vulnerable populations and in some cases undertake policy work aimed at improving the legal operating environment in which they are working.

Ukraine's citizens still lack broad-based legal literacy. The general public has relatively low levels of awareness of its rights, relevant institutions of the legal system, and existing court procedures to redress violations. Even when there is an understanding of these processes, Ukraine's inefficient and ineffective judicial system is frequently unable to provide just or timely rulings. Judges lack institutional and decisional independence. Justice is further undermined by inadequate citizen oversight and engagement with the judicial branch. The defense bar is disorganized and stymied by the competing interests of multiple bar associations. The conviction rate in criminal cases is almost one hundred percent, which was the case during the Soviet times as well. All these factors together result in the population's general distrust of the legal system and the inability of the people to seek justice through legal means.

The Ukrainian justice sector is in need of major structural reforms, though these reforms will require a considerable amount of political will from the Government of Ukraine (GOU) if they are to be realized. However, the Government has been paralyzed by infighting among various political factions in the past five years and no major reforms have taken place in the Ukrainian justice sector thus far. Moreover, there is a lack of consensus on an overall strategy for justice sector reform and the current legislative framework is inadequate to support reforms.

While the GOU has proposed reforms of the legal aid system, these reforms have also failed to find a political champion and may ultimately be too expensive to be feasible. On June 9, 2006, President Yushchenko approved a Decree on the Formation of the Legal Aid System in Ukraine. This decree aims to guarantee high standards of free legal aid delivery and provide effective access to counsel for all eligible indigent defendants and claimants. The decree was developed through a partnership among the International Renaissance Foundation, Ukraine's Ministry of Justice, the Center for Political and Legal Reforms, the Ukrainian Bar Association, and the Open Society Justice Initiative. The decree was endorsed by the National Commission on Strengthening Democracy and Asserting the Rule of Law in Ukraine; draft legislation was submitted to the Verkhovna Rada on April 24, 2009. The main concern with the future implementation of this law remains the high cost of such a service and the insufficient amount of state funding allocated to set up a free legal aid service (approximately fifty million UAH, or \$6.25 million, were set aside in the national budget for the implementation of the legal aid service).

While judicial and access to justice reforms have stagnated, Ukraine has developed a strong and vibrant civil society since independence. Freedom House's Nations in Transit (NIT) report has shown steady progress in the development of Ukrainian civil society institutions over the past decade. This fact becomes very important, as civil society has begun to play a substantive, though still developing, role in ensuring access to justice in Ukraine.

Currently, there is a dedicated community of legal advocacy organizations in Ukraine. For the purposes of this program, these are non-governmental organizations that provide a variety of services, including legal representation and consultation, around specific issue areas and also conduct advocacy work related to policy change in the legal environment. Some of these groups have been able to identify specific issue areas where there is a strong need of assistance. For example, there are a number of legal advocacy organizations in Ukraine which have built niches providing assistance to citizens in medical malpractice cases, as well as in cases involving inmate and juvenile offender rights, and the enforcement of environmental laws and regulations. These groups are effective advocates for citizens' rights and have been able to successfully challenge a justice system that remains largely unreformed in post-Soviet Ukraine.

For a country the size of Ukraine, however, relatively few legal advocacy organizations offer this kind of assistance. It is also apparent that there is an unfulfilled need for a regional and national dialogue coming out of their advocacy efforts, the kind of dialogue that informs national policy makers on the issues faced by citizens in these spheres and results in legislative changes that further advance and solidify reforms in Ukraine. As one example, it has been widely reported that medical malpractice is widespread in Ukraine, with people being misdiagnosed or receiving inadequate medical care. This is the kind of issue that captures public attention and mobilizes the public into action.

Ukraine is currently experiencing a major economic crisis resulting in inflation, rising interest rates, devaluation of the hryvna, massive lay-offs and plant closures, and accompanying increases in unemployment. Although there is no data yet available to document the effects of the crisis on individuals and families, many advocacy NGOs have anecdotally reported an increased interest by citizens to seek satisfaction and redress through the justice system. Despite the economic crisis, people still want to defend their rights in courts, but are not quite sure how.

There are significant concerns that the ongoing political stalemate and unfolding economic crisis could undermine continued progress in this area.

Government of Ukraine Support for a Reform Agenda: The strategic and programmatic directions outlined in this Program Description are based on several assumptions, including, first and foremost, that the GOU will continue to pursue a pro-European reform agenda. While it is impossible to predict the reform priorities of the next President nor of the future government in 2010, Ukraine's recent history has been characterized by greater openness and dialogue as well as civil society input and advocacy, which will be critical to ensure that access to justice and justice sector reform issues are considered and addressed by the GOU.

Impact of the Financial Crisis: The country's financial crisis presents serious challenges to new access to justice as well as other assistance programming, but need not mean that improved access to justice is unattainable. The GOU relies heavily on advocacy organizations to provide legal services. Strong civil society organizations are working in this area, with substantial institutional, and in some cases, financial,

capacity and commitment to access to justice issues. Public private partnerships will become even more vital to the program given Ukraine's current economic situation.

IV. PROGRAM DESCRIPTION

A. Programmatic Approach

Previously, USAID's Access to Justice program worked with a variety of legal advocacy organizations and clinics that offered broad based, free legal services to the population. In order to more effectively use resources and obtain sustainable results, USAID seeks to move legal advocacy organizations away from this broad approach and to develop expertise in one specific area of law that addresses unmet citizen demands. In this way, the new program aims to increase access to justice in Ukraine by identifying and working in specific areas of law that directly affect citizens' daily lives.

In order to implement such an approach, applicants' proposals should identify a maximum of three issue areas that address citizen needs. For the purpose of illustration only, such issue areas could include land rights, medical law, poverty related issues, women's rights, children's rights, pre-trial detention, environmental law, etc. Each issue area should be accompanied with a justification that explains the area's importance for increasing access to justice. Such an issue-based approach should be woven into all capacity-building and network development activities; this will build expertise among legal service providers. Proposed targeted issue areas and accompanying rationales will be formally evaluated as part of USAID's competitive technical evaluation process.

In developing strategic issue focus for the proposed program, applicants should consider the following criteria:

- Priority of the issue for Ukraine's EU integration process;
- Issue's potential for increasing the legal empowerment of underrepresented groups;
- Evident promise and potential for future results based on the success of legal advocacy organizations currently working in the field;
- Demonstrated unmet constituent demand for legal services in the issue area;
- Issue areas that show clear potential for nationwide scale-up and networking.

In order to leverage private sector resources, USAID is also seeking creative and innovative ideas for promoting and institutionalizing pro bono practice by law firms and individual practitioners. As discussed in the Overview section, Ukraine currently lacks a strong pro bono legal culture. The program will include a focus on building stronger linkages between international and domestic firms and underrepresented populations, based on the rationale that developing pro bono representational capacity within private firms will help to address the massive demand for services while also providing much needed private resources to build the financial sustainability of the pro bono legal services sector. Ukrainian and international lawyers may be interested in pro bono work, yet they often lack a direct connection to the community. The program will strive to bridge that gap between lawyers seeking opportunities to provide free legal help and those who need it. Advocacy organizations know the legal needs of those they serve, but often lack the resources to find and secure legal representation for all members of their constituencies. The program will address this need by building the capacities of legal advocacy groups to deliver specific technical training programs to private sector lawyers.

To further enhance pro bono culture in Ukraine, one such creative and innovative approach would be to create a mechanism that identifies lawyers willing to provide pro bono assistance and matches them with legal advocacy organizations that request additional support. By facilitating the process for lawyers to undertake pro bono work, USAID envisions that there will be a greater willingness from lawyers to provide legal services and consultations to legal advocacy organizations.

Where possible, activities will be implemented using Ukrainian experts and trainers, in order to build indigenous capacity and find sustainable solutions to the access to justice problem from the outset.

Applicants will be encouraged and expected to come up with an innovative program design that clearly demonstrates how an applicant proposes to accomplish substantial progress in each of the objectives discussed below. Ukraine has a complex political landscape. Applicants' technical approaches should demonstrate a high level of understanding of the various political issues that might affect project implementation and clearly demonstrate how these challenges will be integrated into the overall technical approach. Applicants should also clearly and convincingly demonstrate how they are going to achieve and sustain stakeholder buy-in to the proposed program activities.

The *Access to Justice and Legal Empowerment* Project will complement other GOU and donor-supported access to justice activities. These activities include USAID-funded programs in the area of rule of law, good governance, economic growth, and health, as well as those of other international donors (including the Governments of Sweden, Denmark, the European Union, European Commission, and the International Renaissance Foundation).

B. Program Objectives, Expected Results and Distribution of Resources by Objectives

Objective 1: Strengthen the capacity of legal advocacy organizations to effectively represent the interests of citizens (50%).

Expected results to include:

- Legal advocacy organizations are better able to effectively represent clients in the existing civil and administrative law systems.
- Citizens are more aware of their rights and the means to effectively access justice in key areas of the law.

Objective 2: Build a sustainable nationwide network of legal advocacy organizations that address citizen demand for legal services in specific areas of the law and leverage the work of such organizations for national reform efforts and promote broader access to justice (30%).

Expected results to include:

- Networks and associations of legal advocacy NGOs successfully operate within the country, exchanging information and best practices to strengthen and improve service delivery.
- Self-sustaining business models that utilize public-private partnerships and other means of developing sustainable forms of legal advocacy NGO funding are developed and disseminated throughout the sector.

- Advocacy campaigns conducted at the regional and national level actively serve the interests and, where possible, involve underrepresented groups across the nation.

Objective 3: Develop partnerships and attract additional private resources to expand and enhance the impact of the program's pro bono efforts (20%).

Expected results to include:

- Resources increase awareness of and support for the culture of pro bono legal work in Ukraine.
- Enhanced and expanded legal resources are available to underserved legal constituencies.

C. Illustrative Activities

Objective 1: Strengthen the capacity of legal advocacy organizations to effectively represent the interests of citizens

Illustrative activities under this objective may include:

- Developing demand-driven technical training for partner organizations on specialized topics including trial advocacy skills, drafting of policy papers, and legislative drafting;
- Providing technical assistance to build the organizational sustainability of partner organizations, including strategic planning, accounting practices, and financial and human resource management;
- Improving the reach of partner organizations through trainings focused on leadership, public outreach, and informational and advocacy campaigns;
- Improving linkages between partner organizations and courts to build a foundation for exchanges and mutual learning, contributing to a more citizen-driven experience in Ukrainian courts; and
- Supporting “know your rights” and public information campaigns (and other types of educational outreach) by partners in the legal issue areas targeted by the program.

Objective 2: Building effective and sustainable nationwide networks of legal advocacy organizations that address citizen demand for legal services in specific areas of the law to support national legal reform efforts and promote broader access to justice.

Illustrative activities under this objective may include:

- Creating multiple national networks and associations that bring together legal advocacy organizations focused on similar issues in order to support regular interactions between representatives and support joint advocacy campaigns where feasible;
- Developing synergies between the work done by regional advocacy organizations at the local level and regional and national policy makers, in order to build a vital link between effective advocacy campaigns and promising reform efforts in program-supported priority issue areas;
- Providing seminars, conferences and other continuing education training on best practices and legal developments in the specific areas of law targeted by the networks;

- Engaging the public in policy debates relating to specific issue areas championed by legal advocacy groups by holding public town halls, local campaigns or other venues that allow for community involvement;
- Developing network sustainability by researching and analyzing the most promising business practices and business models for organizing the work of legal advocacy groups in Ukraine and creating mechanisms and working with media to share these findings and implement such models on a nationwide basis;
- Assisting in the establishment of an institutionalized forum that brings together the representatives of legal advocacy groups with justice sector officials to regularly communicate public experiences with the courts and the justice system more broadly to practitioners;
- Fostering links between issue based legal advocacy networks established in Ukraine and those in neighboring countries focused on the same subjects to share best practices and promote regional cooperation;
- Developing a quarterly newsletter, webzines, updates to a website or other means of communication that increases awareness of issues, problems and resources related to the legal issue network;
- Creating programmatic links and points of interaction between rule of law activities in the formal justice sector and access to justice activities, in order to enable USAID rule of law programs to adapt implementation approaches as necessary to better respond to public demands on the court system in Ukraine.

Objective 3: Attracting private resources to expand programmatic pro bono efforts through public-private partnerships.

Illustrative activities under this objective may include:

- Creating a national legal sector clearing house that connects private sector lawyers with clients in need of legal assistance and provides quality and timely assistance to vulnerable underrepresented groups;
- Identifying and mobilizing resources from various law firms that can be of assistance to legal advocacy organizations and networks;
- Assisting legal advocacy organizations to develop legal advocacy and technical skills training programs for private sector lawyers;
- Recruiting pro bono volunteers from law firms and providing them with training on specific legal advocacy and technical skills in the areas of law targeted by the program;
- Developing internship programs for private sector lawyers and pro bono competitions for law firms to develop the pro bono service culture within the country; and
- Generating support for legal advocacy organizations from local businesses and creating a dialogue on selected issue areas.

D. Linkages

This program should seek out and take advantage of linkages with other USG programs and sectors, including:

- rule of law programs assisting the formal justice sector to improve the actual service delivery and functioning of the judicial system;
- civil society programs, including the UNITER program, to better coordinate capacity building assistance and training to legal advocacy NGOs;
- media programs, to foster cooperation and understanding between the media and actors in the access to justice area and raise public awareness of people's rights;
- the parliamentary development program, to advocate for changes to Ukrainian legislation that will provide greater incentives for activities that more fully involve communities and ordinary people in the resolution of the access to justice problem;
- local governance programs, including efforts to increase levels of citizen participation and engagement with local officials in improving access to justice;
- economic growth and health programs, as appropriate based on selected priority issue areas;
- and anti-corruption initiatives mainstreamed in other USAID-funded programs.

Other Activities and Windows of Opportunity

Additional activities may be warranted depending on availability of resources, developments in the sector, or unanticipated windows of opportunity. Other activities are encouraged to be proposed by the applicants either as priorities or as windows of opportunity.

E. Mandatory Factors

Gender: USAID's commitment to advance gender equality and pursue gender as a key development issue should be fully reflected in this program. A program that improves access to justice in essence ensures that the legal system promotes notions of equality and justice for everyone, and responds to the distinct and different needs of men and women. Ukrainian law is officially gender neutral; however, there are areas of difference in how men and women access justice. For example, due to disparities in the economic status of men and women, women are less likely to be able to afford lawyers in legal disputes and, therefore, may have greater need of pro bono assistance or the assistance of legal advocacy organizations. There are underdeveloped areas of law in Ukraine that have implications for women (for example, domestic violence, discrimination in the workplace, reproductive rights). In other areas, such as family law, men may be disadvantaged by the legal system (around such issues as paternity leave, for example). Overall, the legal profession is equally accessible to women and men, and, in fact, women make up large numbers of legal system actors. As in other spheres, however, the legal system in Ukraine demonstrates distinct gender imbalances, with men more often occupying positions of leadership and women occupying lower positions. For example, judicial positions that are higher paid and more prestigious are predominantly occupied by men (for example, a majority of chief judges are men). Attention should be given to any gender imbalances, and efforts need to be undertaken that promote gender equality.

Applicants should ensure that all efforts supported under this project are gender neutral and promote equal access to resources. Gender-neutral topics, such as employment, financial status and others, may hold hidden gender impact. Therefore, to the greatest extent feasible and practical, monitoring and reporting on the program impact on beneficiaries will be disaggregated by gender.

Anti-Corruption: USAID's Anti-Corruption Strategy, dated June 2005, charges Missions with incorporating anti-corruption goals into all programs. Consequently, the project should identify and incorporate appropriate anti-corruption elements in its programming. NGOs should become involved in raising awareness about corruption in Ukrainian society, and in the justice sector in particular, to increase awareness of rights and responsibilities within Ukrainian society.

Public-Private Partnerships: The project places a great emphasis on building public private partnerships (PPP). In order to fully address the challenges in the area of access to justice, USAID considers it essential that partners are able to think innovatively about ways to draw forth significant non-federal resources. For this reason, Objective 3 of this program requests partners to leverage funds from businesses to support programmatic goals in the form of PPPs.

Capacity Building/Sustainability: The main objective of the program will be to build local capacity in ensuring access to justice. The program will include clear benchmarks and criteria for determining support for eligible partner organizations and when they reach sufficient strength to determine their ability to move beyond USAID support.

F. Performance Monitoring and Evaluation Plan

Each application shall contain an illustrative (draft) Performance Monitoring and Evaluation Plan (PMEP) subject to USAID review and approval prior to the signing of the award. The PMEP should include a comprehensive strategy for monitoring and reporting progress made towards program objectives. The PMEP should also discuss a timetable for regular portfolio reviews.

The PMEP shall contain project objectives and results, performance indicators, data sources and collection methods, baseline information or a timeline for collecting it, annual targets, and names of individuals responsible for data collection and analysis. Performance indicators should be: direct, objective, practical, adequate, and useful in managing for results. PMEP data should be based on the fiscal year calendar.

The PMEP will have the following suggested structure:

- List of key project objectives, expected results and project outputs (output is a count of services delivered or items produced) and outcomes as well as brief description of the linkages between the project outputs and its expected results.
- Definition and detailed description of the performance indicators to be tracked including: unit of measure and disaggregation by gender, as appropriate and feasible; justification/management utility; annual baselines/targets; schedule for data collection; individual responsibility for data collection and availability of data at USAID; and, detailed plans for data analysis, review and reporting.

The quarterly report covering the third quarter of each fiscal year will provide USAID *annual* data on the agreed upon performance indicators as well as any additional qualitative results information the Recipient would like to include to demonstrate the results achieved vis-à-vis the project's objectives during that particular reporting period. The third quarterly report shall be due by the end of the fiscal year – by September 30 of each year.

USAID may organize and carry out an independent evaluation of this project. The evaluation may be formative, summative, or impact-based. It is expected that the implementing partner will cooperate with the evaluation team to ensure that the evaluation accurately reflects program processes, results, outcomes, and/or impacts.

V. PROGRAM REPORTING

The Recipient will provide the following reports to the USAID Agreement Officer (AO), and Agreement Officer's Technical Representative (AOTR) as specified below, in accordance with 22 CFR 226.51 and 226.52 and the Substantial Involvement Provisions.

a. Initial Implementation Plan

Within 60 days of the signing of Cooperative Agreement, the Recipient will present an annual implementation plan to the USAID/Ukraine AOTR review and approval (two hard copies and an electronic copy). The AOTR must provide written comments on the draft plan within 30 days of receipt and when the plan is finalized, the AOTR will provide written approval.

The implementation plan should include a list of tasks to be completed during the year, grouped under the objective that they seek to support. For each task, the Recipient should 1) explain in brief its connection to the objective; 2) define the necessary steps to complete the tasks; 3) assign responsibilities for completing those steps; 4) provide any quantitative or qualitative targets; and 5) provide a timeline for the implementation of the task. The plan should indicate the legal/regulatory issues that the Recipient will target for that year.

The initial implementation plan must include the Recipient's proposed Performance Monitoring and Evaluation Plan (PMEP), which must establish specific impact indicators, annual targets, progress benchmarks for the life of the award, and the date by which all baseline data will be established. All indicators related to individuals must be disaggregated by gender.

60 days after the award is made, the Recipient will submit the Final PMEP to USAID together with the Annual Implementation Plan. The Recipient and USAID will agree upon the final choice of performance indicators useful for timely management decisions and credibly reflecting the actual performance of the project. Recipient should explain how the PMEP will be implemented. PMEP data should meet reasonable quality criteria of validity, reliability, timeliness, precision and integrity, and disaggregated by gender whenever possible. In designing the PMEP, the Recipient should also weigh human and financial resources necessary to implement it.

The PMEP is subject to final approval by USAID and is separate from the regular financial and other reports required by the standard contract provisions.

USAID is required to report on new indicators in the Foreign Assistance Framework. USAID reserves the right to propose that the Recipient integrate into the PMEP a number of indicators to help USAID measure immediate program results. The PMEP should include indicators from the Foreign Assistance Framework (FAF), Objective 2: Governing Justly and Democratically, Program Area 2.1: Rule of Law

and Human Rights; Program Element 2.1.3: Justice System; Sub-Element 2.1.3.4: Access to Justice. The Recipient shall set up annual targets, collect actual data and report on the following FAF indicators based on the fiscal year calendar:

- Number of individuals/groups who received legal aid or victim's assistance with USG support;
- Number of justice sector personnel that received USG training;
- Number of legal aid groups and law clinics assisted by USG;
- Number of legal institutions and associations supported by USG;
- Number of new laws, regulations or constitutional amendments that protect fundamental freedoms and are consistent with international human rights standards adopted with USG support;
- Number of people visiting USG supported legal service centers serving low income and marginalized communities.

All information collected for the PMEP shall be compiled and submitted to USAID with the annual and final reports. Annual reports shall be due by the end of the fiscal year – by September 30 of each year. Additionally, progress in meeting the expected program results will be monitored through Implementation Plans.

b. Annual Implementation Plans

Annual implementation plans for subsequent years are due to the AOTR 60 days before the end of the preceding award year (two hard copies and an electronic copy). Annual implementation plans should include all the sections as the initial implementation plan discussed above. In addition, the subsequent annual Implementation Plans shall review the activities of the year that is ending, the activities that were implemented, the results achieved, and problems that existed and how they were resolved. These subsequent annual plans shall propose program adjustments to reflect any lessons learned. As with the initial implementation plan, the AOTR will review the plan and provide comments and recommendations for changes no later than 30 days after receipt of the draft. The Recipient shall incorporate AOTR comments and recommendations into the final version of Implementation Plan and submit it for AOTR written approval within 15 days. In addition, all substantial changes in Implementation Plan require prior written approval of the AOTR.

c. Monthly Activity Schedule

USAID also expects the Recipient to submit (electronically) to the AOTR by the 25th calendar day of each month, a calendar of planned events for the upcoming month. USAID will post events on the Mission's website, as appropriate, and use the monthly calendar to plan site visits in a timely manner.

d. Quarterly Financial Reports

Pursuant to 22 CFR 226.52, USAID intends to require quarterly financial reporting (unless the conditions described in 22 CFR 226.52(iv) exist). The financial reporting forms to be used by the Recipient will be specified in the award.

e. Quarterly Performance Reports

Pursuant to 22 CFR 226.51, the Recipient shall submit quarterly performance reports electronically to the AOTR within 30 days of the end of the previous quarter.

The fourth quarterly report of each fiscal year should include any *annual* data on the agreed-upon performance indicators as well as any additional qualitative information that demonstrates the results achieved vis-à-vis the project's objectives during the reporting period. The second semi-annual report shall be due by September 30 of each year.

The Recipient's single quarterly reports shall consolidate activities and analyses of all partners into one document. The reports may be submitted by email and shall contain the following information at a minimum:

- a) A brief description of the political context and/or enabling environment in Ukraine. This section may include significant political developments and/or relevant events reported in the press or by local informants which affect the overall implementation environment. This section is important for establishing the overall environment for implementation and is useful for considering how changes in the environment may affect program implementation;
- b) An analytical description of overall program outcomes and progress towards results that reflects and synthesizes the achievements of all partners. This should not be a description of activities from each partner, but rather a broader analysis that examines the progress of all partners in the context of program objectives and expected results. This section should compare results achieved to the planned tasks in the implementation plan and the PMEP, and discuss any potential constraints that might prevent the Recipient from meeting agreed upon targets and benchmarks;
- c) A summary of activities conducted by all organizations under the award. This section should highlight which partner has conducted activities, and include a description of progress towards results and relevant trends;
- d) Data on all indicators established in the monitoring and evaluation plan for the award activities. Data should be disaggregated by gender and other historically disenfranchised populations where relevant;
- e) A comparison of accomplishments to the goals and objectives established for the period;
- f) Problems encountered, reasons why established goals were not met, if appropriate, and how challenges or problems will be overcome during the next reporting period;
- g) A comparison of actual expenditures with budget estimates, including analysis and explanation of cost overruns or high unit costs, and any other pertinent information; and
- h) Priorities for programming during the next reporting period.

Reports should also contain, as an attachment, a list of all sub awards issued during the reporting period. The list should contain the name and contact information for each sub-recipient, the title and duration of the project, the amount of the award, and a brief description of the project.

f. Final Report

Pursuant to 22 CFR 226.51(b), a final performance report will be required under this award. USAID will review and comment within 30 days of receipt. The final performance report will:

- Contain an overall description of the activities under the Program during the period of this Cooperative Agreement, and the significance of these activities;
- Describe the methods of assistance used and the pros and cons of these methods;
- Present life-of-project results towards achieving the project objectives and the performance indicators, as well as an analysis of how the indicators illustrate the project's impact on the development of legal advocacy organizations and a pro bono legal culture in Ukraine;
- Summarize the program's accomplishments related to the strengthening the development of access to justice in Ukraine, as well as any unmet targets and the reasons for them;
- Elaborate the issues and problems that emerged during program implementation and the lessons learned in dealing with them; and
- Provide comments and recommendations regarding unfinished work and/or future needs and directions for further strengthening access to justice in Ukraine as well as recommendations for what issues no longer require donor assistance.

VI. KEY PERSONNEL

Key personnel are those considered to be essential to the work being performed under this cooperative agreement. Key personnel and changes to key personnel are subject to approval by the USAID AOTR prior to their employment under this award.

Implementers will be expected to propose key personnel including a Chief of Party (COP) and Deputy Chief of Party (DCOP). The COP and DCOP will have experience working on legal reforms in the former Soviet Union (Ukraine preferred), advanced degrees in law, the social sciences or a related field. In addition, the COP and DCOP should have a proven ability to work effectively with local counterparts and stakeholders and an ability to forge productive relationships with the stakeholders, knowledge of USAID development approaches, techniques (demonstrated by prior work experience and/or publications), and a deep understanding of democracy and governance approaches and how they can be applied through rule-of-law activities. The COP and/or DCOP should also demonstrate an understanding of USAID rules and regulations, as well as the mandatory reporting requirements (e.g., progress reports, work plans, PMEPs, financial reports). Consistent with USAID's indigenization strategy, as reflected in Mission Order 201, bidders will be strongly encouraged to propose qualified Ukrainian professionals as key personnel. Notwithstanding the proposed COP/DCOP's country of citizenship, USAID will strongly encourage bidders to propose qualified key personnel who possess Ukrainian language skills in order to enhance effectiveness.

VII. SUBSTANTIAL INVOLVEMENT

USAID/Ukraine considers collaboration with the Recipient crucial for the successful implementation of this program. Substantial involvement under the proposed award shall include the following:

- Review and approval of the Recipient's Initial Implementation Plan, Annual Implementation Plans (Work Plans), including the Performance Monitoring and Evaluation Plan (PMEP) by the AOTR.
- Review and approval of quarterly performance reports by the AOTR
- Review and approval of key personnel and any changes by the AOTR.
- Subawards: Approval of proposed sub-recipients and sub-grants prior to award and participation in preparation of solicitation documents including the topics, program descriptions, match requirements, selection criteria and funding levels for applications by the AOTR.

As stated, the AOTR is empowered to approve requests pertaining to the matters described above (e.g., implementation plans, key personnel, and sub-awards); however, the awardee shall provide electronic copies of such requests, along with supporting documentation to the Agreement Officer.

VIII. ADDITIONAL CONSIDERATIONS

In responding to this RFA, potential applicants should bear in mind the following considerations:

a. Need for Coordination and Substantive Collaboration

As this project will likely involve cross-cutting issues and multidisciplinary partners, coordination and team work are of paramount importance. Issues to be considered include: collaboration among local and international partners; what relationships in terms of delegation of authority and accountability does the applicant foresee between its office in Kyiv and partners outside of the capital, how the applicant envisions its role in working with partners (local and international) in planning, developing, implementing, monitoring and evaluating intervention activities; and how the applicant envisions its interrelations with other USAID implementing partners in Ukraine.

b. Authorized Geographic Code

The authorized Geographic Codes for procurement of goods and services under the proposed award are 000 (United States) and 110 (NIS), i.e., Eurasia Region, per ADS 260.

As provided for in 22 CFR 228.02, the criteria for source and origin waivers for assistance provided under the FREEDOM Support Act are stated in section 498B(h)(2) of the Foreign Assistance Act of 1961, subject to any further restrictions imposed by agreement or regulation. The basic criteria in section 498B(h)(2) are: (A) the provision of the assistance requires commodities or services of a type that are not produced in and available for purchase in any country specified in the authorized Geographic Codes; or (B) that procurement in another country is necessary to meet unforeseen circumstances -- such as emergency situations -- where it is important to permit procurement in a country not specified in the authorized Geographic Codes, or to promote efficiency in the use of United States foreign assistance resources, including to avoid impairment of foreign assistance objectives. An additional requirement for waivers of type (A) to countries in Code 935 is that the commodities or services are also of a type that are not produced in and available for purchase in any country specified in Code 941.

c. Third Country Participant Training

A limited blanket waiver signed by the Mission Director is in effect through February 14, 2010 which allows participant training to take place in all countries included in Geographic Code 110 (Newly Independent States) and in all Eastern European countries, specifically: Lithuania, Latvia, Estonia, Poland, the Czech Republic, the Slovak Republic, Croatia, Slovenia, Romania, Albania, Serbia, Bosnia and Herzegovina, Bulgaria, Macedonia, Montenegro and Hungary when a training event meets the three criteria contained in the waiver. Any training not covered by the limited blanket waiver, i.e., training in Western Europe, will require a waiver. The Recipient will be informed in event a limited blanket waiver is extended.

d. Prohibition on Support to Organizations Associated With Terrorism

The Recipient is reminded that U.S. Executive Orders and U.S. law prohibit transactions with, and the provision of resources and support to, individuals and organizations associated with terrorism. It is the legal responsibility of the Recipient to ensure compliance with these Executive Orders and laws. This provision must be included in all subcontracts/subawards issued under this agreement.

The names of individuals and entities designated as being associated with terrorism can be found at the web site of the Office of Foreign Assets Control within the Department of Treasury at: <http://treasury.gov/ofac>.

SECTION D - CERTIFICATIONS, ASSURANCES OF APPLICANTS

U.S. AGENCY FOR INTERNATIONAL DEVELOPMENT

CERTIFICATIONS, ASSURANCES, AND OTHER STATEMENTS OF APPLICANTS [1][2]

[To be submitted as part of an Applicant's cost proposal. To be signed by an authorized agent of the applicant at the end of this Section D.]

PART I - CERTIFICATIONS AND ASSURANCES

1. ASSURANCE OF COMPLIANCE WITH LAWS AND REGULATIONS GOVERNING NON-DISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS

(a) The recipient hereby assures that no person in the United States shall, on the bases set forth below, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under, any program or activity receiving financial assistance from USAID, and that with respect to the grant for which application is being made, it will comply with the requirements of:

(1) Title VI of the Civil Rights Act of 1964 (Pub. L. 88-352, 42 U.S.C. 2000-d), which prohibits discrimination on the basis of race, color or national origin, in programs and activities receiving Federal financial assistance;

(2) Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), which prohibits discrimination on the basis of handicap in programs and activities receiving Federal financial assistance;

(3) The Age Discrimination Act of 1975, as amended (Pub. L. 95-478), which prohibits discrimination based on age in the delivery of services and benefits supported with Federal funds;

(4) Title IX of the Education Amendments of 1972 (20 U.S.C. 1681, et seq.), which prohibits discrimination on the basis of sex in education programs and activities receiving Federal financial assistance (whether or not the programs or activities are offered or sponsored by an educational institution); and

(5) USAID regulations implementing the above nondiscrimination laws, set forth in Chapter II of Title 22 of the Code of Federal Regulations.

(b) If the recipient is an institution of higher education, the Assurances given herein extend to admission practices and to all other practices relating to the treatment of students or clients of the institution, or relating to the opportunity to participate in the provision of services or other benefits to such individuals, and shall be applicable to the entire institution unless the recipient establishes to the satisfaction of the USAID Administrator that the institution's practices in designated parts or

programs of the institution will in no way affect its practices in the program of the institution for which financial assistance is sought, or the beneficiaries of, or participants in, such programs.

(c) This assurance is given in consideration of and for the purpose of obtaining any and all Federal grants, loans, contracts, property, discounts, or other Federal financial assistance extended after the date hereof to the recipient by the Agency, including installment payments after such date on account of applications for Federal financial assistance which were approved before such date. The recipient recognizes and agrees that such Federal financial assistance will be extended in reliance on the representations and agreements made in this Assurance, and that the United States shall have the right to seek judicial enforcement of this Assurance. This Assurance is binding on the recipient, its successors, transferees, and assignees, and the person or persons whose signatures appear below are authorized to sign this Assurance on behalf of the recipient.

2. CERTIFICATION REGARDING LOBBYING

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, United States Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Statement for Loan Guarantees and Loan Insurance

The undersigned states, to the best of his or her knowledge and belief, that: If any funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee

of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this commitment providing for the United States to insure or guarantee a loan, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions. Submission of this statement is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required statement shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

3. KEY INDIVIDUAL CERTIFICATION NARCOTICS OFFENSES AND DRUG TRAFFICKING

I hereby certify that within the last ten years:

1. I have not been convicted of a violation of, or a conspiracy to violate, any law or regulation of the United States or any other country concerning narcotic or psychotropic drugs or other controlled substances.
2. I am not and have not been an illicit trafficker in any such drug or controlled substance.
3. I am not and have not been a knowing assistor, abettor, conspirator, or colluder with others in the illicit trafficking in any such drug or substance.

Signature: _____

Date: _____

Name: _____

Title/Position: _____

Organization: _____

Address: _____

Date of Birth: _____

NOTICE:

1. You are required to sign this Certification under the provisions of 22 CFR Part 140, Prohibition on Assistance to Drug Traffickers. These regulations were issued by the Department of State and require that certain key individuals of organizations must sign this Certification.

2. If you make a false Certification you are subject to U.S. criminal prosecution under 18 U.S.C. 1001.

4. CERTIFICATION REGARDING TERRORIST FINANCING

By signing and submitting this application, the prospective recipient provides the certification set out below:

1. The Recipient, to the best of its current knowledge, did not provide, within the previous ten years, and will take all reasonable steps to ensure that it does not and will not knowingly provide, material support or resources to any individual or entity that commits, attempts to commit, advocates, facilitates, or participates in terrorist acts, or has committed, attempted to commit, facilitated, or participated in terrorist acts, as that term is defined in paragraph 3.

2. The following steps may enable the Recipient to comply with its obligations under paragraph 1:

a. Before providing any material support or resources to an individual or entity, the Recipient will verify that the individual or entity does not (i) appear on the master list of Specially Designated Nationals and Blocked Persons, which list is maintained by the U.S. Treasury's Office of Foreign Assets Control (OFAC) and is available online at OFAC's website: <http://www.treas.gov/offices/eotffc/ofac/sdn/t11sdn.pdf>, or (ii) is not included in any supplementary information concerning prohibited individuals or entities that may be provided by USAID to the Recipient.

b. Before providing any material support or resources to an individual or entity, the Recipient also will verify that the individual or entity has not been designated by the United Nations Security (UNSC) sanctions committee established under UNSC Resolution 1267 (1999) (the "1267 Committee") [individuals and entities linked to the Taliban, Usama bin Laden, or the Al Qaida Organization]. To determine whether there has been a published designation of an individual or entity by the 1267 Committee, the Recipient should refer to the consolidated list available online at the Committee's website: <http://www.un.org/Docs/sc/committees/1267/1267ListEng.htm>.

c. Before providing any material support or resources to an individual or entity, the Recipient will consider all information about that individual or entity of which it is aware and all public information that is reasonably available to it or of which it should be aware.

d. The Recipient also will implement reasonable monitoring and oversight procedures to safeguard against assistance being diverted to support terrorist activity.

3. For purposes of this Certification-

a. "Material support and resources" means currency or monetary instruments or financial securities, financial services, lodging, training, expert advice or assistance, safehouses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel, transportation, and other physical assets, except medicine or religious materials."

b. "Terrorist act" means-

(i) an act prohibited pursuant to one of the 12 United Nations Conventions and Protocols related to terrorism (see UN terrorism conventions Internet site: <http://untreaty.un.org/English/Terrorism.asp>); or

(ii) an act of premeditated, politically motivated violence perpetrated against noncombatant targets by subnational groups or clandestine agents; or

(iii) any other act intended to cause death or serious bodily injury to a civilian, or to any other person not taking an active part in hostilities in a situation of armed conflict, when the purpose of such act, by its nature or context, is to intimidate a population, or to compel a government or an international organization to do or to abstain from doing any act.

c. "Entity" means a partnership, association, corporation, or other organization, group or subgroup.

d. References in this Certification to the provision of material support and resources shall not be deemed to include the furnishing of USAID funds or USAID-financed commodities to the ultimate beneficiaries of USAID assistance, such as recipients of food, medical care, micro-enterprise loans, shelter, etc., unless the Recipient has reason to believe that one or more of these beneficiaries commits, attempts to commit, advocates, facilitates, or participates in terrorist acts, or has committed, attempted to commit, facilitated or participated in terrorist acts.

e. The Recipient's obligations under paragraph 1 are not applicable to the procurement of goods and/or services by the Recipient that are acquired in the ordinary course of business through contract or purchase, e.g., utilities, rents, office supplies, gasoline, etc., unless the Recipient has reason to believe that a vendor or supplier of such goods and services commits, attempts to commit, advocates, facilitates, or participates in terrorist acts, or has committed, attempted to commit, facilitated or participated in terrorist acts.

This Certification is an express term and condition of any agreement issued as a result of this application, and any violation of it shall be grounds for unilateral termination of the agreement by USAID prior to the end of its term.

Signed: _____

Name and Title: _____

Name of Organization: _____

Date: _____

5. SURVEY ON ENSURING EQUAL OPPORTUNITY FOR APPLICANTS

<http://www.usaid.gov/forms/surveyeo.doc> contains a survey on ensuring equal opportunity for applicants. The applicant's completion of the survey is voluntary. The absence of a completed survey in an application may not be a basis upon which the application is determined incomplete or non-responsive. Applicants who volunteer to complete and submit the survey under a competitive or non-competitive action are instructed within the text of the survey to submit it as part of the application process; applicants who chose to submit the survey shall include it in the technical application in the "annexes" section.

PART II - OTHER STATEMENTS OF RECIPIENT

1. AUTHORIZED INDIVIDUALS

The recipient represents that the following persons are authorized to negotiate on its behalf with the Government and to bind the recipient in connection with this application or grant:

Name	Title	Telephone No.	Facsimile No.	Email Address
<hr/>				
<hr/>				
<hr/>				

2. TAXPAYER IDENTIFICATION NUMBER (TIN)

If the recipient is a U.S. organization, or a foreign organization which has income effectively connected with the conduct of activities in the U.S. or has an office or a place of business or a fiscal paying agent in the U.S., please indicate the recipient's TIN:

TIN: _____

3. CONTRACTOR IDENTIFICATION NUMBER - DATA UNIVERSAL NUMBERING SYSTEM (DUNS) NUMBER

(a) In the space provided at the end of this provision, the recipient should supply the Data Universal Numbering System (DUNS) number applicable to that name and address. Recipients should take care to report the the number that identifies the recipient's name and address exactly as stated in the proposal.

(b) The DUNS is a 9-digit number assigned by Dun and Bradstreet Information Services. If the recipient does not have a DUNS number, the recipient should call Dun and Bradstreet directly at 1-800-333-0505. A DUNS number will be provided immediately by telephone at no charge to the recipient. The recipient should be prepared to provide the following information:

- (1) Recipient's name.
- (2) Recipient's address.
- (3) Recipient's telephone number.
- (4) Line of business.
- (5) Chief executive officer/key manager.
- (6) Date the organization was started.
- (7) Number of people employed by the recipient.
- (8) Company affiliation.

(c) Recipients located outside the United States may obtain the location and phone number of the local Dun and Bradstreet Information Services office from the Internet Home Page at <http://www.dbisna.com/dbis/customer/custlist.htm>. If an offeror is unable to locate a local service center, it may send an e-mail to Dun and Bradstreet at globalinfo@dbisma.com.

The DUNS system is distinct from the Federal Taxpayer Identification Number (TIN) system.

DUNS: _____

4. LETTER OF CREDIT (LOC) NUMBER

If the recipient has an existing Letter of Credit (LOC) with USAID or another US federal agency, please indicate the LOC number:

LOC: _____

5. PROCUREMENT INFORMATION

(a) **Applicability.** This applies to the procurement of goods and services planned by the recipient (i.e., contracts, purchase orders, etc.) from a supplier of goods or services for the direct use or benefit of the recipient in conducting the program supported by the grant, and not to assistance provided by the recipient (i.e., a subgrant or subagreement) to a subgrantee's sub Recipient or subrecipient in support of the subgrantee's sub Recipient's or subrecipient's program. Provision by the recipient of the requested information does not, in and of itself, constitute USAID approval.

(b) **Amount of Procurement.** Please indicate the total estimated dollar amount of goods and services which the recipient plans to purchase under the grant

\$ _____

(c) **Nonexpendable Property.** If the recipient plans to purchase nonexpendable equipment which would require the approval of the Agreement Officer, please indicate below (using a continuation page, as necessary) the types, quantities of each, and estimated unit costs. [Note that the authorized geographic code under the resulting award will be 000:]

Nonexpendable equipment for which the Agreement Officer's approval to purchase is required is any article of nonexpendable tangible personal property charged directly to the grant, having a useful life of more than one year and an acquisition cost of \$5,000 or more per unit.

TYPE/DESCRIPTION(Generic)	QUANTITY	ESTIMATED UNIT COST
---------------------------	----------	---------------------

6. TYPE OF ORGANIZATION

The recipient, by checking the applicable box, represents that -

(a) If the recipient is a U.S. entity, it operates as a corporation incorporated under the laws of the State of _____, an individual, a partnership, a nongovernmental nonprofit organization, a state or local governmental organization, a private college or university, a public college or university, an international organization, or a joint venture; or

- a. If the recipient is a non-U.S. entity, it operates as a corporation organized under the laws of _____ (country), an individual, a partnership, a nongovernmental nonprofit organization, a nongovernmental educational institution, a governmental organization, an international organization, or a joint venture.

7. CERTIFICATION OF RECIPIENT

The recipient certifies that it has reviewed and is familiar with the proposed cooperative agreement format (included in section E as attachment 2) and the regulations applicable thereto, and that it agrees to comply with all such regulations.

Solicitation (RFA) No. _____

Application/Proposal No. _____

Date of Application/Proposal _____

Name of Recipient _____

Typed Name and Title _____

Signature _____ Date _____

SECTION E - ANNEXES

COST APPLICATION FORMAT

	<u>Yr. 1</u>	<u>Yr. 2</u>	<u>Yr. 3</u>	<u>Yr. 4</u>	<u>Total</u>
<u>LABOR</u>					
US CCNs/TCNs Consultants					
TOTAL LABOR:					
Fringe Benefits					
<u>TRAVEL</u>					
International In-Country					
TOTAL TRAVEL:					
<u>OTHER DIRECT COSTS</u>					
Program Related costs (ex. Advocacy trainings; Project Workshops; NGO Capacity Development; Publications)					
Office Expenses (including equipment)					
Other costs					
TOTAL OTHER DIRECT COST:					
Indirect Costs:					
TOTAL ESTIMATED COST:					
Cost Share:					
TOTAL PROGRAM:					
<u>ENVIRONMENTAL COMPLIANCE FACESHEET – (ATTACHED)</u>					



ENVIRONMENTAL COMPLIANCE FACESHEET

Program Objective: (2) Governing Justly and Democratically
Program Area: (2.1) Rule of Law and Human Rights
Program Element: (2.1.3) Justice System
Title of Activity: The Access to Justice and Legal Empowerment Project
Country/Region: Ukraine/E&E
Funding Period: Dec 2009 - Dec 2013 **Funding Level:** \$5,000,000
Statement Prepared by: Yana Zhambekova, Project Management Assistant, ODG
Date: September 27, 2009

IEE Amendment? Yes No **DCN of Original IEE:**

Environmental Media and/or Human Health Potentially Impacted (check all that apply):
Air Water Land Biodiversity Human health Other None

Environmental Action(s) Recommended (check all that apply):

- 1. *Categorical Exclusion(s)*
- 2. Initial Environmental Examination:
 - Conditional Negative Determination:* the implementing partner will ensure that consultations, training materials and any other project outputs encourage the established public-private partnerships and assisted legal advocacy groups and other civil society organizations to support environmentally sustainable development of the served communities, and (b) the procurement, storage, transportation, and use of any office equipment shall be done in an environmentally sound manner. The USAID Agreement Officer will specify this wording in the USAID Cooperative Agreement. The implementing partner will provide USAID with evidence that the recipient organizations followed all applicable environmental laws.

1. Summary of Findings:

The purpose of the Access to Justice and Legal Empowerment Project is to (1) strengthen the capacity of Ukrainian legal advocacy groups to effectively advocate for citizens' interests; (2) build a sustainable nationwide network of legal advocacy groups that address citizen demands for legal services and create direct linkages between the work of legal advocacy groups and national legal reform efforts; and (3) attract private resources to expand programmatic efforts through public-private partnerships.

Technical assistance will be provided in the form of consultations, training, workshops, and grants. USAID funds will be used to finance salaries of technical and administrative staff, travel expenses, costs of office equipment, costs of production and dissemination of training materials, as well as costs of conducting public hearings and debates. Project funds will not be used to finance capital or other improvements that may have an adverse effect on the environment.

2. Justification for a Categorical Exclusion and Negative Determination

Pursuant to 22 CFR 216.2 (c)(3), the originator of the action has determined that most of the USAID activities under these programs consist of types of interventions entirely within the categories listed in paragraph (c)(2) of Section 216.2 of Title 22 CFR 216, and therefore are categorically excluded from any further environmental review requirements. The originator of the proposed action has further determined

that those activities are fully within the following classes of actions:

- Education, technical assistance, or training programs except to the extent such programs include activities directly affecting the environment (such as construction of facilities, etc). [22CFR 216.2(c)(2)(i)];
- Analyses, studies, academic or research workshops and meetings. [22 CFR 216.2(c)(2)(iii)];
- Document and information transfers. [22 CFR 216.2(c)(2)(v)];
- Studies, projects or programs intended to develop the capability of recipient countries to engage in development planning, except to the extent designed to result in activities directly affecting the environment (such as the construction of facilities, etc). [22 CFR 216.2(c)(2)(xiv)].

As per 22 CFR 216.2(c)(1), neither an initial environmental examination nor an environmental assessment is required for an action which is determined to fall within one or more of the categories listed in 22 CFR 216.2(c)(2). Pursuant to 22 CFR 216.3(a)(2)(iii), the originator of the proposed action recommends a negative determination with the following condition: the implementing partner will ensure that consultations, training materials and any other project outputs encourage the established public-private partnerships and assisted legal advocacy groups and other civil society organizations to support environmentally sustainable development of the served communities, and (b) the procurement, storage, transportation, and use of any office equipment shall be done in an environmentally sound manner.

3. Limitations of the IEE:

This IEE does not cover activities involving:

- Assistance for the procurement (including payment in kind, donations, guarantees of credit or use including handling, transport, fuel for transport, storage, mixing, loading, application, clean up of spray equipment, and disposal) of pesticides or activities involving procurement, transport, use, storage, or disposal of toxic materials. Pesticides, cover all insecticides, fungicides, rodenticides, etc. covered under FIFRA – the Federal Insecticide, Fungicide, and Rodenticide Act;
- Construction, reconstruction, rehabilitation, or renovation work;
- Activities involving support to agro-processing, industrial enterprises, and regulatory permitting;
- Procurement or use of genetically modified organisms (GMOs);
- DCA or GDA programs.

Any of these actions would require an amendment to the IEE approved by the E&E Bureau Environmental Officer (BEO).

3. Revisions:

Pursuant to 22 CFR 216.3(a)(9), if new information becomes available which indicates that activities to be funded by the Project might be "major" and the Program's effect "significant", this determination will be reviewed and revised by the originator of the project and submitted to the BEO for approval and, if appropriate, an environmental assessment will be prepared.

USAID APPROVAL OF ENVIRONMENTAL ACTION(S) RECOMMENDED:

Clearance:
 Mission Director:  _____ Date: 11/18/09
 Janina Jaruzelski

Concurrence:
 E&E Bureau Environmental Officer:  _____ Date: 11/19/09
 Mohammad Latif

Approved: Disapproved:

Additional clearances:

Deputy Mission Director Uemy for Date: 11/17/09
Sara Wines

Regional Legal Advisor MP (w/ changes) Date: 11/16/09
Milan Pavlovic

Mission Environmental Officer [Signature] Date: 11/03/09
Peter Luzik