USAID | CENTRAL ASIAN REPUBLICS

FROM THE AMERICAN PEOPLE

Issuance Date: **July 14, 2011**
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Subject: Request for Applications (RFA) No.: 176-11-000010
Kazakhstan's Judicial Independence Program

Dear Prospective Applicants:

The United States Government, as represented by the United States Agency for International Development (USAID) in Central Asian Republics is seeking applications from prospective partners that are either Private Voluntary Organizations based in the United States (U.S. PVOs) or indigenous, local NGOs (LNGOs), Public International Organizations (PIO) and International Organizations (IO), U.S. and Non-U.S. For-Profit Organizations, U.S. and Non-U.S. Colleges and Universities for Kazakhstan's Judicial Independence Program in CAR region. The authority for the RFA is found in the Foreign Assistance Act of 1961, as amended.

The recipient will be responsible for ensuring achievement of the program objectives. Please refer to Section I, the "Funding Opportunity Description" for a complete statement of goals and expected results.

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 grant program and are in accordance with applicable cost standards (22 CFR 226, OMB Circular A-122 for non-profit organization, OMB Circular A-21 for universities, and the Federal Acquisition Regulation (FAR) Part 31 for-profit organizations), may be paid under the grant. For U.S. organizations, 22 CFR 226, OMB Circulars, and the Standard Provisions for U.S., Nongovernmental Recipients will be applicable. For non-U.S. organizations, the Standard Provisions for Non-U.S., Nongovernmental Recipients will apply. Copies of these documents can be accessed via the USAID website: http://www.usaid.gov.

USAID intends to award one (1) Cooperative Agreement as a result of this RFA. Subject to the availability of funds, USAID intends to provide approximately $1.95 million in total USAID funding allocated over the four-year period. USAID 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:

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For the purposes of this RFA, the term "Grant" is synonymous with "Cooperative Agreement"; "Grantee" is synonymous with "Recipient"; and "Grant Officer" is synonymous with "Agreement Officer".

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 below for receipt of applications. Applications and modifications thereof shall be submitted in sealed envelopes with the name and address of the applicant and RFA-176-11-000010 inscribed thereon, to:

(By U.S. Mail)
Deborah Simms-Brown
USAID/DOS
7030 Almaty Place
Washington, DC 20521-7030

(By All Other Means of Delivery)
USAID/CAR
Acquisition and Assistance Office
Park Palace Building
41, Kazibek bi Street
Almaty, Kazakhstan 050010

Tel.: 7-727-250-76-12

(Electronically)
AlmatyAASolicitations@usaid.gov

FAXED applications will not be considered.

Applicants are requested to submit both technical and cost portions of their applications in separate volumes. Submission of hard copies is a requirement (see Section IV – Application and Submission Instructions). Award, if any, will be made to the applicant(s) whose application(s) offers the best value.

Issuance of this RFA does not constitute an award commitment on the part of the Government, nor does it commit the Government to pay for costs incurred in the preparation and submission of an application. In addition, final award of any resultant grant(s) 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; should circumstances prevent award of a cooperative agreement, all preparation and submission costs are at the applicant's expense.

This RFA is being posted through www.grants.gov. This RFA and any future amendments can be downloaded from this website (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. USAID bears no responsibility for data errors resulting from transmission or conversion processes.

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

(a) Section V – Application Review Information;
(b) Section IV – Application and Submission Information;
(c) Section I – Program Description;

Any questions concerning this RFA should be submitted in writing to Ms. Deborah Simms-Brown, Regional Agreement Officer, via internet at dsimmsbrown@usaid.gov and Ms. Olessya Oliyarnik, Agreement Specialist, and via internet at AlmatyAASolicitations@usaid.gov not later than July 27, 2011.

If there are any problems in downloading the RFA, please contact Ms. Olessya Oliyarnik at ooliyarnik@usaid.gov. Applicants should retain for their records one copy of all enclosures which accompany their application.

Sincerely,

Deborah Simms-Brown
Regional Agreement Officer

SECTION I – FUNDING OPPORTUNITY DESCRIPTION

A. TITLE

Kazakhstan's Judicial Independence Program

B. PROGRAM SUMMARY

The overarching goal of this program is to strengthen the independence of Kazakhstan's Judiciary in partnership with the Supreme Court of Kazakhstan, building on that institution's political will to build public trust and achieve greater alignment with internationally-recognized standards of accountability and performance. The objectives of this program are:

- Objective 1: Improved Administrative Systems within the Supreme Court
- Objective 2: Well-Trained Judges and Court Personnel
- Objective 4: Increased Public Understanding of Judicial Roles and Responsibilities
- Objective 4: Increased Capacity of a Local Institution to Provide Technical Assistance to the Supreme Court

Through improvements in judicial training and professionalism, the simplification of administrative processes and procedures, and increased public understanding of the roles and responsibilities of an independent judiciary, conducted in partnership with a local Kazakhstani organization, this program will help strengthen judicial independence and accountability, critical to improving the rule of law in Kazakhstan and ensuring the nation's further progress towards a democratic society.

C. PROBLEM STATEMENT

Since declaring independence in 1991, Kazakhstan has smoothly transitioned to a market-oriented state that boasts a number of key economic achievements. Despite this progress, Kazakhstan does not yet fully meet international standards for democratic governance, particularly in the areas of human rights, political competition and the rule of law. Recognizing a need to address this, the Government of Kazakhstan (GoK) has taken steps to strengthen democratic governance over the past few years. These measures include: establishing the Office of Human Rights Ombudsman, allowing for the issuance of judicial arrest warrants (formerly the sole function of the prosecutor), developing a Human Rights Action Plan, introducing jury trials, transferring management of the penitentiary system from the Ministry of Interior to the Ministry of Justice, and enacting laws to combat domestic violence, torture, and abuse of power. Kazakhstan is a signatory to more than 60 universal and multilateral treaties on human rights, including seven UN human rights conventions, and is taking steps to align its domestic legislation to international standards.

In January 2010, Kazakhstan assumed the Chairmanship of the Organization for Security and Cooperation in Europe (OSCE). In the run-up to its Chairmanship, the GoK laid out a series of strategies or action plans for democratic reform, including a ten-year Legal Policy Strategy and the "Path to Europe" program, both aimed at using the European Union as a model to improve Kazakhstan's legal and institutional base. In relation to the judiciary, the Legal Policy Strategy highlights planned judicial reforms, which include increased judicial transparency and accountability and improved judicial selection and tenure procedures. Further, a new *Law on Amending the Criminal Code, Criminal Procedure and the Code of Civil Procedure of the Republic of Kazakhstan with Regard to Improvement of the Judicial System"* was adopted in 2009 with the overarching goal of modernizing the Judiciary.

Despite these plans, public trust in the Judiciary remains low and Kazakhstan regularly receives low ratings from international watchdogs for judicial independence and accountability. Global Integrity's "Judicial Accountability" scorecard lists Kazakhstan as "very weak," the lowest score on a five-point

scale. Freedom House's 2009 report gives Kazakhstan's judicial framework and independence a rate of 6.00, a score of 1.00 being strongest and 7.00 being weakest. The Global Competitiveness Index for 2010-2011 ranks Kazakhstan as 72nd out of 139 countries for judicial independence.

Recognizing these low rankings, the GoK including the Supreme Court of Kazakhstan has outlined further commitment and measures for judicial reform, including:

- 2011-2015 Strategic Plan of the Supreme Court of the Republic Kazakhstan (2010);
- Presidential Decree on Modernizing the Judicial System (2010); and
- Amendments to the *Law on the Judicial System and Status of Judges* (December 2010) which effectively transfers some judicial management powers from the presidency to the Supreme Court and increases other key aspects of judicial independence.

The 2011-2015 Strategic Plan of the Supreme Court of the Republic Kazakhstan is the most important indicator of that institution's will to reform. This document outlines a clear set of benchmarks and activities the Supreme Court system plans to achieve over the next five years, and highlights judicial independence, performance, and public trust as the basis for future reforms:

> *"Further reforming of the judicial system will be performed on the basis of principles of the genuine independence of courts, efficient civil society control over jurisdiction legality, professionalism and impartiality of judges, simplification of judicial proceedings, and the elimination of excessive regulation which will result in a high level of society's trust in the judicial system and enhancement of the efficiency of courts functioning."*

D. BACKGROUND

In Kazakhstan, the term "Supreme Court" encompasses the tri-level judicial system spread throughout the country. The Supreme Court itself is the highest court in the nation, responsible for hearing appeals for civil, criminal, and common jurisdiction cases originating in lower court, as well as for managing Kazakhstan's entire court system and providing clarifications on matters relating to judicial practices. The 44 member judges of the Supreme Court, including its Chairman, are appointed by the Senate after being presented by the President and recommended by the High Judicial Council. The next level of the Supreme Court system is the *oblast*-level court circuit comprised of 572 judges sitting on 16 *oblast*, or district, courts which include the cities of Almaty and Astana. The lowest courts are at the town level, which in most circumstances serve as the court of first instance. There are approximately 260 of these courts located around the country, with 1,851 judges. Included in the Supreme Court system are also specialized juvenile, economic, administrative, and military courts, which have the same status as district or regional courts. The GoK has recently begun to develop an active system of arbitration tribunals and intermediate courts, existing outside the Supreme Court system.

The 2011-2015 Strategic Plan of Kazakhstan's Supreme Court identifies simplified administrative systems, increased accessibility of judges/court personnel, and streamlined legal processes as key steps towards building an efficient court system and positively impacting public trust in this institution. The Supreme Court is particularly interested in reforming the procedures surrounding the selection of judges, judicial discipline, and judicial decisions/verdicts. The GoK appears to be concerned about its standing on global indices of competitiveness and the investment climate, as well as about the perception of corruption within the Judiciary. A more accessible and transparent judicial system, elevating Kazakhstan's standing on the world stage, is a strong motivational factor for the GoK in undertaking concrete reforms.

The **selection, discipline, and decision-making of Kazakhstan's judges** represent the least transparent and independent aspects of the judicial system, and contribute significantly to poor public perceptions of

the Judiciary. Four government bodies oversee judicial discipline: the Commission on Ethics, the Disciplinary Commission, the Judicial Jury, and the Department of Court Monitoring. The latter compiles a vast amount of data on judicial proceedings, from arrests to sentencing, so that every aspect of a judge's work is monitored, including the level of satisfaction of end users (e.g. citizens, plaintiffs). While judicial performance is carefully and regularly assessed by these agencies, their methodology lacks complete transparency: judges in Kazakhstan privately comment that they never know whether, how, or when the vast amount of data collected on them will be used for their dismissal. Increasing the transparency of and streamlining these processes for judges and court personnel would represent a significant increase in the independence of Kazakhstan's Judiciary.

The Supreme Court has also identified the need to improve the **quality of judicial decisions**, which often simply re-state verdicts, repeat the accusations of the Prosecutor's Office and lack references to a legal foundation. The opacity of judicial decisions means that citizens, civil society organizations, and international observers have difficulty discerning the legal basis of a judicial decision/verdict, creating a general mistrust of judicial rulings and, in general, the judicial system.

Kazakhstan has invested heavily in strengthening the Judiciary over the past few years through improving the **pre- and in-service training programs for judges**. The Institute of Justice was created in 2005 to provide training courses for sitting judges and justice sector professionals, and remains the main source of personnel development for Kazakhstan's Judiciary. Pre-service training for judicial candidates includes nine months of classroom training and a three-month practicum where candidates are paired with a sitting judge. After a judicial candidate completes this one year of pre-service training they "graduate" to become a sitting judge. While this approach appears sound in principle, in practice many sitting judges fail to demonstrate sufficient or appropriate technical knowledge to fulfill their roles, indicating that current curricula or teaching methods may not fully meet the judiciary's needs. Judges may adjudicate on specialized topics, such as juvenile or commercial law, with which they have little familiarity, thereby rendering their decisions erroneous or opaque, and fostering public mistrust in the Judiciary. Courts are staffed by executive branch civil servants, who may lack specialized legal knowledge and high standards of professionalism. Low salaries have made these high-turnover jobs, making the attraction and retention of qualified staff with institutional knowledge extremely difficult.

Increasing **public trust in the judicial system** is one of the top priorities identified by the Supreme Court in its Strategic Plan for 2011-2015, which notes that streamlined administrative procedures will positively impact the level of citizen trust in judges: "citizens' attitude to the government's legal policy and the level of society's trust in authorities largely depend on judicial efficiency." The Strategic Plan highlights the need to raise public awareness about the Judiciary's activities by using mass media campaigns, public opinion research, and greater public access to the activities of the courts.

In recent years, public trust in Kazakhstan's Judiciary has grown, mainly as a result of concrete reforms undertaken by the GoK. Nevertheless, trust is still low, a situation partly attributable to the opacity of judicial decisions/verdicts, the prevalence of rumors that the courts are ineffective, and perceptions of corruption within the court system. Even concrete, sustainable reforms must do battle with the legacy of the Soviet justice system and a poorly-functioning Judiciary in the years following Kazakhstan's independence. In its 2011-2015 Strategic Plan, the Supreme Court explicitly states that its reform goals – streamlined administrative systems, improvements in professionalism and impartiality, and efficient civil society control over the judiciary – will result in a high level of public trust in the judicial system. USAID has identified the Union of Judges, the nationwide, non-governmental professional organization of which 95% of the judges in Kazakhstan are members, as a key partner in improving public perceptions of the judicial system.

E. LINK TO THE U.S. STRATEGIC FRAMEWORK FOR FOREIGN ASSISTANCE

The activities outlined in this document support the Program Objective "Governing Justly and Democratically", its Program Area (2.1) of "Rule of Law and Human Rights", and the following Program Elements:

Program Element 2.1.2: Judicial Independence
Program Sub-Element 2.1.2.2 Independence and Accountability
Program Sub-Element 2.1.2.3 Public Awareness and Advocacy

This program is also in line with the Kazakhstan Mission Strategic and Resource Plan (MSRP) Objective 3: *Supporting Democratic Institutions and Practices* and the draft Central Asia Assistance Review's second Strategic Objective, *Build Capacity Within the Government to Implement Judicial Reform.*

F. USAID AND OTHER DONOR RELATED ACTIVITIES

USAID has a rich history of cooperation with Supreme Court of Kazakhstan. Past efforts have included updates in Kazakhstan's legal framework, technical assistance to enhance the technical competence of judges and court personnel, and a court recording program. The dialogue between USAID and the Supreme Court is remarkably open, and high-level officials regularly make themselves available for meetings or events. Host government participation in past USAID-funded activities has been high and the GoK has regularly made substantial cost-sharing contributions to these programs. This relationship is expected to continue during the implementation of this program.

USAID (Sept 2009-Sept 2011)**:** The Kazakhstan Judicial Education Project works to enhance the technical competence of judges in the area of commercial adjudication and commercial law matters (e.g. copyrights, intellectual property rights, patents, etc.). Specialized training courses for judges, lawyers, legal associations, and the Supreme Court of Kazakhstan enable legal professionals to better handle the specific commercial law issues arising from Kazakhstan's growing participation in the global economy, as well as other identified training needs.

USAID (October 2005 – September 2009): The Kazakhstan Judicial Assistance Program was designed to build and sustain a more democratic culture among citizens and target institutions by supporting the judiciary's modernization efforts and building public demand for a fair and transparent judiciary. USAID worked with the Union of Judges to promote transparency and equal access to courts by training the media and the judiciary to cooperate with fair reporting and information exchange, piloting a court recording project, and working with the Judicial Academy to train judges in areas of ethics and decision writing.

The **European Commission's** "Support to Judicial and Legal Reform in the Republic of Kazakhstan" supports the Supreme Court's implementation of its 2009-2011 Strategic Plan and the GoK's program for legal reform 2010-2020; strengthens the role and function of defense advocates; strengthens the Research Center of the Supreme Court; and supports the implementation of the law on private bailiffs, issuance of judicial arrest warrants, and jury trials.

The **Deutsche Gesellschaft für Internationale Zusammenarbeit** (GIZ)'s "Central Asia Legal and Judicial Reform" program provides training courses, study tours and policy advice on mediation, publication of judicial decisions, development of comments on court decisions, and publication of expert analysis in specialized legal journals. This program will end December 2011.

Korean International Cooperation Agency (KOICA) recently completed its "Improvement of Judicial Fairness and Efficient Judicial Administration" program (2003-2010), which facilitated study tours to Korea for government and judicial officials.

Ministry of Foreign Affairs of Finland is considering developing a program to increase access to justice for vulnerable groups mainly through legal aid and strategic litigation. Implementation is likely to begin in 2012.

The **Organization of Security and Cooperation in Europe** (OSCE), through the Office of Democratic Institutions and Human Rights (ODIHR), focuses on legal and administrative reforms, judicial warrants, and jury trials. This program is on-going.

The **Soros Foundation**'s "Law Reform Program" provides free legal aid to the public and civil society organizations on matters of administrative justice, access to information, and freedom of association and assembly. Their main activities include mediation between the GoK and civil society, technical expertise on legislative compliance with international standards, advocacy campaigns, and analysis of legislation.

UNICEF's "Justice for Children" program will help Kazakhstan to comply with international norms and standards of juvenile justice.

G. PROGRAM DESCRIPTION

The cross-cutting goal for this program is to increase the independence of Kazakhstan's Judiciary and public trust in the Judiciary. A cumulative result of the program, to which all of the objectives outlined below will contribute, will be a demonstrated improvement in judicial independence markers over the life of the program, as determined by a judicial independence/transparency evaluation conducted by the implementing organization at the beginning and at the end of this program.

This is not a political (advocacy) program but rather a technical assistance program that should be designed to work in partnership with the Supreme Court in order to strengthen judicial independence in Kazakhstan.

Objective 1: Improved Administrative Systems within the Supreme Court

The Supreme Court of Kazakhstan has recognized the non-transparency and inefficiency of its administrative systems at all levels of the court system. By streamlining procedures, reducing bottlenecks, and improving the quality of the decisions rendered by judges, the Judiciary is aiming to increase its efficiency and meet the fundamental benchmarks of an independent, trustworthy judicial system able to resolve disputes in a timely, predictable and reliable manner while being more aligned with international standards of jurisprudence and good governance.

The 2011-2015 Strategic Plan has established performance targets to guide reform efforts towards greater judicial independence and accountability. The implementer will be expected to work closely with the Supreme Court to streamline judicial systems and procedures including improving the quality of the decisions rendered by judges. All activities are expected to be implemented in close collaboration and partnership with the Supreme Court and/or the Union of Judges.

Expected Results/Outputs:

- Updated judicial selection, appointment, and/or disciplinary procedures produced and disseminated
- Higher-quality written decisions (verdicts and judgments) delivered by judges
- Increased transparency of judicial processes
- Increased efficiency of the Judiciary's administrative systems

Illustrative Activities

- Technical assistance, training, and/or research/comparative information on how to enhance judicial selection procedures.
- Technical assistance, training, research/comparative information on how to strengthen current judicial decision and verdict writing policies and procedures.
- Technical assistance, training and/or research/comparative information on how to strengthen current judicial discipline procedures and regulations.
- Technical assistance, training and/or research/comparative information on how the Supreme Court could make judicial proceedings less complicated and more transparent.
- Technical assistance, training and/or research/comparative information that will assist the Supreme Court to identify and strengthen administrative systems.

Performance Indicators:

- Number of laws, regulations, and procedures related to judicial independence supported with USG assistance (*It is anticipated that at least three laws, regulations and/or procedures related to judicial independence will be assessed and that recommendations for improving or revising these laws, regulations or procedures will be provided.*)

Objective 2: Well-Trained Judges and Court Personnel

Despite their participation in a compulsory nine month pre-service training program, some newly appointed judges appear to lack an acceptable level of legal knowledge and/or do not have the necessary skills to fulfill their responsibilities in a way that engenders public trust in the judiciary. Sitting judges may adjudicate on specialized topics, such as juvenile or commercial law, with which they have little familiarity, which suggests that in-service trainings are incomplete or insufficient to meet the needs of the justices and the current demands of the court system. Additionally, the judicial system in Kazakhstan lacks a well-paid, well-trained, professional cadre of court staff, an important element of the Supreme Court's strategy for increased quality and efficiency of judicial procedures and systems.

Activities under this objective are expected to comprehensively assess the pre-service training course and current judicial continuing education programs for sitting judges and work in partnership with the Supreme Court and Institute of Justice to restructure these programs to meet the needs of a modern judiciary.

Expected Results/Outputs:

- Updated and/or new curricula for pre-service judicial candidate training program and in-service judicial training courses (continuing judicial education)
- Over 150 judges and/or judicial candidates benefit from improved course curriculum
- Over 250 judges are trained with USG assistance
- Over 50 court personnel trained with USAID assistance and/or benefit from improved curricula each year

Illustrative Activities

- Conduct an evaluation of curricula used for the pre-service judicial training programs, including interviews with new judicial graduates, sitting judges, and other stakeholders, and provide clear and operationally feasible recommendations for strengthening the pre-service training course.
- Update and/or develop new training course curricula for the pre-and in-service judicial training programs, intended for use by the Institute of Justice in their training courses.
- Design and conduct annual training series for sitting judges on professional topics such as judicial independence, judicial ethics, gender equity, commercial law, tax law, juvenile law, trafficking-in-persons, etc. Provide training to judges and court personnel on how to use the Supreme Court's Intranet system.

- Organize study tours for sitting judges, addressing judicial independence and transparency topics.
  Performance Indicators:
- Number of justice sector personnel that received USG training (disaggregated by sex) (*300 justice sector personnel receive USG training*)
- Number of new legal courses or curricula developed with USG assistance (*9 legal courses or curricula are developed with USG assistance and used by the Institute of Justice in pre-service and in-service training programs*)

Objective 3: Increased Public Understanding of Judicial Roles and Responsibilities

Citizens without an informed conception of judicial independence, as well as their own rights related to courts and the legal system, citizens will remain unable to demand efficient, high-quality, transparent service from their judicial system. Therefore, this program will promote a broad-based discussion between the judiciary and civil society and media actors on the characteristics and responsibilities of an independent judiciary. It is expected that the interplay between the judiciary and civil society/media will, in the long term, improve the level of trust the public has in the judiciary.

Activities under this objective are anticipated to increase the public's awareness, knowledge and understanding of the roles and responsibilities of an independent judiciary, the public's role in promoting judicial independence, and Kazakhstan's judicial system and its reform efforts. The primary counterpart for this objective is expected to be the Union of Judges and its membership.

Expected Results/Outputs:
- Increased public understanding of the roles and responsibilities of an independent judiciary
- Increased public dialogue between the judiciary and civil society and media actors

Illustrative Activities
- Work with the Union of Judges to organize public dialogue sessions between civil society/media and judges on the roles & responsibilities of the judiciary, judicial procedures, reforms being undertaken by the Supreme Court and other identified topics.
- Produce and air public service announcements on the characteristics, roles, and responsibilities of an independent judiciary. The PSAs should be aired on electronic media such as the USG-sponsored satellite station on a quarterly basis.

Performance Indicators:
- Number of USG-assisted campaigns and programs to enhance public understanding, NGO support, and media coverage of judicial independence and accountability (*1 public dialogue sessions is held per quarter for the life of the project)*

Objective 4: Increased Capacity of a Local Institution to Provide Technical Assistance to the Supreme Court

This objective is designed to increase the capacity of local non-governmental organizations to provide technical assistance to justice institutions within the Government of Kazakhstan, including independently providing continuing education and professional development of judges and other court personnel. In fulfilling the overall goal of the program, the recipient should seek partnerships with local organizations to improve their organizational capacity and ability to provide technical assistance, thus making them more viable candidates for direct USG assistance in the future. The implementer is expected to provide trainings to this end for the selected local group(s), as well as small grants to allow them to apply improved skills towards developing training curricula, providing training courses for justice sector

professionals, and organizing study tours. The local organization(s) supported through this component should focus its efforts on the first three objectives outlined in this program description.

The implementer is strongly encouraged to additionally build up the organizational capacity of selected local institution(s) to comply with USAID standards, such as:

- Personnel policy and procedures
- Written position descriptions
- Time and attendance system that allows segregation labor by project
- Financial management system
- Internal Control policy and procedures
- Travel policy and procedures
- Property management system
- Procurement system and procedures

Expected Results/Outputs:

- Local Kazakhstani organization is prepared to receive direct USAID funding for technical assistance projects.

Illustrative activities:

- Conduct initial assessment of partner organizations to identify individual strengths and weaknesses
- Conduct customized trainings and capacity-building programs to local organizations
- Develop and implement a mentorship program
- Establish guidelines for meeting USAID procurement and financial reporting rules to local groups
- Conduct workshops on advanced use of policy analysis and communication skills when communicating with the GoK
- Involve partner organizations in technical assistance activities carried out under Objectives 1-3, where appropriate

Performance Indicators:

- Number of training programs provided to Supreme Court by local institution (*target: 1 training)*

H. OTHER CONSIDERATIONS

a. Gender

Gender is a social construct that refers to relations between and among the sexes, based on their relative roles. It encompasses the economic, political, and socio-cultural attributes, constraints, and opportunities associated with being male or female. Gender is dynamic, and can vary across cultures and over time. For these reasons, gender roles should not be assumed but investigated.

USAID's Automated Directive System (ADS) states: "Gender issues are central to the achievement of strategic plans and Assistance Objectives (AO), and USAID strives to promote gender equality, in which both men and women have equal opportunity to benefit from and contribute to economic, social, cultural and political development; enjoy socially valued resources and rewards; and realize their human rights." (ADS 201.3.9.3)

Further, USAID requires that gender integration is incorporated into new program designs. Specifically, gender integration entails the identification and subsequent treatment of gender differences and inequalities during program/project design, implementation, monitoring,

and evaluation. USAID policy and procedures related to gender integration are found in the following ADS sections:

201.3.8	Program Planning: Assistance Objective (AO)
201.3.9.3	Gender Analysis
201.3.11.6	Project/Activity Planning Step 2: Conduct Project-Level Analyses as Needed
201.3.11.16	Project/Activity Planning Step 12: Prepare Activity Approval Document (AAD)
203.3.4.3	Reflecting Gender Issues in Performance Indicators
203.3.6.1	When Is an Evaluation Appropriate?
203.3.6.2	Planning Evaluations
302.3.5.15	Incorporating Gender Issues into Solicitations
303.3.6.3	Evaluation Criteria

As part of the design of any proposed activity, the Applicant should assess and identify gender issues which impact the participation of men and women equally in the participation of this program. The Applicant is expected to examine cultural perceptions, economic barriers, and other factors which impact women and men in terms of access, use and participation in the work of the judicial and legal systems.

Further, the Applicant should ensure that gender issues are suitably integrated into various program components and is required to undertake specific efforts to ensure that activities do not discriminate against or disproportionally benefit either gender. To the greatest extent possible, the Applicant shall seek to encourage the equal participation of men and women in all aspects of this program.

As part of the application submission, the Applicant must provide USAID with an outline of potential gender issues that might be encountered during the implementation of this program and how these issues will be addressed during the course of this program. **Specifically, the Applicant must respond to the question below:**

"How will the different roles and status of women and men within the community, political sphere, workplace, and/or household (for example, roles in decision-making and different access to and control over resources and services) affect the work to be undertaken?"

Applicants can find the 2010 Gender Assessment for USAID/Central Asian Republics on the USAID public website at http://www.usaid.gov/our_work/cross-cutting_programs/wid/pubs/CAR_Gender_Assessment_Mar-2010_508.pdf

b. **Coordination and Linkages**

Multiple international donors, including USAID, actively support the Supreme Court, the Institute of Justice, the Union of Judges and related institutions on issues related to judicial reform. Collaboration and coordination with these institutions, other donors, and other contractors/grantees carrying out activities related or complementary to this program is strongly recommended as a means to maximize results, avoid duplication of efforts, and achieve greater impact.

c. **Memorandum of Understanding**

It is expected that the awardee will formalize their partnership with the Supreme Court and/or other judicial bodies including cost share arrangements through a memorandum of understanding.

d. **Judicial Independence Assessment**
In consultation with USAID, the implementing organization is expected to design, develop and carry out a judicial independence assessment at both the beginning and the end of the program. The Year 1 assessment will establish a baseline of key judicial independence and transparency benchmarks whereas the Year 4 assessment will measure changes in these key judicial benchmarks as compared to the Year 1 assessment's findings. It is expected that the mix of training, information and technical assistance provided as a part of this program will contribute towards improving judicial independence.

e. **Geographic Coverage**
In order to maximize the impact of this program, USAID expects that the program will be conducted in no more than 4 of the country's 16 *oblasts*, including Almaty and Astana, of Kazakhstan. At least two oblasts must be in the south of Kazakhstan. The Applicant is expected to identify the targeted oblasts in their application and justify the choice of the selected oblasts.

I. ASSUMPTIONS

1. Cooperation between USAID and the Supreme Court of Kazakhstan, the Institute of Justice, and the Union of Judges will continue.
2. The GoK including the Supreme Court will continue to exhibit a high-level commitment to strengthening judicial independence and performance.
3. The political and institutional landscape will remain stable throughout the implementation of the program, or any succession will be well-managed and not significantly affect the strategic course of this program.

J. MARKING AND BRANDING

All USAID-funded foreign assistance (including programs, projects, activities, public communications, or commodities) must be communicated, promoted, and marked as coming from the American people through USAID. Specific communications and promotion measures shall be described in the "Branding Strategy" and "Branding Implementation Plan," and specific marking will be described in the "Marking Plan" for the this award. Branding and marking under this award shall comply with the USAID Automated Directive System Chapter 320 Branding and Marking (ADS320).
A Branding Implementation Plan and a Marking Plan are to be submitted by the applicants as part of the response to this RFA. The selected applicant's Branding Implementation Plan and Marking Plan will be finalized in coordination with USAID and included in the cooperative agreement. In preparation of the branding implementation plan and the marking plan, the Applicant will use templates for these documents available at http://centralasia.usaid.gov/page.php?page=article-20. Additional guidance is available at http://www.usaid.gov/branding. The cost application must incorporate the estimated cost of the proposed Branding Implementation and Marking Plan.

[END OF SECTION I]

SECTION II – AWARD INFORMATION

A. ESTIMATE OF FUNDS AVAILABLE

Subject to the availability of funds, USAID intends to provide approximately $ 1,950,000 in total USAID funding for the life of the activity.

B. NUMBER OF AWARDS CONTEMPLATED

USAID expects to award one award under this solicitation. USAID reserve the right to fund any or none of the applications submitted.

C. PERIOD OF PERFORMANCE

The anticipated period of performance is four years with an estimated start date on/about September 2011 through September 2015.

D. TYPE OF AWARD

USAID intends to award one (1) cooperative agreement as a result of this RFA. USAID/CAR will be substantially involved in the administration of the agreement to help the Recipient achieve the agreement objectives. The AOTR's will be substantially involved in the following areas:

Substantial Involvement:

1. Approval of the Recipient's Work Plans: Within (45) forty-five days of the award of the Cooperative Agreement, the Recipient shall develop and submit the work plan to the AOTR. The work plan should include a description of the activities to be completed during the period and the expected results. The work plan shall include a list of any commodities to be purchased. Subsequent year work plans will be submitted no later than August 30th so as negotiations may be concluded prior to the start of the new fiscal year on October 1. Regardless of the start date of this award, work plans will be adjusted to the fiscal calendar of October 1-September 30.

2. Approval of Specified Key Personnel: For this program the following three positions are considered key personnel and must receive USAID approval:
    - Country Director/Representative
    - Judicial Reform Specialist
    - Judicial Education/Training Specialist

3. Approval of Performance Monitoring and Evaluation Plan: The Work Plan must set forth a comprehensive Performance Monitoring and Evaluation Plan that measures impact and progress toward achieving results over the life of the award. The Performance Monitoring and Evaluation Plan must include indicators, targets, data sources and collection methods, baseline information, benchmarks and periodic evaluations, and data quality assessment reports. Data collected under the Performance Monitoring and Evaluation Plan shall be submitted with the final report. Regardless of the start date of this award, the performance monitoring and evaluation plan will be adjusted to the fiscal calendar of October 1-September 30. As necessary, the performance monitoring and evaluation plan may be updated each year of this award as part of the work plan approval process.

USAID/CAR is committed to ensuring that programs are properly monitored. The Recipient is expected to adhere to the relevant ADS provisions with respect to monitoring and evaluation activities for the design and final program. The designed activity will include indicators against which results will be measured. These indicators are expected to include USG standard indicators and additional indicators as identified by the recipient in their application.

4. The standard indicators (Attachment 1) will be used by USAID to monitor the project's results. In addition to the collection of standard indicators, the recipient will conduct a Judicial Independence Assessment at the beginning and end of this program to measure progress towards judicial independence.

5. Agency and Recipient Collaboration: AOTR concurrence in the selection of any sub-award recipients and on the substantive provisions of any sub-awards.

E. FUNDING RESTRICTIONS

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 grant program and are in accordance with applicable cost standards (22 CFR 226, OMB Circular A-122 for non-profit organization, OMB Circular A-21 for universities, and the Federal Acquisition Regulation (FAR) Part 31 for-profit organizations), may be paid under the grant.

F. AUTHORIZED GEOGRAPHIC CODE

The authorized geographic code for procurement of goods and services under this grant is 000 and 110. Use of Geographic Code 110 for agricultural commodities and related products, motor vehicles and pharmaceuticals is subject to the limitations in 22CFR228.13 and will require a waiver. USAID Administrator approved a blanket waiver authorizing local procurement from the cooperating country in an amount of up to $5 million of commodities and services, for details see ATTACHMENT 1.

[END OF SECTION II]

SECTION III – ELIGIBILITY INFORMATION

A. APPLICANTS

Private Voluntary Organizations based in the United States (U.S. PVOs) or indigenous, local NGOs (LNGOs), Public International Organizations (PIO) and International Organizations (IO), U.S. and Non-U.S. For-Profit Organizations, U.S. and Non-U.S. Colleges and Universities are eligible to apply. USAID encourages applicants from potential new partners and from local organizations. Assistance provided under this program is intended to develop and complement rather than to supplant Supreme Court initiatives and resources. Both U.S. and non-US PVOs/NGOs, may submit applications for assistance under this RFA. U.S. organizations submitting applications should explicitly state in their applications any partners in their applications, if those partners are known at the time.

B. COST-SHARE

Cost share is defined by USAID as "contributions, both cash and in-kind, which are necessary and reasonable to achieve program objectives and which are verifiable from the recipient's records." Please take note of regulations such as: ADS 03.5.10; 22 CFR 226.23 and the Acquisition & Assistance Policy Directive (AAPD) 02-10. Although there is no general legislative requirement that recipients of grants and cooperative agreements must cost share, USAID policy is that cost sharing is an important element of the USAID-recipient relationship. *USAID suggests that applicants demonstrate their commitment to program success by including cost-sharing. USAID/CAR would therefore prefer applicants to provide up to 20% cost share for this RFA.*

[END OF SECTION III]

SECTION IV – APPLICATION AND SUBMISSION INFORMATION

A. POINT OF CONTACT

Any questions concerning this RFA should be submitted in writing to Ms. Deborah Simms-Brown, Regional Agreement Officer at dsimmsbrown@usaid.gov and Ms. Olessya Oliyarnik, Negotiator, via email at AlmatyAASolicitations@usaid.gov *not later than July 27, 2011, 10AM (Almaty Time)*. If there are problems in downloading the RFA, please contact Olessya Oliyarnik, Negotiator, via email at ooliyarnik@usaid.gov.

B. REQUIRED FORMS

All Applicants must submit the application using the SF-424 series, which includes the:

- SF-424, Application for Federal Assistance
- SF-424A, Budget Information - Nonconstruction Programs, and
- SF-424B, Assurances - Nonconstruction Programs

Copies of these forms may be found as an attachment to this RFA.

C. PRE-AWARD CERTIFICATIONS, ASSURANCES AND OTHER STATEMENTS OF THE RECIPIENT

In addition to the certifications that are included in the SF 424, both U.S. and non-U.S. organizations (except as specified below) must provide the following certifications, assurances and other statements. Complete copies of these Certifications, Assurances, and Other Statements may be found at http://www.usaid.gov/policy/ads/300/303.pdf.

a. For U.S. organizations, a signed copy of the mandatory reference, *Assurance of Compliance with Laws and Regulations Governing Nondiscrimination in Federally Assisted Programs*.
b. A signed copy of the certification and disclosure forms for "Restrictions on Lobbying" (see *22 CFR227*);
c. A signed copy of the "Prohibition on Assistance to Drug Traffickers" for covered assistance in covered countries;
d. A signed copy of the "Certification Regarding Terrorist Funding";
e. A signed copy of "Key Individual Certification Narcotics Offenses and Drug Trafficking"
f. Survey on Ensuring Equal Opportunity for Applicants;
g. All applicants must provide a Data Universal Numbering System (DUNS) Number;
h. A signed copy of Key Individual Certification Narcotics Offenses and Drug Trafficking when applicable;
i. A signed copy of Participant Certification Narcotics Offenses and Drug Trafficking, when applicable; and
j. A signed copy of Certification of Compliance with the Standard Provisions entitled Condoms and

Prohibition on the Promotion or Advocacy of the Legalization or Practice of Prostitution or Sex Trafficking (AAPD 05-04) when applicable.

D. APPLICATION PREPARATION GUIDELINES

USAID will accept applications from all qualified organizations listed in Section III A of this RFA. Applications will be accepted by organizations individually or in groups. In the case of a group, the application must include only one prime applicant, which shall enter into sub-agreements or contracts with partnering institutions. In this case, the Prime Applicant(s) will be responsible for establishing and

maintaining sub-agreement and/or contracting relationships with proposed partners. For the purposes of this RFA, the term "applicant" is used to refer to the prime and any proposed partners.

Applications must be received by the closing date and time indicated at the top of the cover letter at the place designated below for receipt of applications. Applications and modifications thereof shall be submitted electronically with the name and address of the applicant and RFA-176-11-000010 inscribed thereon, to: AlmatyAASolicitations@usaid.gov;

All applications received by the deadline will be reviewed for responsiveness to the specifications outlined in these guidelines and the application format. Section V addresses the technical evaluation procedures for the applications. Applications which are incomplete are not directly responsive to the terms, conditions; specifications and provisions of this RFA may be categorized as non-responsive and eliminated from further consideration.

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. Each applicant shall provide the information required by this RFA. Applicants shall sign the application and print or type their 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.
Applications shall be submitted in two separate volumes: (a) technical and (b) cost or business applications. Technical portion of the application should be submitted in one (1) original and four (4) copies and the cost portion of the application should be submitted in one (1) original and two (2) copies. All copies of the technical and cost applications must be kept separate in sealed envelopes clearly marked on the outside with the RFA Name and Number **"RFA-176-11-000010"**. The application should be prepared according to the structural format set forth below.

Applicants should retain for their records one copy of the application and all enclosures which accompany it. Erasures or other changes must be initialed by the person signing the application. There is no page limitation on the Cost Application.

Applications that are submitted late, incomplete or are considered to be non-responsive to this RFA may be eliminated from further consideration.

E. TECHNICAL APPLICATION FORMAT

The Technical Application shall contain the following sections: (1) Cover page, (2) Executive Summary, (3) Technical Approach, (4) Corporate Capability, (5) Management Plan/Key Personnel, and (6) the Annexes (including past performance information, CVs for Key Personnel, Performance Monitoring Plan). Applications shall be written in English, single spaced, and 12 point font with each page numbered consecutively. The length of the Technical Application shall not exceed the 40 page limitation listed below. Draft annual workplan, performance measurement plan, resumes (including references and letters of commitment), and branding strategy and marking plan are excluded from any page limitation and may be included as annexes to the technical application.

Applicants who 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:

(a) 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 sheets _____; and

(b) 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."

1. **Cover Page (1 page)**

A single page with the name of the organizations/institutions involved in the proposed application. In the case of a group, please indicate the lead or primary applicant clearly; followed by any proposed subgrantees and/or contractors (hereafter referred to as "subs"), including a brief narrative describing the unique capacities/skills being brought to the program by each institutions. The cover page should also identify a single point of contact, with the authority to negotiate and sign on behalf of the applicant. The individual's name (both typed and his/her signature), title or position in the organization, current email and postal addresses, telephone and fax numbers shall be included.

2. **Executive Summary (2 pages)**

A two page brief description of applicant's proposed strategy, program methodology and expected results. Describe how the overall program will be managed. State the bottom line funding request from USAID and the bottom line funding secured from other sources (state sources and amounts) for the proposed program.

3. **Technical Approach (20 pages)**

In twenty (20) pages or less, the Technical Approach should be specific, complete and presented concisely. The application should demonstrate the applicant's capabilities and expertise with respect to achieving the goals of this program. The Technical Approach must include a clear description of the conceptual approach, including proposed alliances if applicable, and the general strategy (i.e. methodology and techniques) being proposed; a description of the target population (including geographical location and proposed number of beneficiaries) or a detailed description of the process by which the target population will be identified. It should outline specific, focused activities, and make a convincing case about how their mix and balance will achieve the objectives. Applications should incorporate international "best practices" in judicial independence programs as well as "lessons learned" from countries similar to the Kazakhstan's operating environment. It is important for applicants to specifically address how each of the expected results outlined in the RFA will be achieved or progress will be made towards achieving these expected results. Applications shall discuss how resources will be organized to achieve expected results. The applicant should discuss fully the "what" and the "how" of its plan. The purpose of this approach is to allow the applicant greater creative freedom to develop a plan for resource organization and use. Applicants are encouraged to propose innovative activities designed to reach the desired outcomes/results.

<u>Other considerations</u>

Gender: USAID requests that each intervention include the integration of gender issues. Applicants are reminded that gender does not solely refer to women. Applications must clearly show that gender integration has been thoroughly considered and has been incorporated into this program and its results. Applications that simply state "Gender issues will be considered and incorporated" or other similarly vague statement or solely focus on women's issues in their gender analysis will be considered non-responsive to this selection criteria. It is anticipated that programmatic approaches are based on careful preliminary analysis in order to ensure that they are both cost-effective, and will achieve intended results.

Coordination and Linkages: the Applicant should describe how they will coordinate and link this program to that of other donors' programs, other USAID programs, and the Supreme Court. Applicant should identify specific/concrete linkages. The Applicant should be specific in how they will coordinate with other donors and how they will organize and structure quarterly donor coordination meetings.

Memorandum of Understanding: The Applicant should describe what approach they will take to finalizing the Memorandum of Understanding, particularly how cost-sharing will be negotiated with the Supreme Court. What will be the role of field office and home office personnel in the development and negotiation of the MOU?

Judicial Independence Assessment: The Applicant should describe with detail the methodology they will use to complete this assessment including benchmarks and/or indicators to be measured and tracked. What type of technical assistance will be used to complete this assessment. How this information will be shared with USAID and the Supreme Court and how the base line information might be used to define the types of training, study tours, conferences and research projects undertaken as a part of this program.

Geographic Coverage: The Applicant must identify and justify their selection of 4 oblasts.

4. **Corporate Capability (3 pages)**

The Management Plan should provide a summary of the applicant's ability to work in legal reform and rule of law programs, especially in Central Asia and Kazakhstan, which demonstrate its understanding and knowledge of relevant issues and potential challenges. The application also must provide evidence of the organization's technical resources, expertise and capabilities for implementing similar programs. The organization should describe its comparative advantage in implementing the proposed activities.

5. **Management Plan/Key Personnel (5 pages)**

The application must specify the composition and organizational structure of the program team, including the extent of home office support, and describe the presence of either intermittent or permanent staff that it proposes to place in the project area. A description must be provided on the role of each proposed staff member and the amount of time the staff member will be devoting to the program. If it applies, the application must describe the role of partner organizations or consortium members and the comparative advantage of the team in implementing the proposed activities. As part of this, the application should articulate the additional resources, if any, that would be brought to the program by the consortium members. The applicant must include an organizational chart as an Annex, as well as a clear and realistic description of when and how key and non-key personnel will be hired and mobilized, including specific dates.

In three pages or less, applicant must specify the composition and organizational context of the entire implementation team (including home office support) and describe each staff member's role, technical expertise and estimated amount of time each will devote to the project. The names of all important managerial and technical personnel to be assigned to this program must be provided. Proposed personnel not yet identified may be shown as "TBD" (to be determined). The Applicants should propose candidates for the following key positions:

- Country Director/Representative
- Judicial Reform Specialist
- Judicial Education/Training Specialist

Proposed key personnel should have prior experience directly related to the proposed work, including technical qualifications, supervisory skills, academic background, work experience which qualifies them for the positions, and demonstrated experience in Kazakhstan or a similar operating environment.

It should be noted that: 1) references will be obtained for key personnel including information obtained from other than the sources provided by the applicant; 2) letters of commitment shall be provided for each key personnel candidate. Resumes, references and letters of commitment will not be counted against the page limit allotted for the technical application. Please include all these documents in the Annex.

6. **Past Performance Information (5 pages)**

In five pages or less, applicant must include a complete list of all U.S. Governmental and/or privately funded contracts, grants, cooperative agreements, etc. received in the last three years involving programs similar to the program proposed in the application. The following for each award listed must be provided:

a) Name of awarding organization or agency;
b) Address of awarding organization or agency;
c) Place of performance of services or program;
d) Award number;
e) Amount of award;
f) Timeframe of award (start and end dates (month/year of services/program);
g) Name, current telephone number, current fax number and e-mail address (if one is available) of a responsible technical representative of that organization or agency; and
h) Brief description of the program - USAID may contact references and use the past performance data, along with other information to determine the applicant's responsibility. The Government reserves the right to obtain information for use in the evaluation of past performance from any and all sources inside or outside the Government.

7. **Annex**

Draft Annual Workplan

The application shall include a draft Annual Work Plan for the first year, including a detailed Implementation Schedule for achieving expected program results. The applicant is encouraged to propose innovative implementation mechanisms to reach the desired results and an aggressive but realistic schedule of performance milestones as steps toward achieving proposed results. The implementation plan should clearly outline the links between the proposed results, conceptual approach, and performance milestones, and should include a realistic timeline for achieving semi-annual, annual, and end-of-program results.

Performance Monitoring Plan

As part of the Technical Approach applicants should submit a draft Performance Monitoring Plan (PMP) that must include semi-annual, annual, and end-of-program indicators and targets to measure the progress of the proposed activities and the achievement of results. The plan must also describe the monitoring system that will enable it to track these indicators regularly. Applicants are encouraged to propose ambitious targets and to propose their own indicators. Applicants should also provide concise data quality information including but not limited to the following data quality questions:

1. Describe your data collection procedures.
    a. How is data collected?
    b. Are collection procedures in writing and shared with your staff members and sub-grantees?
    c. Is training provided to staff members and sub-grantees on how to properly collect and store data?
    d. If data errors are found, how are the known data errors corrected?
    e. Is there anything else we should know about your data collection procedures?
2. Describe your procedures for ensuring the reliability of data.
    a. Are the same data collection procedures used from year to year?
    b. Are the same data collection procedures used from location to location?
    c. Are the same data collection procedures in place from data source to data source?
    d. Are there procedures in place for periodic review of data collection and maintenance? Are these procedures in writing?
3. Describe your procedures for ensuring data timeliness, integrity and accuracy.
    a. Is there a schedule of data collection in place? Is data readily available?
    b. Are there written procedures in place for detecting duplicate (or double counting) data?
    c. Are there written procedures in place for detecting missing data?
    d. Are there written procedures in place for preventing unauthorized changes to data?

Data quality: USAID is required to ensure data quality. As USAID/CAR has had problems obtaining data quality information from Contractors/Grantees, in the past, USAID/CAR is requiring that Applicants provide data quality information as part of their application. Data quality looks at: (1) Validity. Indicators should represent an unbiased and clear representation of the intended result; (2) Timeliness: Data should be current and frequent enough to be useful in performance management; (3) Reliability: The methodology used to collect data should be stable and consistent over time; (4) Integrity: Mechanisms should be in place to reduce the possibility that data can be manipulated; (5) Precision: Data should be sufficiently precise to determine if changes are significant and reasonably attributable to USAID projects (as opposed to variation in the data collection process). [See ADS 203.5.1 for details.]

Resumes, References, and Letters of Commitment

Applicants are to include in this Annex the resumes and letters of commitment for each proposed key personnel who will work on the program. The resumes must be no more than two pages each, references not to exceed one page each, and the letters of commitment must not exceed a single page each.

Branding Strategy And Marking Plan

The Apparently Successful Applicant, upon the request of the Agreement Officer, will submit and negotiate a Branding Strategy and Marking Plan. The Branding Strategy will address the public communications and promotion plan for the project, while the Marking Plan will address the details of the project's public communications, commodities, program materials that will visibly bear the USAID Identity. The Branding Strategy and Marking Plan will be included in and made a part of the resulting grant or cooperative agreement. The applicant must include an estimate of all costs associated with branding and marking USAID programs, such as plaques, labels, banners, press events, promotional materials, and so forth in the budget portion of its application. These costs are subject to revision and

negotiation with the Agreement Officer upon submission of the Branding Strategy and Marking Plan and will be incorporated into the Total Estimated Amount of the grant, cooperative agreement or other assistance instrument. If the Apparently Successful Applicant fails to submit or negotiate an acceptable Marking Plan within the time specified by the Agreement Officer, that Applicant becomes ineligible for award. In preparation of the branding implementation plan and the marking plan the Applicant will use templates for these documents available at http://centralasia.usaid.gov/page.php?page=article-20. Additional guidance is available in AAPD 05-11, http://www.usaid.gov/business/business_opportunities/cib/pdf/aapd05_11.pdf.

F. COST APPLICATION FORMAT

The Cost or Business Application is to be submitted under separate cover from the technical application. Certain documents are required to be submitted by an applicant in order for a Grant Officer to make a determination of responsibility. However, it is USAID policy not to burden applicants with undue reporting requirements if that information is readily available through other sources.

The following sections describe the documentation that applicants for award must submit to USAID prior to award. While there is no page limit for this portion, applicants are encouraged to be as concise as possible, but still provide the necessary details. One CD with the same contents as the Cost/Business Application hardcopy must also be included within the Original Application.

1. The Cost/Business application must be completely separate from the applicant's technical application. The application must be submitted using SF-424 and SF-424A "Application for Federal Assistance."

2. The cost application should be for a period of four years using the budget format shown in the SF-424A. If there are any training costs to be charged to this award, they must be clearly identified.

3. The budget to be presented under Cost/Business Application should relate to results while also showing the inputs (see item 10, below) for each result as well as overall. A matrix format will probably be most suitable.

4. In the case of a group application, the Cost/Business application must include a copy of the legal relationship between the prime applicant and its partners. The application document should include a full discussion of the relationship between the applicant and its partners, including identification of the applicant with which USAID will treat for purposes of award administration, identity of the applicant which will have accounting responsibility, how Agreement effort will be allocated and the express Agreement of the principals thereto to be held jointly and severally liable for the acts or omissions of the other.

5. The required Certifications should be included with the cost proposal.

6. The proposed budget should provide cost estimates for the management of the program (including program monitoring). Applicants should minimize their administrative and support costs for managing the project to maximize the funds available for project activities. Accordingly, those applications with minimal administrative costs may be deemed to offer a "greater value" than those with higher costs for program administration. Additionally, those applications with a greater proportion of cost share may be deemed to offer a "greater value."

Include a chart containing the main activities of the program. List on the vertical axis the activities, and on the horizontal axis the following information: (a) name of implementers; and (b) time frame, noting estimated dates of completion; and (c) the respective cost. Note that this is a similar chart to the one requested under the Technical Application, but also including cost.

7. The cost/business portion of the application should describe headquarters and field procedures for financial reporting. Discuss the management information procedure you will employ to ensure accountability for the use of U.S. Government funds. Describe program budgeting, financial and related program reporting procedures.

8. To support the costs proposed, please provide detailed budget notes/narrative for all costs that explain how the costs were derived. The following section provides guidance on line items.

9. In addition to providing summary cost data in the SF424A format noted above, applicants are required to summarize cost data using development-focused budgeting (DFB) in cost applications submitted in response to this solicitation. DFB is a customer-based, performance-driven, results-oriented budget system underpinned by outcome management. Outcome management is a management approach that focuses on the development results achieved by providing a service.

   DFB involves summarizing cost data to corresponding development results/outcomes as set forth in the Mission's approved Operational Plan. Cost data must be summarized in both the SF424A and DFB categories by the corresponding program elements. If an input serves multiple development results and program elements, the applicant must allocate the input across the corresponding results and provide a rationale in the budget narrative for the method used for each allocated input.

   Cost applications must also include all supporting input-based budgeting for both summary formats and comply with other instructions for cost applications (e.g., breakout of costs at the country versus headquarters level) contained elsewhere in this solicitation.

10. Budget Notes: an accompanying budget narrative by line item which provides in detail the total costs for implementation of the program and achieving results your organization is proposing per year. Please include the breakdown of all input costs according to each partner organization involved in the program and the breakdown of the financial and in-kind contributions of all organizations.

    Salary and Wages - Direct salaries and wages should be proposed in accordance with the applicant's personnel policies.

    Fringe Benefits - If the applicant has a fringe benefit rate that has been approved by an agency of the Government, such rate should be used and evidence of its approval should be provided. If a fringe benefit rate has not been so approved, the application should propose a rate and explain how the rate was determined. If the latter is used, the narrative should include a detailed breakdown comprised of all items of fringe benefits (e.g., unemployment insurance, workers compensation, health and life insurance, retirement, etc.) and the costs of each, expressed in dollars and as a percentage of salaries.

    Travel and Transportation - The application should indicate the number of trips, domestic and international, and the estimated costs. Specify the origin and destination for each proposed trip, duration of travel, and number of individuals traveling. Per diem should be based on the

applicant's normal travel policies (applicants may choose to refer to the Federal Standardized Travel Regulations for cost estimates).

Other Direct Costs - This includes communications, report preparation costs, passports and visas fees, medical exams and inoculations, insurance (other than insurance included in the applicant's fringe benefits), equipment (procurement plan for commodities), office rent abroad, etc. The narrative should provide a breakdown and support for all and each other direct costs.

Indirect Costs – The applicant should support the proposed indirect cost rate with a letter from a cognizant U.S. Government audit agency or with sufficient information for USAID to determine the reasonableness of the rates. (For example, a breakdown of labor bases and overhead pools, the method of determining the rate, etc.).

Local Institutions usually do not have a Negotiated Indirect Cost Rate Agreement (NICRA) letter with the US Government. Therefore no indirect costs should be included in the cost/business application submitted by local NGOs. Local institutions submitting applications should treat all indirect costs as direct costs.

Seminars and Conferences - The applicant should indicate the subject, venue and duration of proposed conferences and seminars, and their relationship to the objectives of the program, along with estimates of costs.

Foreign Government Delegations to International Conferences: Funds in this agreement may not be used to finance the travel, per diem, hotel expenses, meals, conference fees or other conference costs for any member of a foreign government's delegation to an international conference sponsored by a public international organization, except as provided in ADS Mandatory Reference "Guidance on Funding Foreign Government Delegations to International Conferences or as approved by the CTO [http://www.info.usaid.gov/pubs/ads/300/refindx3.htm].

Source and Origin Requirements - Goods and services provided by the Recipients under this USAID-financed award shall have their source and origin in the United States (000).

11. Please include information on the organization's financial status and management, including:

(a) Audited financial statements for the past three years,
(b) Organization chart, by-laws, constitution, and articles of incorporation, if applicable,
(c) If the applicant has made a certification to USAID that its personnel, procurement and travel policies are compliant with applicable OMB circular and other applicable USAID and Federal regulations, a copy of the certification should be included with the application. If the certification has not been made to USAID/Washington, the applicant should submit a copy of its personnel (especially regarding salary and wage scales, merit increases, promotions, leave, differentials, etc.), travel and procurement policies, and indicate whether personnel and travel policies and procedures have been reviewed and approved by any agency of the Federal Government. If so, provide the name, address, and phone number of the cognizant reviewing official.
(d) If applicable, approval of the organization's accounting system by a U. S. Government agency including the name, addresses, and telephone number of the cognizant auditor.

12. The application should include information that substantiates that the applicant:

(a) Have adequate financial resources or the ability to obtain such resources as required during the performance of the Agreement.

(b) Has the ability to comply with the Agreement conditions, taking into account all existing and currently prospective commitments of the applicant, non-governmental and governmental.
(c) Has a satisfactory record of performance. In the absence of evidence to the contrary or circumstances properly beyond the control of the applicant, applicants who are or have been deficient in current or recent performance (when the number of grants, contracts, and Cooperative agreements, and the extent of any deficiency of each, are considered) shall be presumed to be unable to meet this requirement. Past unsatisfactory performance will ordinarily be sufficient to justify a determination of non-responsibility, unless there is clear evidence of subsequent satisfactory performance. The Agreement Officer will collect and evaluate data on past performance of applicants using information from sources provided in accordance with Paragraph 10 above.
(d) Has a satisfactory record of integrity and business ethics.
(e) Is otherwise qualified and eligible to receive a Cooperative Agreement under applicable laws and regulations (e.g., EEO).

Applicants may submit any additional evidence of responsibility considered necessary in order for the Agreement Officer to make a determination of responsibility. Please note that a positive responsibility determination is a requirement for award, and all organization shall be subject to a pre-award survey to verify the information provided and substantiate the determination.

13. Cost Sharing: *{here provide the details for cost-sharing if included in this RFA}*

14. Unnecessarily elaborate applications: unnecessarily elaborate brochures or other presentations beyond those sufficient to present a complete and effective application in response to this RFA are not desired and may be construed as an indication of the applicant's lack of cost consciousness. Elaborate artwork, expensive paper and bindings, and expensive visual and other presentation aids are neither necessary nor wanted.

[END OF SECTION IV]

SECTION V – APPLICATION REVIEW INFORMATION

The criteria presented below have been tailored to the requirements of this particular RFA. Applicants should note that these criteria serve to: (a) identify the significant matters which applicants should address in their applications and (b) set the standard against which all applications will be evaluated. Recognizing that various approaches may have merit, this RFA seeks an implementing partner that, on the basis of its experience, can propose cost-effective ways of implementing this program. USAID may reject all applications if they are not deemed sufficiently responsive.

A Technical Review Committee will review the applications based upon the criteria set forth below. Approximate weighted points indicate the relative importance of each technical criterion, of which 100 points are possible and against which technical applications shall be evaluated. Indigenous organizations are encouraged to apply either as prime applicant, sub-grantee or subcontractor, if they feel they have the experience and expertise to undertake the program. As a condition for approval for an award, a review of an organization will be undertaken to confirm that it has the systems, internal controls, staffing and financing to be determined as responsible in terms of its ability to implement the award.

Technical Evaluation Criteria	Weight
1. Technical Approach	**40 points**
2. Key Personnel and Management Plan	**30 points**
3. Corporate Capability	**20 points**
4. Past Performance	**10 points**
Total Possible Technical Evaluation Points	**100**

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

1. **<u>TECHNICAL APPROACH</u> (40 points)**

(a) The overall technical approach is technically sound and clearly and specifically demonstrates *how* the objectives and expected results will be achieved and by what means will the applicant gain buy-in from the relevant judicial bodies and work with local Kazakhstani organizations. (10 points)

(b) The extent to which the proposal demonstrates the applicant's in-depth country and sector experience and knowledge of the needs/functioning of judicial institutions in Kazakhstan, and applies this knowledge to the overall strategy and specific activities through which the objectives and expected results will be achieved. (10 points)

(c) The extent to which the approach takes into account "Other Considerations" listed in Section I. H. and describes how they will be addressed throughout the life of this program, particularly gender considerations. (10 points)
The extent to which Performance Monitoring Plan includes detailed information about (1) how the applicant will measure and track the impact of this program; (2) data quality procedures, policies and how data integrity will be ensured including how the results will be attributable to the designed program and (3) the level and extent that yearly indicator targets are ambitious. (10 points)

2. KEY PERSONNEL AND MANAGEMENT PLAN

KEY PERSONNEL (20 points)

The application will be evaluated based on the presentation of resumes of the three Key Personnel described below. The evaluation will assess the appropriateness of academic backgrounds of the proposed key personnel, their work experience related to the program components, management qualifications, and experience in the Former Soviet Union, Central Asia and / or Kazakhstan, and language skills. Although no specific points values are assigned for each position the aggregate score for all proposed key personnel is 20 points.

The following Key Positions are listed in descending order of importance and will be evaluated based upon the following credentials and skills:

1. Country Director

- An advanced degree (Masters, J.D. or L.L.M.) in a relevant field such as International Relations, Law, Public Administration, International Development, or Social/Political Science;
- A minimum of 3 years managing a donor funded rule or law in a comparable setting.
- A minimum of 8 years of international development experience in a progressively more responsible position, including management experience, in the field of judicial reform programs or governance related program;
- Program management experience for similar types of USAID or other donor funded programs, especially in the area of budgeting, planning, reporting, monitoring and evaluation;
- Proven ability to successfully engage and work with senior government officials in support of a similar type of donor funded program;
- Experience in successfully advising government agencies on change management, professional development, administrative strengthening, and institutional reforms leading to increased systemic performance results;
- Strong technical leadership, innovative thinking and strategic planning skills, including the ability to identify creative and practical approaches to overcome challenges and work in a fast changing environment;
- Strong interpersonal and communication skills;
- Fluent written and spoken English and fluency in either Kazakh or Russian.

2. Judicial Reform Specialist

- Juris Doctorate, LLM, or equivalent, from an accredited Law School;
- Minimum of 5 years' experience in a leading role in judicial reform programs in an international development setting;
- Proven track record of building and sustaining effective partnerships and communicating with various constituencies;
- Experience working on US government or other donor funded judicial reform program(s)
- Experience in successfully advising government agencies on institutional reforms leading to increased systemic performance results;
- Excellent analytical skills of substantive as well as organizational issues;
- Ability to identify creative and practical approaches to overcome challenges;
- Fluency in English - written and spoken. Knowledge of Russian and / or Kazakh will be considered a strong asset.

3. Judicial Education/Training Specialist

- Juris Doctorate, LLM, or equivalent, from an accredited Law School;

- Minimum of 5 years' experience in a leading role in the judicial education field, preferably in an international setting
- Familiarity with modern adult learning methods and curriculum development;
- Experience with training other instructors;
- Project management and organizational skills;
- Proven track record of building and sustaining effective partnerships and communicating with various constituencies
- Experience working on US government or other donor funded legal education program(s)
- Fluency in English - written and spoken. Knowledge of Russian and / or Kazakh will be considered a strong asset.

MANAGEMENT PLAN (10 points)

Subcriteria are of equal importance.

(a) Clarity and specificity of the proposed composition and organizational structure of the entire project team. Clearly delineated roles, responsibilities, authorities, and processes for decision making between the Applicant's in-country team and the home office. Added value of proposed sub-awardees and partners, if any.
(b) Mobilization plan for how and when key and non-key personnel are hired is clear, realistic, and includes specific dates.
(c) Demonstrated ability to call on a bull-pen of *high quality* short-term experts with judicial, rule of law, judicial training/curricula, commercial law, court administration, and related experts that can be deployed quickly to Kazakhstan in order to achieve the project goals, deliverables and performance measures.

3. **CORPORATE CAPABILITY (20 points)**

(a) Demonstrated expert-level knowledge and understanding of judicial reform programs and on-the-ground realities of working in Kazakhstan, including best practices, proven successful approaches, original piloting successes, and an analysis of potential obstacles that could be encountered during program implementation, and the feasibility of proposed solutions for addressing them. (10 points)
(b) The extent to which the applicant demonstrates its familiarity with local Kazakhstani non-governmental organizations and provides a feasible and effective plan for evaluating and working directly with one or more of these organizations on capacity-building for providing technical assistance to the Government of Kazakhstan. (10 points)

4. **PAST PERFORMANCE INFORMATION (10 points)**

Applicants and any proposed partners will be evaluated in accordance with ADS 303.3.6.3. The Technical Review Committee will validate an applicant's past performance reference information by relying on existing evaluations to the maximum extent possible; and making a reasonable, good faith effort to contact all references to obtain verification or corroboration on the below evaluation criteria:

- How well an applicant performed,
- The relevancy of that the program work,
- Instances of good performance,
- Instances of poor performance,
- Significant achievements,

- Significant problems, and
- Any indications of excellent or exceptional performance in the most critical areas.

In cases where (1) an applicant lacks relevant performance history, (2) information on performance is not available, or (3) an applicant is a member of a class of applicants where there is provision not to rate the class against a sub factor, then the applicant will not be evaluated favorably or unfavorably on performance. The "neutral" rating assigned to any applicant lacking relevant performance history. An exception to this neutral rating provision: the non-small businesses prime with no history of subcontracting with small business concerns. Prior to assigning a "neutral" past performance rating, the agreement officer may take into account a broad range of information related to an applicant's performance.

COST APPLICATION

USAID is looking for innovative applications that clearly articulate how limited USAID funds can be best applied for maximum impact and results. Cost/Price is not a weighted evaluation factor. However, the applicant's proposed cost/price for the cooperative agreement will be evaluated. Evaluation of cost will include verification of rates and cost realism, allowability and allocability. The rate of return per administrative dollar will be considered. Any lack of cost realism, unreasonableness, or imbalance in price may be considered in the determination of best value. Although there is no general legislative requirement that recipients of cooperative agreements and cooperative agreements must cost share, USAID policy is that cost sharing is an important element of the USAID-recipient relationship. USAID desires that applicants demonstrate their commitment to program success by including cost sharing. Cost-sharing contributions may include volunteer services provided by professional and technical personnel, and un-recovered indirect costs. *USAID suggests that applicants demonstrate their commitment to program success by including cost-sharing. USAID/CAR would therefore prefer applicants to provide up to 20% cost share for this RFA.*

AWARD

Award will be made to responsible applicant whose application offers the greatest value, cost and other factors considered. The final award decision is made, while considering the recommendations of the TEC, by the Agreement Officer.

The Agreement Officer's decision about the funding of an award is final and not subject to review. Any information that may impact the Agreement Officer's decision shall be directed to the Agreement Officer.

Authority to obligate the Government: the Agreement Officer is the **only** individual who may legally commit the U.S. Government to the expenditure of public funds. No costs chargeable to the proposed Agreement may be incurred before receipt of either an Agreement signed by the Agreement Officer or a specific, written authorization from the Agreement Officer.

[END OF SECTION V]

SECTION VI – AWARD AND ADMINISTRATION INFORMATION

Notice of Award signed by the Agreement Officer is the authorizing document, which shall be transmitted to the Recipient for countersignature to the authorized agent of the successful organization electronically, to be followed by original copies for execution. The Agreement Officer is the only individual who may legally commit the Government to the expenditure of public funds. Applicants are advised that costs incurred prior to receipt of either a fully executed Agreement (in electronic or print form) or a specific, written authorization from the Agreement Officer are not allowable and therefore are ineligible for reimbursement under the Agreement.

A. REPORTING REQUIREMENTS

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

1. Quarterly Performance Reports: Pursuant to 22 CFR 226.51 the Recipient shall submit quarterly performance reports within 30 calendar days after the end of each standard USG fiscal quarter (i.e. October 30, January 30, April 30, July 30) to the AOTR. Reports may be submitted electronically. ***Regardless of the start date of the cooperative agreement all reporting will be adjusted to the USG fiscal year calendar***. The fourth quarterly report due October 30th shall serve as an annual report summarizing the fiscal year achievements including participant training and indicator data for the fiscal year. The reports should include the following:

- A comparison of actual accomplishments with the goals and objectives established for the period.
- Reasons why established goals were not met, if appropriate.
- Other pertinent information including, when appropriate, analysis and explanation of cost overruns or high unit costs.
- A summary list of subgrants (if any) issued during the quarter.
- Reports shall also contain, as an attachment, an indicator data table outlining quarterly indicator achievements. A sample table is below:

Indicator	Year 1: 1st Quarter Results	Year 1: 2nd Quarter Results	Year 1: 3rd Quarter Results	Year 1: 4th Quarter Results	Year 2: 1st Quarter Results	Year 2: 2nd Quarter Results	Year 2: 3rd Quarter Results	Year 2: 4th Quarter Results

2. Financial Reports: Pursuant to 22 CFR 226.52, the Recipient shall submit Financial Status Reports within 30 calendar days after the end of each USG fiscal quarter (i.e. October 30, January 30, April 30, July 30).

3. Final Report: The Recipient shall submit the original copy to the AOTR, one copy to the Agreement Officer, and one copy to USAID Development Experience Clearinghouse. The final report shall be submitted no later than 90 calendar days after the expiration of the award. Reference 22 CFR 226.51. The final report shall also consolidate activities and analyses of

all partners into one document and their activities and progress towards results. The final performance report should contain information below:

- An executive summary of the accomplishments and results achieved;
- An in-depth analysis of progress and results that synthesizes achievements that contributed towards program objectives. This section should clearly describe activities, major accomplishments and results achieved, including results for all of the activities under the cooperative agreement;
- Final data, compared to baseline data, for all indicators included in the monitoring and evaluation plan. This section should include disaggregated data by gender, historically disenfranchised groups and other relevant groups identified.
- A summary of problems/obstacles encountered during the implementation, and how those obstacles were addressed and overcome if appropriate;
- Lessons learned, best practices, and other findings, along with recommendations for future programming in this sector.
- A comparison of actual expenditures with budget estimates, including analysis and explanation of cost overruns or high unit costs, and any other pertinent information, as relevant.

4. Telling Our Story.
To ensure the program's visibility and public outreach, the recipient will be requested to provide the following information:

- An updated quarterly list of public events to be organized by the project during the coming three months, including approximate date, location, and audience. The project will coordinate with USAID about all planned events with press participation, press activities, press releases, as well as inclusion of USAID promotional materials for the participants, participation of USAID/USG representatives.
- Two stories a year and with an accompanying photograph. The stories will be provided in a Word Document format, using a standard USAID telling our story template (available at http://www.usaid.gov/stories/guidelines.html.).
- CD with a collection of minimum 20 photographs a year that are illustrative of project's achievements in jpeg format. The photographs will comply with a guidance provided in the USAID Graphic Standards Manual, be at least 1 MB in size each and suitable for print and social media platforms. Each photograph will have a brief explanation about its subject, and identify: the author and his/her organization, person(s) featured in the photograph, and the location where the photograph was taken. Clippings of press articles that mention the project.
- At least 2 copies of all public communications materials produced by the project. In addition, the recipient shall submit one electronic and/or one hard copy of all final documents to USAID's Development Experience Clearinghouse.

5. Participant Training Reports.
As relevant to the proposed program, the recipient will collect training data on technical trainings (conferences, workshops, study tours) provided for beneficiaries that were held in the United States, third countries, or in-country under this cooperative agreement. The training data will be entered into TraiNET by the recipient and submitted to the AOTR as part of the regular quarterly report. The recipient will follow ADS 252 policy, which provides detailed information regarding visa compliance guidelines, and ADS 253, which provides

guidance on how to implement USAID funded training programs. Note: Participant training data is only collected for individuals who receive more than 3 days training in country, in a third country or in the US. Names and biographical data are absolutely required for U.S. training because of the need for a visa. TraiNet does not require entry of personal biographical data for in-country training.

6. Commodities
   The applicant is requested to provide USAID with a list of commodities that will be procured as a part of this program.

7. Environmental Compliance
   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. The recipient's environmental compliance obligations under these regulations and procedures are specified in the following paragraphs of this Program Description. In addition, the implementing partner 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.

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).

USAID has determined that project activities including technical assistance, training, analyses, studies and information transfers qualify for a Categorical Exclusion under 22 CFR Part 216.2(c)(2) (no effect on the natural or physical environment) and, therefore, these activities are excluded from an environmental review.

USAID has determined that a Negative Determination with Conditions qualifies for activities, when following normal good practices, engineering methods, and standard instructions will help to avoid potential environmental problems. This includes possible limited procurement of equipment, including electric and electronic equipment (computers, printers, etc.). The proposed action is that the Implementer should provide evidence that equipment is procured from certified retailers; environmental safety and quality certificates conforming with national and/or international standards are available; it's used in an environmentally sound and safe manner, and properly disposed of, when applicable, at the end of its useful life in a manner consistent with best management practices according to USG, European Union or equivalent standards acceptable to USAID.

The initial environmental evaluation (IEE) for this program was approved as part of Amendment No.5 for the Democracy and Conflict Mitigation Office's IEE. This Amendment was signed on June 29, 2010. For activities related to technical assistance, research, information, study tours and training courses a categorical exclusion was provided. For all activities related to the provision of equipment, a negative determination was provided. Recipients therefore must ensure

that equipment is procured from certified retailers; environmental safety and quality certificates conforming with national and/or international standards are available; equipment and materials are used in an environmentally sound and safe manner, properly disposed of when applicable at the end of their useful life in a manner consistent with best management practices according to USG, European Union or equivalent standards.

All project activities shall be developed, implemented, and reported by the Implementing partner in a manner consistent with: 1) terms of the Initial Environmental Examination, approved by Asia BEO prior to funds obligation; and 2) country-specific environmental legislation and standards. The Implementing partner shall report to the AOTR and the Regional Environmental Officer in accordance with requirements outlined in the IEE.

[END OF SECTION VI]

LIST OF ATTACHMENTS

ATTACHMENT 1 – Standard Indicators
ATTACHMENT 2 – Letter on Local Procurement Blanket Waiver

ATTACHMENT 1 – Standard Indicators

ELEMENT: **2.1.2 – JUDICIAL INDEPENDENCE**	
INDICATOR TITLE: 2.1.2-2 **NUMBER OF LAWS, REGULATIONS AND PROCEDURES RELATED TO JUDICIAL INDEPENDENCE SUPPORTED WITH USG ASSISTANCE**	
DEFINITION: Refers to laws, regulations and procedures that are official and have been passed in accordance with the country's legal requirements.	
RATIONALE: Laws, regulations and procedures lay out the legal basis for building judicial independence and provide one significant indicator of government commitment	
UNIT: Number of laws, regulations and procedures	*DISAGGREGATE BY:* None
TYPE: OUTPUT/OUTCOME Output	*DIRECTION OF CHANGE:* Higher = better
DATA SOURCE: Implementing organization Reports	
MEASUREMENT NOTES:	

ELEMENT: **2.1.3 – JUSTICE SYSTEM**	
INDICATOR TITLE: **2.1.3-5 NUMBER OF JUSTICE SECTOR PERSONNEL THAT RECEIVED USG TRAINING**	
DEFINITION: For the purposes of this program personnel include judges and court staff. Training refers to all training or education events whether short-term or long-term, in-country or abroad.	
RATIONALE: Better trained personnel are a prerequisite for an improved legal system.	
UNIT: Number of personnel	*DISAGGREGATE BY:* Sex, judges, court personnel
TYPE: OUTPUT/OUTCOME Output	*DIRECTION OF CHANGE:* Higher = better
DATA SOURCE: Implementing organization Reports and Site visits	
MEASUREMENT NOTES:	

ELEMENT: **2.1.3 – JUSTICE SYSTEM**
INDICATOR TITLE: **2.1.3-10 NUMBER OF NEW LEGAL COURSES OR CURRICULA DEVELOPED WITH USG ASSISTANCE**
DEFINITION: Legal courses or curricula improve the skills and capacity of legal or justice sector personnel. For the purposes of this program personnel include judicial candidates, sitting judges, and court personnel and courses include those taught at the Institute of Justice or in other forums. Courses may also be aimed at broader public awareness through schools or other educational institutions.

RATIONALE: Improving the capacity of the justice system requires well-trained, capable and ethical legal professionals, as well as a broader population that is familiar with its rights and responsibilities. Developing effective courses, curricula and training institutions is a critical investment in justice system capacity.	
UNIT: Number of courses or curricula	*DISAGGREGATE BY:* Sex, sitting judges and judicial candidates
TYPE: OUTPUT/OUTCOME Output	*DIRECTION OF CHANGE:* Higher = better
DATA SOURCE: Grantee Reports	
MEASUREMENT NOTES:	

ELEMENT: **2.1.2 – JUDICIAL INDEPENDENCE**	
INDICATOR TITLE: 2.1.2-5 **NUMBER OF USG-ASSISTED CAMPAIGNS AND PROGRAMS TO ENHANCE PUBLIC UNDERSTANDING, NGO SUPPORT AND MEDIA COVERAGE OF JUDICIAL INDEPENDENCE AND ACCOUNTABILITY**	
DEFINITION: Campaigns include all organized outreach activities intended to build support for the particular cause, relying, for example, on electronic media, print media, public meetings, plays, etc.	
RATIONALE: Public NGO and media understanding & support are essential for meaningful & long term viability of judicial independence. Indicator .measures activity of USG partners in carrying out outreach activities to achieve such support	
UNIT: Number of campaigns and programs	*DISAGGREGATE BY:* None
TYPE: OUTPUT/OUTCOME Output	*DIRECTION OF CHANGE:* Higher = better
DATA SOURCE: Grantee Reports	
MEASUREMENT NOTES:	

ATTACHMENT 2 – Letter on Local Procurement Blanket Waiver

(See enclosed as a separate file)

[END OF RFA No. 176-11-000010]