



OFFICE OF INSPECTOR GENERAL

AUDIT OF USAID/IRAQ'S ACCESS TO JUSTICE PROGRAM

AUDIT REPORT NO. 6-267-13-004-P
DECEMBER 16, 2012

CAIRO, EGYPT



Office of Inspector General

December 16, 2012

MEMORANDUM

TO: USAID/Iraq Mission Director, Thomas Staal

FROM: Acting Regional Inspector General/Cairo, David Thomanek /s/

SUBJECT: Audit of USAID/Iraq's Access to Justice Program (Report No. 6-267-13-004-P)

This memorandum transmits our final report on the subject audit. We have considered carefully your comments on the draft report and have included them, without attachments, in Appendix II.

The final report includes seven recommendations to improve the management and oversight of USAID/Iraq's Access to Justice Program. On the basis of actions that the mission took, we determined that final action has been taken on Recommendations 1, 2, and 7.

Management decisions were reached on Recommendations 3, 4, 5, and 6. Please provide the Audit Performance and Compliance Division in the USAID Office of the Chief Financial Officer with the necessary documentation to achieve final action.

Thank you for the cooperation and courtesy extended to the audit team during this audit.

CONTENTS

- Summary of Results** 1
- Audit Findings**..... 4
 - USAID/Iraq Did Not Set Baselines for Two Performance Indicators 4
 - USAID/Iraq Did Not Make Sure That Some Activities Were Sustainable 5
 - Some Reported Results Were Not Accurate, and Some Targets Were Not Realistic 6
 - Contractor Did Not Document How Grantees Were Selected 8
 - Some Grant Agreements Did Not Include Human Trafficking Provision 9
- Evaluation of Management Comments** 11
- Appendix I—Scope and Methodology** 13
- Appendix II—Management Comments** 15

Abbreviations

The following abbreviations appear in this report:

- ADS Automated Directives System
- COR contracting officer’s representative
- DPK Tetra Tech DPK
- FAR Federal Acquisition Regulation
- FY fiscal year
- PMP performance management plan
- UN United Nations

SUMMARY OF RESULTS

The Department of State's *2010 Human Rights Report: Iraq* reported several human rights problems that could impede access to justice for Iraqis. Some of those included poor conditions in pretrial detention and prison facilities; arbitrary arrest and detention; denial of fair, public trials; delays in resolving property restitution claims; insufficient judicial institutional capacity; large numbers of refugees and internally displaced people; and discrimination against and societal abuses of women and ethnic, religious, and racial minorities.

Historically, USAID/Iraq programs have not addressed problems with access to justice in Iraq. However, in March 2009 a USAID/Iraq strategic review of democracy and governance programs concluded that the mission should implement programs to "enhance awareness of individual rights and promote equal access to justice." The review also concluded that (1) there was little understanding of or information about individual rights and how to use the justice system to defend those rights, and (2) administrative procedures for accessing basic legal services in Iraq were elaborate, confusing, and not responsive to the average citizen.

To address this concern, on September 30, 2010, USAID/Iraq awarded Tetra Tech DPK (DPK) a 5-year, \$62.9 million contract, which includes 2 optional years, to establish the Iraq Access to Justice Program. As of June 30, 2012, the mission had obligated \$34 million and disbursed about \$18.4 million.

To access the legal system, Iraqis need to recognize and understand their rights, have the ability to prevent abuse of those rights, and be able to obtain legal remedies when their rights are violated. According to DPK's contract, improving vulnerable and disadvantaged Iraqis' access to the legal system was the primary objective of the program. The vulnerable and disadvantaged include the poor, women, widows, orphans, detainees and prison inmates, religious and ethnic minorities, internally displaced people, and former refugees. To meet this objective, the program included three components:

- Component 1 - Improving vulnerable and disadvantaged Iraqis' practical knowledge of their responsibilities, rights, and remedies under Iraqi law.
- Component 2 - Increasing the competence and availability of legal professionals and civil society partners to assist vulnerable and disadvantaged Iraqis.
- Component 3 - Improving government processes and procedures to facilitate access of vulnerable populations to government services and legal remedies.

As of June 30, 2012, DPK approved 43 grants, primarily to civil society organizations, worth about \$3.7 million to implement program activities. Some were public awareness campaigns about women's rights, advocacy forums about the rights of the disabled, training lawyers to provide services to vulnerable and disadvantaged Iraqis, and providing training and resources to legal clinics that assist and represent vulnerable and disadvantaged citizens.

The Regional Inspector General/Cairo (RIG/Cairo) conducted this audit as part of the Office of Inspector General's fiscal year (FY) 2012 audit plan to determine whether USAID/Iraq's Access to Justice Program was achieving its objective.

The program is not achieving its objective and did not achieve the majority of its performance indicators used to measure its success. As of June 30, 2012, the program achieved¹ 5 of the 15 indicators in the first year and 3 by the third quarter of the second year. The following problems hindered success.

- The mission did not set baselines for two performance indicators (page 4). Therefore, the mission could not attribute any development gains made to program activities.
- Some grantees cannot sustain the activities when program funding ceases because funds were used to create new activities instead of furthering existing ones (page 5). Consequently, 10 of 12 grantees will not be able to continue their activities.
- Reported results for six indicators were not accurate, and five indicators did not have realistic targets (page 6). As a result, reported results were not useful for making decisions about the program.
- DPK did not document how grantees met minimum eligibility requirements or evaluation criteria described in its grants manual for ten grants reviewed that were worth about \$944,000 (page 8).
- DPK did not include the required provision about human trafficking in the ten grants reviewed (page 9).

To address these findings, we recommend that USAID/Iraq:

1. Require DPK to set baselines for two performance indicators so that USAID/Iraq could have reportable results to use in making future contract decisions (page 5).
2. In coordination with DPK, implement procedures to award grants to civil society organizations with existing activities that align with Access to Justice Program goals (page 6).
3. Implement a written plan for mission staff to verify the accuracy of information from the contractor on a regular basis (page 8).
4. Document reviews of Access to Justice Program performance management plan indicator targets for reasonableness, and make any adjustments resulting from the review (page 8).
5. Implement a written plan to monitor DPK's grants selection and award process on a regular basis. The plan should include comparisons of grantee evaluations to established eligibility and evaluation criteria (page 9).
6. Conduct and document a review of DPK's preaward risk assessment procedures, and direct DPK to implement any recommendations from the review (page 9).
7. Direct DPK to amend its subawards to include the required human trafficking provision (page 10).

¹ For this report, achieved means that verified indicators were within 10 percent of expected targets.

Detailed findings follow. The audit scope and methodology are described in Appendix I. USAID/Iraq's management comments are included, without attachments, in Appendix II, and our evaluation of mission comments is included on page 11 of the report.

AUDIT FINDINGS

USAID/Iraq Did Not Set Baselines for Two Performance Indicators

A baseline is the value of a performance indicator before the implementation of projects or activities. Baselines are important because they help managers determine progress in achieving outputs and outcomes, and they identify the extent to which change has happened as a result of program activities. The Agency's Automated Directives System (ADS) 203.3.9, "Setting Performance Baselines and Targets," requires that missions set baselines for indicators.

Furthermore, DPK's contract required it to establish baseline data and set targets for the indicators included in its performance management plan (PMP) by undertaking rapid appraisals or similar types of assessments. According to the PMP, starting in June 2011, the contractor was to administer annual perception surveys to vulnerable Iraqis to measure how much they knew about their legal rights, related services offered by the government, and ways to access those services. DPK was to use this baseline information to measure progress of two performance indicators:

- *Percentage of vulnerable Iraqis who respond that they have adequate access to Iraq's legal system.*
- *Percentage of Iraqis who understand their legal rights, entitlements, and remedies.*

However, as of June 30, 2012, it had not completed any surveys, so DPK and USAID/Iraq did not have information to measure progress before expending U.S. Government resources. To compensate for the lack of surveys, the contracting officer's representative (COR) said, DPK conducted a preliminary needs assessment of disadvantaged and vulnerable Iraqis to better identify and prioritize vulnerable groups and the problems that they encountered in Iraq. The COR said the contractor used various reports and data from other organizations, like the Inter-Agency Information and Analysis Unit,² to provide more information.

Mission and DPK officials did not administer the required surveys to establish baselines for the two indicators due to lack of staff. DPK's chief of party said critical positions remained vacant during the first 8 months of the program. For example, the COR said DPK replaced key employees during the program's first year with people who had more experience working with civil society organizations, and this delayed implementation of the surveys. The COR said DPK had ran into delays hiring a long-term monitoring and evaluation specialist to lead the perception survey because applicants had security concerns and some found better opportunities at other organizations. For example, the COR said one specialist planned to work for DPK, but accepted a job with USAID instead.

USAID missions are responsible for measuring progress toward achieving foreign assistance objectives through program objectives. Without baseline information, the mission cannot

² According to the unit's Web site, in February 2008 analysts from United Nations (UN) agencies and nongovernmental organizations established the unit to improve the impact of the humanitarian and development response in Iraq.

attribute any development gains to program activities. Consequently, the mission cannot make decisions based on performance data to assess progress in achieving results that could lead to improved performance. Nor can it make an informed decision about whether to extend DPK's contract, which ends in 2013. Therefore, we make the following recommendation.

***Recommendation 1.** We recommend that USAID/Iraq require Tetra Tech DPK to set baselines, in writing, for two performance indicators so that USAID/Iraq could have reportable results to use when making future contract decisions.*

USAID/Iraq Did Not Make Sure That Some Activities Were Sustainable

DPK's contract emphasizes the importance of making sure that Iraqi institutions are prepared to sustain services to clients after the program ends. According to Agency policy, grants should be considered when the awardee performs the project for its own purpose and the funds transferred to the awardee will stimulate the project. As stated in the contract, organizations should become sustainable, not just have sustainability as a goal.

Ten of the 12 grantees the audit team visited said they would not be able to continue with their projects without continued USAID/Iraq funding. All 12 were conducting activities that raised the public's awareness of the rights of women and disabled people; trained lawyers to provide services to vulnerable and disadvantaged Iraqis; produced and distributed video and radio awareness spots and programming; or provided legal assistance and representation services to internally displaced people. However, ten of those grantees were implementing new activities instead of continuing or expanding existing ones, which made it difficult to sustain the activities after program funding ended since these activities were not in the original budgets.

For example, one grantee in Erbil used program funds to establish two legal clinics to provide 296 internally displaced people with legal assistance. The grant finished in February 2012, and one of the clinics closed because the grantee could not afford to operate both. Consequently, access to legal assistance and representation for internally displaced people decreased. Furthermore, to resolve legal cases in Iraq involves a substantial time commitment, and without a sustainable legal program there is no guarantee that legal representation started during the program would be completed before funding ran out.

In contrast, an independent news agency—also in Erbil—received funds to support the organization's existing initiatives. It used the grant to train eight employees on women's issues. The employees travelled throughout Iraq interviewing widows who needed legal assistance. They loaded a video of one woman onto the agency's Web site to help raise awareness of the legal problems that widows face. The news agency expects to produce and publish 40 similar videos by the end of the grant.

The sustainability problems that the ten grantees were having occurred mainly because DPK awarded grants to organizations to implement activities that were not part of their core programs.

Investing in activities that grantees cannot sustain impairs USAID/Iraq's objective to improve vulnerable and disadvantaged Iraqis' access to the legal system. They will not become aware of their legal rights and entitlements, and legal assistance organizations will not have the capacity to hold government officials accountable for their responsibilities. Not only did

awarding the ten grants for unsustainable activities mean that the Agency spent money on unrecoverable costs, but also the contractor spent about \$874,000 that could have been transferred to existing civil society organizations to further stimulate their access to justice projects. To address these problems, we recommend the following.

Recommendation 2. *We recommend that USAID/Iraq, in coordination with Tetra Tech DPK, implement procedures to award grants to civil society organizations with existing activities that align with Access to Justice Program goals.*

Some Results Were Not Accurate, and Some Targets Were Not Realistic

All 15 PMP indicators were reviewed to determine whether USAID/Iraq had valid, reliable data in accordance with its policies to assess results and make informed decisions. However, some of the results did not meet certain aspects of established data quality standards.

Inaccurate Program Results. DPK’s contract required it to meet the same data quality standards called for in ADS 203.3.5.1, which states that performance data must meet five quality standards—validity, integrity, precision, reliability, and timeliness.³ Precise, reliable data enables management to make informed decisions about programs and ensures data are credible for reporting.

DPK provided supporting documentation for 12 of the 15 indicators. It did not provide documents for three indicators either because the perception survey had not been done yet or it did not report results. While DPK’s monitoring database was reliable because entries reconciled with supporting documentation, the contractor underreported data for four PMP indicators and overreported⁴ data for two, as of June 30, 2012, as shown in the table below.

Supported and Reported Results (Audited)

Indicator Description	Supported by Database	Reported to USAID	Difference (%)
<i>Number of campaigns supported to foster public awareness and respect for rule of law.</i>	28	26	7
<i>Number of vulnerable Iraqis seeking legal advice from civil society partners.</i>	1,508	1,856	-23
<i>Number of person days of education provided to vulnerable group individuals on legal rights, entitlements, and remedies.</i>	Total: 7,743	Total: 7,437	4
	Men: 1,785	Men: 1,635	8
	Women: 5,958	Women: 5,802	3
<i>Number of civil society partners and legal assistance organizations with significant capacity to serve the legal needs of vulnerable groups.</i>	33	25	24
<i>Number of person days of training provided to lawyers.</i>	780	725	7
<i>Number of person days of training provided to law students.</i>	2,411	2,690	-12

³ This section of ADS was updated on November 2, 2012, as 203.3.11.1.

⁴ The audit report identified indicators that are over- or underreported if the difference between reported amounts and the monitoring and evaluation database exceeded 5 percent.

Unrealistic Targets. ADS 203.3.9 states that indicator targets should be ambitious but achievable; however, targets that are set too low are not useful for management and reporting purposes. Additionally, USAID’s “Performance Monitoring & Evaluation Tips Baselines and Targets” states that if a project does not meet its targets, managers should focus on understanding why targets were not met and may need to reexamine the focus of the project or make related adjustments in indicators and targets.

As of June 30, 2012,⁵ the contractor captured results for eight PMP indicators that it had exceeded or did not meet by more than 10 percent—one as much as seven times the expectation. Some of those included:

- *Number of civil society partners, law associations, and law schools assisted with organizational development.* The contractor exceeded its target of 75 partners by 636 percent—assisting 552 partners.
- *Number of campaigns supported to foster public awareness and respect for rule of law.* The contractor exceeded its target of 15 campaigns by 87 percent—supporting 28 campaigns.
- *Number of vulnerable Iraqis seeking legal advice from civil society partners.* The contractor fell short of its target of 2,625 people, including 1,500 men, by 43 percent. It advised 1,508 people, including 385 men.
- *Number of person days⁶ of education provided to vulnerable group individuals on legal rights, entitlements and remedies.* The contractor exceeded its target of 3,750 person days, including 1,875 women person days, by 106 percent. It provided 7,743 person days, including 5,958 women person days.
- *Number of person days of training provided to law students.* The contractor exceeded its target of 750 person days by 221 percent—providing 2,411 person days of training.

These problems occurred because the mission and DPK did not validate the data reported to the mission or adjust indicator targets since (1) some missions only update PMPs annually, (2) DPK’s monitoring and evaluation specialist was overwhelmed, (3) the mission relied on its performance monitoring contractor, and (4) security restrictions limited oversight capabilities. While the COR said she and the contractor continuously discussed how to improve the overall PMP indicators and targets, they never adjusted the targets, which were established in August 2011, because the targets would be reviewed and revised later in 2012. During October 2012 the contractor submitted revised targets to USAID for approval. The COR said DPK had difficulty measuring progress because it relied on secondary data sources provided by numerous grantees.

The contractor’s monitoring and evaluation specialist said that since the program began, he was the only person responsible for managing program data and felt overwhelmed by what he was required to collect, evaluate, and report. He said no one within DPK, like the chief of party, verified or reviewed the data he reported to USAID/Iraq. He added that a person hired under

⁵ The audit team estimated PMP targets as of June 30, 2012, to be 75 percent of second-year targets.

⁶ According to the program’s PMP indicator, “person day” refers to each day a person attended training or received education to improve their knowledge of legal rights, entitlements, and available remedies for vulnerable Iraqis.

USAID/Iraq's performance monitoring contract⁷ visited the program offices to conduct a data quality assessment but did not review any of the documentation supporting the reported results.

The COR said she has not validated or reviewed source data since the contract began because of security problems; she said the mission had limited ability to fully monitor DPK's performance because the regional security office either did not approve requests to visit the contractor or because the visits that were approved were short. Although the mission has hired Iraqi field monitors and additional monitoring and evaluation specialists to help CORs better evaluate and improve the quality of data for all USAID-funded projects, reported data for the program were still inaccurate.

As a result, USAID/Iraq cannot rely on information in the contractor's progress reports. Data on PMP indicators are critical to measuring the program's achievements and impact. Without reliable information or results to make funding decisions, mission officials cannot assure taxpayers that the contractor uses their dollars for intended purposes. Therefore, we make the following recommendations.

***Recommendation 3.** We recommend that USAID/Iraq implement a written plan for mission staff to verify the accuracy of information from the contractor on a regular basis.*

***Recommendation 4.** We recommend that USAID/Iraq document reviews of Access to Justice Program performance management plan indicator targets for reasonableness, and make any adjustments resulting from the review.*

Contractor Did Not Document How Grantees Were Selected

DPK's contract required it to develop a USAID/Iraq-approved grant manual that includes criteria for reviewing and summarizing proposals, conducting preaward activities like financial reviews, and conducting assessments of management's capabilities to achieve program goals and objectives. The manual required DPK to make awards based on evaluation criteria that required a grantee to (1) be a civil society organization, (2) be in good standing and compliance with all applicable civil and fiscal regulations in the country, and (3) have a sound system of internal controls such as written financial, administrative, and technical procedures. The contract required the grants committee, responsible for evaluating applications based on established criteria, to prepare a written record of their results, including a discussion of the numerical scoring of applications and an explanation of each application's strengths and weaknesses when compared with the criteria.

DPK did not document how grantees met the minimum eligibility requirements or the evaluation criteria. In addition, the contractor did not design an adequate preaward risk assessment. Ten grants valued at \$944,000 were reviewed, six awarded by a competitive process, and four awarded under a noncompetitive rapid grants selection process. The audit team found the following problems.

Eligibility Requirements. DPK did not document how it determined that the ten grantees reviewed (1) had sound written financial, administrative, and technical policies and procedures,

⁷ USAID/Iraq awarded the QED Group LLC contract No. 267-M-00-09-00513-00 to conduct a data quality assessment for some mission projects.

(2) had internal controls that safeguarded assets and protected them from fraud, waste, and abuse, and (3) supported the achievement of program goals and objectives.

Evaluation Requirements. DPK did not document how four grantees met the evaluation requirements under the noncompetitive rapid grants selection process. The chief of party said the only selection requirement was that prospective grantees had to either have a successful track record of working with UN or U.S. Government programs, or be included in the contract with USAID/Iraq as a potential partner. Yet DPK did not have any documentation that proved that these four grantees met this requirement.

Preaward Risk Assessments. The contractor's design of the preaward risk assessment permitted potentially high-risk grantees to receive grants. DPK ranked four of the ten grantees reviewed as low risk even though they could not provide evidence of prior written or financial reports.

The contractor did not maintain requisite documentation in the grant files for two reasons. First, the COR said DPK had some gaps in the implementation of the grants program because of difficulties it had in recruiting a qualified grants manager. The first left after 1 year, and the second arrived almost 6 months later. Second, the COR said she reviews the contractor's recommendations to award grants before they're approved, but she does not compare grantee evaluations to established eligibility and evaluation criteria.

Without proper documentation of evaluations and risk assessments, USAID runs the risk that local organizations will not have the financial or organizational capacity to manage mission funds. There is an increased risk that the contractor will waste U.S. taxpayer dollars by awarding grants to organizations that cannot implement and sustain programs effectively to improve access to Iraq's legal system for vulnerable and disadvantaged Iraqis. Finally, by not following guidelines, DPK awarded \$874,000 in grants to organizations that did not have the capacity to sustain the funded activities. The contractor could have better utilized these funds if it had made better decisions during the preaward phase. Therefore, we make the following recommendations.

Recommendation 5. *We recommend that USAID/Iraq implement a written plan to monitor Tetra Tech DPK's grants selection and award process on a regular basis. The plan should include comparisons of grantee evaluations to established eligibility and evaluation criteria.*

Recommendation 6. *We recommend that USAID/Iraq conduct and document a review of Tetra Tech DPK's preaward risk assessment procedures, and direct Tetra Tech DPK to implement any recommendations from the review.*

Some Grant Agreements Did Not Include Human Trafficking Provision

Federal Acquisition Regulations (FAR) 22.17 and 52.222-50, both entitled "Combatting Trafficking in Persons," require that specific language related to combating human trafficking be inserted in all solicitations and contracts. DPK's contract required any grants under it to comply with ADS 303, "Grants and Cooperative Agreements to Non-Governmental Organizations," by including mandatory and supplementary references like those related to combating human trafficking.

The Access to Justice Program contract incorporated FAR 52.222-50 by reference; however, ten grants reviewed under the contract did not include the required human trafficking provision.

Mission and DPK officials said they were not aware of the requirement. The COR said she thought it took effect for awards made after February 2012. DPK's chief of party said he did not know to include the provision in the grants under contract because he believed the program was not funding any activities that were at risk for victims of trafficking. He also said the standard provisions were not included because the original DPK grant agreement template did not contain these provisions.

According to a press release from the White House Office of the Press Secretary, dated September 25, 2012, more than 20 million men, women, and children worldwide are victims of human trafficking. With the U.S. Government being the largest single purchaser of goods and services in the world, it has the responsibility to combat human trafficking at home and abroad, and to make certain that American tax dollars do not contribute to human trafficking.

While the Access to Justice Program does not specifically target victims of trafficking, without the inclusion of the provision, USAID/Iraq cannot terminate an award, without penalty, if the grantee or its employees engage in human trafficking, procure a commercial sex act, or use forced labor in performance of a grant. Consequently, the mission cannot assure taxpayers that an award will be terminated if tax dollars are found to contribute to human trafficking. To address this concern, we recommend the following.

Recommendation 7. *We recommend that USAID/Iraq direct Tetra Tech DPK to amend its subawards to include the required trafficking in persons provision.*

EVALUATION OF MANAGEMENT COMMENTS

In its response to the draft audit report, USAID/Iraq agreed with all seven recommendations. However, mission officials disagreed with the answer to the audit objective. Summarized below are the comments and the audit team's evaluation of them.

While mission officials said the program is on track to achieve its objectives, the audit found that the program only met 5 of 15 indicators during its first year and, as of June 30, 2012, was on track to meet only 3 during the second year. To address the findings that hindered program success, we acknowledge management decisions on all recommendations. Furthermore, final action has been taken on three recommendations.

Recommendation 1. Mission officials agreed to set baselines for two performance indicators so they could have reportable results to use in making future contract decisions. USAID/Iraq officials used results from the perception survey to establish baselines for the indicators on October 24, 2012. Accordingly, Recommendation 1 will be closed upon issuance of this report.

Recommendation 2. USAID/Iraq officials, in coordination with the contractor, implemented procedures to award grants to civil society organizations with existing activities that align with program goals. In October 2012 the contractor revised its evaluation criteria to give greater weight to organizational capabilities and past performance in the proposed area of activity. In addition, the evaluation considers whether the project goals and objectives are aligned with what the grantee normally does in its work. Consequently, Recommendation 2 will be closed upon issuance of this report.

Recommendation 3. Mission officials said they intend to implement a written plan for mission staff to verify the accuracy of information from the contractor on a regular basis by January 31, 2013. As a result, we acknowledge that the mission made a management decision on Recommendation 3.

Recommendation 4. USAID/Iraq officials agreed to document reviews of program indicators and to make any adjustments resulting from the review. The mission provided revised program targets to the contractor for review and plan to take final action on this recommendation by January 31, 2013. As a result, we acknowledge that the mission made a management decision on Recommendation 4.

Recommendation 5. Mission officials said they plan to implement a written plan to monitor the subaward source process on a regular basis to include comparisons of grantee evaluations with established eligibility and evaluation criteria. The mission's target date for final action is December 31, 2012. As a result, we acknowledge that the mission made a management decision on Recommendation 5.

Recommendation 6. USAID/Iraq officials agreed to document a review of the contractor's preaward risk assessment procedures and direct them to implement any recommendations from the review. The contractor updated its preaward risk assessment form to include the definitions of risk levels. The mission reviewed the contractor's revisions and plans to adjust the

assessment form by January 31, 2013, as appropriate. As a result, we acknowledge that the mission made a management decision on Recommendation 6.

Recommendation 7. Mission officials directed the contractor to amend all of its subawards to include the trafficking in persons provision; in addition, the contractor revised its grant agreement forms to include the provision. Accordingly, Recommendation 7 will be closed upon issuance of this report.

SCOPE AND METHODOLOGY

Scope

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions, in accordance with our audit objective. We believe that the evidence obtained provides that reasonable basis.

The purpose of this audit was to determine whether USAID/Iraq's Access to Justice Program was achieving its objective to improve the access that disadvantaged and vulnerable Iraqis have to the legal system. The mission awarded DPK a 5-year contract (including 2 optional years) for about \$62.9 million on September 30, 2010. As of June 30, 2012, USAID/Iraq had obligated \$34 million and disbursed about \$18.4 million. The audit team tested about \$10.5 million, or 57 percent, of that disbursement.

The audit covered the period from when the program started on September 30, 2010, to June 30, 2012. In planning and performing the audit, we assessed management controls related to documentation and data verification; reporting; supervisory and management review of program processes and activities; and establishment and review of performance measures and indicators. Controls reviewed included but were not limited to the program's PMP, the annual work plan, data quality assessments, COR files, quarterly reports, and DPK's contract, including modifications.

We conducted audit fieldwork at USAID/Egypt in Cairo, USAID/Iraq in Baghdad, and the contractor's office in Baghdad. We visited grant recipients in Baghdad, Basrah, and Erbil. The work took place from July 2 to October 14, 2012.

Methodology

To answer the audit objective, we interviewed personnel from USAID/Iraq and DPK, as well as 12 civil society organizations that got grants. We reviewed reports and files that the mission and DPK maintained as part of their program monitoring activities. We obtained an understanding of the program and how USAID/Iraq monitored and measured results by reviewing the contract; subsequent modifications; the PMP; DPK's annual work plans; site visit documentation; and progress reports. We also reviewed the mission's FY 2012 Federal Managers' Financial Integrity Act assessment; the oversight performed by the COR; performance measures; and data quality assessments. We reviewed applicable laws and regulations and USAID policies and procedures regarding the program, including the contract and modifications; ADS Chapters 201, 203, 302, and 303; and FARs 22.17 and 52.222–50.

To assess whether the program was achieving its objective, we validated reported results for 12 of 15 indicators covering the program's three component areas for FY 2011 and through June 30, 2012. We validated the contractor's results captured in its monitoring and evaluation database with the supporting documentation and our observations during site visits. The audit team considered a FY 2011 indicator achieved if the verified amounts met at least 90 percent of the PMP target and a FY 2012 indicator achieved if verified amounts were within 10 percent of

75 percent of PMP targets as of June 30, 2012. The contractor did not have data for three indicators either because of the incomplete perception survey or it did not report results. We considered the reported results for six indicators accurate, but we considered the results for the other six inaccurate. The data reviewed were reliable generally to address the audit objective (page 6).

The contractor approved 43 grants worth about \$3.7 million as of June 30, 2012. The audit judgmentally selected 12 grantees valued at \$1 million for site visits based on security constraints and cluster locations of grantees: 6 in Basrah, 3 in Baghdad, and 3 in Erbil. To the extent possible, we verified the existence of deliverables and determined the extent to which grantees were aware of the source of program funding. We interviewed grantees to determine whether the program was meeting their needs and whether they could continue the activities when USAID/Iraq funding stops. The results of these site visits cannot be generalized to the entire grantee population.

In addition, we judgmentally selected ten grants worth about \$944,000 of \$3.7 million to see whether grants included mandatory clauses and were awarded in accordance with the approved grants manual. Results of the judgmental sample cannot be projected to the intended population of approved grants.

To test the appropriateness of disbursements, we judgmentally tested all DPK disbursements worth more than \$1 million as of June 30, 2012. For the selected transactions, we matched the amounts disbursed to supporting documents like invoices. We also considered prior audits of Agency financial statements that did not disclose any material weaknesses regarding disbursements. Therefore, we considered disbursements data reliable. Results cannot be projected to the entire population of disbursements.

MANAGEMENT COMMENTS



MEMORANDUM UNCLASSIFIED

DATE: December 12, 2012

TO: Catherine Trujillo, Regional Inspector General/Cairo

FROM: R. David Harden, Acting Mission Director /s/

SUBJECT: Management Response to Draft Audit of USAID/Iraq's Access to Justice Program
Audit Report No. 6-267-13-00X-P

Thank you for the opportunity to comment on the subject draft audit report of the USAID Access to Justice Program.⁸ USAID/Iraq recognizes the value of this audit as a management tool to further strengthen our program, and we extend our appreciation to the Office of Inspector General for the cooperation exhibited throughout this audit. The audit highlights a number of key findings and makes useful recommendations to which USAID/Iraq responds below.

Summary Finding⁹: ("Summary of Results"). *The program is not achieving its objective and did not achieve the majority of its performance objectives.*

Response: USAID/Iraq strongly disagrees with this finding. As of September 30, 2012, the project results show significant progress over the baseline for most key indicators and, indeed, exceeded targets for 12 of 16 indicators. (Attachment II – Performance Indicators FY2011-13) While USAID/Iraq does accept the audit's subsequent recommendation to revise some targets which were found to have been set too low (Response 4), it is still the case that the program is on track to achieve its objectives. Results so far under Intermediate Result (IR) 2 (increasing competence/availability of legal professionals assisting the vulnerable), where 60% of project funds are invested, clearly illustrate the point. As of September 30, 2012, USAID had opened 33 NGO-operated legal aid clinics, more than three times the target number. These clinics provided 4,852 marginalized individuals/groups with legal assistance, up from zero in 2011, 97% of the end-of-project target number of beneficiaries (5,000). One-fifth of these cases were resolved by the courts. Increased availability of legal aid is the intermediate result on which the overarching project objective – improving access of vulnerable populations to the legal system – is predicated. The better-than-expected progress toward this intermediate result augurs well for the achievement of the main objective in the project's third year.

⁸ The Access to Justice Program is implemented under a contract with Tetra Tech DPK (DPK).

⁹ Page 2, Paragraph 1 of the draft audit report in section labelled "Summary of Results."

Recommendation 1: *We recommend that USAID Iraq require Tetra Tech DPK to set baselines, in writing, for two performance indicators so that USAID Iraq could have reportable results to use in making future contract decisions.*

Response 1: USAID/Iraq accepts the recommendation. The baseline has been set as of October 24, 2012, immediately after the baseline Perception Survey results were reported to USAID. (Attachment III – Access to Justice Perception Survey Presentation; Attachment IV – Access to Justice Policy Paper produced as a result of the survey; and Attachment V – Impact Management System graphs for the two indicators showing the baselines).

There are no fewer than fourteen additional indicators, for which baselines were set at project inception, which USAID is using to assess changes in development outcomes and evaluate, after completion, the extent to which the project activities contributed to any observed changes.

Recommendation 2: *We recommend that USAID/Iraq, in coordination with Tetra Tech DPK, implement procedures to award grants to civil society organizations with existing activities that align with Access to Justice Program goals.*

Response 2: USAID/Iraq accepts the recommendation and, in coordination with DPK, implemented procedures in October 2012 to ensure that DPK, in its evaluation of grant proposals, accords greater weight in its evaluation criteria to organizational capabilities and past performance in the proposed area of activity. DPK is required to submit within each grant recommendation package a final evaluation summary form which will provide evidence of how each grant proposal is evaluated against well-defined RFA evaluation criteria. These measures will help DPK to assess whether each Civil Society Organization (CSO) applicant has carried out the activities as part of its core program. The program will also continue to closely monitor grants implementation and provide additional training and assistance to all active grantees, which is critical for strengthening their organizational capacity. To the degree that the USAID Access to Justice Program strengthens grantees, it will put them in a position to attract funds from other sources after the project ends, raising prospects for sustainability. (Attachment VI – Grants Evaluation form)

Undergirding the recommendation is a concern about sustainability of the CSOs supported by the program. To address this concern, USAID/Iraq directed DPK to include steps to increase the likelihood of sustainability of grantees in its Year 3 Work Plan. These steps will include helping each current and future grantee develop plans to raise funds or secure new grant funding streams from public and private sources. We also expect that many grantees will be able to receive additional support through the USAID *Broadening Participation through Civil Society project*, which is a more traditional civil society program focused on strengthening a broader number of CSOs and Iraqi civil society sector. (Attachment VII – Year 3 Work Plan)

Recommendation 3: *We recommend that USAID/Iraq implement a written plan for mission staff to verify the accuracy of information from the contractor on a regular basis.*

Response 3: USAID/Iraq accepts the recommendation and, in fact, has developed a Mission Order (MO) on performance management following the latest Agency guidelines. The mission will amend this MO to require USAID/Iraq project managers and monitoring and evaluation (M&E) staff to verify contractor data quality and accuracy on a regular basis, per ADS guidelines.

Target date for completion of this action is January 31, 2013.

In addition, USAID/Iraq has a contract with an M&E firm to carry out data quality assessments (DQAs) for USAID projects, probe discrepancies between reported data and contractor-collected data, and attempt to explain or reconcile any discrepancies detected. In fact, USAID/Iraq has already carried out a DQA of the Access to Justice Program which found some additional but minor and easily fixable problems with the contractor's data management. The M&E firm will carry out another DQA before the project's end. Further, the Contracting Officer's Representative (COR) will also take a proactive role in occasional data checking.

Finally, DPK has hired an M&E expert with more than 10 years of experience in USAID performance plan design, monitoring and data collection. He is currently performing a systematic review of the data collection process and underlying data. Part of his improvement plan will include increased focus and support for grantees on data collection, data integrity, and reporting.

Recommendation 4: *We recommend that USAID/Iraq document reviews of Access to Justice Program performance management plan indicator targets for reasonableness, and make any adjustments resulting from the review.*

Response 4: USAID/Iraq accepts the finding and agrees with the recommendation. USAID/Iraq has already developed draft revised targets which are under review by DPK. (Attachment VIII – Access to Justice Performance Indicators (FY11 – FY13) with revised targets) This review and the resulting revisions will be documented in writing and incorporated into the USAID/Iraq M&E system for the Access to Justice program.

Target date for completion of this action is January 31, 2013.

Recommendation 5: *We recommend that USAID/Iraq implement a written plan to monitor Tetra Tech DPK's grants selection and award process on a regular basis. The plan should include comparisons of grantee evaluations to established eligibility and evaluation criteria.*

Response 5: USAID/Iraq accepts the recommendation. USAID/Iraq will implement a written plan to monitor the sub-award source selection and award process by December 31, 2012. Under the plan, DPK will utilize a standard evaluation form in future grant application evaluations. The form shall reflect the criteria identified in the RFAs, and it shall include a demonstration that the activities proposed align with each applicant's core capabilities and past performance. The plan requires DPK to submit the evaluation forms with comparisons of grantee evaluations to established criteria as part of the request for USAID review and final concurrence. In addition to the forms, the plan requires DPK to use an improved Risk Assessment methodology. (Attachment IX – Improved Risk Assessment methodology and Risk Assessment detailed and summary forms). Under the plan, the USAID/Iraq COR will review all grant requests up to \$150,000, and based on additional documentation, the COR will have better information to assess whether any recommended CSO grantee has the capacity and relevant expertise to implement the recommended grant.

At USAID/Iraq's instruction, DPK also has agreed to better document the evaluation process and to improve internal review procedures and augment them to include a more rigorous independent review of each grant application, evaluating it against well-defined RFA evaluation criteria. DPK is also required to include the final Technical Evaluation Committee summary evaluation form within each RFA grant package for individual grant applications.

Recommendation 6: *We recommend that USAID/Iraq conduct and document a review of Tetra Tech DPK's pre-award risk assessment procedures, and direct Tetra Tech DPK to implement any recommendations from the review.*

Response 6: USAID/Iraq accepts the recommendation. USAID/Iraq is reviewing Tetra Tech DPK's pre-award risk assessment procedures, to improve the methodology for assessing risks as low, medium or high, and to include the definitions of risk levels in the risk-assessment form. If the procedures are found to be in any way inadequate, then USAID/Iraq will direct DPK to adjust its procedures to ensure that the pre-award risk assessment captures the actual risk associated with a grant applicant. The contractor is also required to include in each RFA grant package the final risk assessment form.

Target date for completion of this action is January 31, 2013.

Recommendation 7: *We recommend that USAID/Iraq direct Tetra Tech DPK to amend its sub-awards to include the required trafficking in persons provision.*

Response 7: USAID/Iraq accepts the finding and agrees with the recommendation. USAID/Iraq has directed DPK to amend all of its sub-awards to flow down the counter-trafficking in person (C-TIP) standard provision. Tetra Tech DPK certifies that this action is already completed. (Attachment X – Revised Grant Agreement with TIP Provisions)

Attachments:

- I. Access to Justice draft audit report
- II. Performance Indicators (FY2011-2013)
- III. Access to Justice Perception Survey Presentation
- IV. Access to Justice Policy Paper produced as a result of the survey
- V. Impact Management System Graphs for Two Survey-Based Baseline Indicators
- VI. Grant Evaluation form
- VII. Year 3 Work Plan
- VIII. Access to Justice Performance Indicators (FY11 – FY13) with revised targets
- IX. Improved Risk Assessment methodology and Risk Assessment detailed and summary forms
- X. Revised Grant Agreement with TIP Provisions

U.S. Agency for International Development
Office of Inspector General
1300 Pennsylvania Avenue, NW
Washington, DC 20523
Tel: 202-712-1150
Fax: 202-216-3047
<http://oig.usaid.gov>