



OFFICE OF INSPECTOR GENERAL

AUDIT OF USAID/LEBANON'S RULE OF LAW PROGRAM

AUDIT REPORT NO. 6-268-10-006-P
August 24, 2010

CAIRO, EGYPT



Office of Inspector General

August 24, 2010

MEMORANDUM

TO: USAID/Lebanon Director, Denise A. Herbol

FROM: Regional Inspector General/Cairo, Jacqueline Bell /s/

SUBJECT: Audit of USAID/Lebanon's Rule of Law Program (Report No. 6-268-10-006-P)

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

The report includes 14 recommendations for your action. On the basis of actions taken by the mission and supporting documentation provided, management decision has been made on all 14 recommendations. The mission took final action on Recommendations 1, 3, 5, 9, 10, 11, 12, and 13. Please provide the Audit Performance and Compliance Division in the USAID Office of the Chief Financial Officer (M/CFO/APC) with the necessary documentation to achieve final action.

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

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SUMMARY OF RESULTS

According to USAID/Lebanon, Lebanon's judiciary has not had the resources it needs for more than 30 years. The judiciary's overwhelming number of cases and urgent need for more and better-trained judges has challenged this judicial system. Moreover, the independence of the judiciary in Lebanon has been historically weakened by the authorities vested in the Government of Lebanon's executive branch. International standards for separation of the judicial, legislative, and executive branches are not the norm in Lebanon. The Lebanese executive branch of government includes the President, Prime Minister, and cabinet of ministers. Within the judicial branch, the Supreme Judicial Council is a 10-member council that is responsible for appointing, promoting, and transferring judges but is subject to the approval of the Minister of Justice. The Minister of Justice, as a member of the executive branch, approves the appointments made by the Supreme Judicial Council, but the council, as a part of the judicial branch, is supposed to function independently. On an institutional level, the President and the cabinet jointly approve appointment of 8 of the 10 council members. To encourage judicial independence and promote an effective court system, USAID/Lebanon launched the Strengthening the Independence of the Judiciary and Citizen Access to Justice in Lebanon Project in 2007.

USAID/Lebanon awarded a 3-year, \$8.2 million cost-plus-fixed-fee completion task order¹ to the National Center for State Courts (NCSC) to implement a rule of law project, beginning December 11, 2007, and planned to end on December 9, 2010 (Appendix III). USAID awarded this task order under an indefinite-quantity contract to NCSC that USAID/Egypt had competed previously to help regional missions in the Middle East implement their strategic objectives in the area of justice. NCSC designed its rule of law program, with one broad objective and three components, to increase the effectiveness and independence of the Lebanese judicial system with (1) better educated judges, (2) more efficient and transparent courts and legal processes, and (3) frameworks that support judicial independence and impartiality.

As of December 2009, USAID/Lebanon had a portfolio of programs with an estimated value of \$201 million in education, economic growth, democracy and governance, and reconstruction and wastewater projects. The democracy and governance portfolio is valued at \$74 million or approximately 37 percent of the mission's entire portfolio. Within USAID/Lebanon's democracy and governance portfolio, the Strengthening the Independence of the Judiciary and Citizen Access to Justice in Lebanon Project is the only rule of law program and makes up 11 percent of the value of the mission's democracy and governance portfolio. From December 11, 2007, to December 31, 2009, USAID/Lebanon modified the task order seven times and expended \$4.5 million—more than half of \$8.2 million of obligated funds—for its rule of law program activities. Of the total, USAID/Lebanon expects to pay at least \$1.9 million—\$678,000 for renovation and refurbishment activities at a court building and \$1.2 million at a building planned to become a judicial training facility.

¹ A cost-plus-fixed-fee completion task order is a contract that requires the contractor to complete and deliver a specified end product as a condition for the payment of a fixed fee.

The Regional Inspector General/Cairo conducted this audit as part of its fiscal year (FY) 2010 annual audit plan. The audit was designed to answer the following questions:

- Is USAID/Lebanon's rule of law program achieving its main goal of increasing the effectiveness and independence of the Lebanese judicial system?
- Did USAID/Lebanon's program reports provide stakeholders with complete and accurate information on the progress of the activities and the results achieved?

USAID/Lebanon's rule of law program is not achieving its main goal of increasing the effectiveness and independence of the Lebanese judicial system, and reported results have been inaccurate. To achieve the main goal, the implementer had planned to complete activities under eight major tasks. According to NCSC officials, judicial independence is the task most critical to achieving the main goal of the program. Under this task, the implementer did not complete any activities on legal journalism and cancelled two of the activities planned for developing consensus for institutional judicial independence between the Ministry of Justice and Supreme Judicial Council. The two activities included a regional colloquium on judicial independence and an assessment for a judges' association, and they were cancelled because of a lack of support from Lebanese Government officials.

Moreover, from January 2008 to December 2009, the program completed 50 percent of its activities. In fact, the \$8.2 million program achieved only 7 percent of its results in 2008 and 43 percent of the results in 2009 (page 7). In addition, USAID/Lebanon significantly overstated results for 10 of 12 of the program performance measures that the mission reported to Congress and stakeholders during FY 2008 and 2009 (page 25).

In attempting to achieve the goal of its rule of law activities, USAID/Lebanon and its implementer experienced numerous difficulties that resulted in increased costs and questioned costs valued at approximately \$231,000 (pages 15, 17). USAID/Lebanon's activities suffered primarily for the following reasons:

- The mission did not perform adequate management oversight of activities (pages 11, 22).
- The implementer did not perform renovation activities required by the Federal Acquisition Regulation (page 11).
- The mission paid for activities outside of the scope of work (page 18).

The mission could have put funds to better use and saved more than \$160,000 by increasing oversight of costs for project supervision, negotiating prices for contracting services, and selecting lower-priced materials suitable for the function of buildings in refurbishing a model Lebanese court and judicial training center valued at \$1.9 million (page 15).

Moreover, USAID/Lebanon used program funds valued at \$71,000 to pay questioned costs (1) for costs that were incurred prior to task order modification (page 17), (2) for activity expenses that were outside the scope of work (page 18), and (3) ineligible or unallowable staff fees and benefits (page 20).

Consequently, the first 2 years of project implementation were hampered by inadequate implementer management, weak mission oversight, staffing losses because of dismissals and resignations, and a 6-month work stoppage by the Government of Lebanon (page 8).

USAID/Lebanon has the potential to better protect the U.S. Government's investment in its rule of law activities by strengthening various management controls over the program activities. The controls include:

- Taking measures to ensure sustainability on building uses (page 9)
- Providing more oversight of renovation and refurbishment work (page 11)
- Ensuring that funding requests and expenditures are appropriate (pages 16, 17)
- Developing negotiation points for tax exemptions (page 21)
- Strengthening program oversight of contractor's performance (page 22)
- Ensuring that the mission reports provide accurate and complete information to stakeholders (page 24).

The audit's scope and methodology are described in Appendix I.

The report includes 14 recommendations. On the basis of actions taken by the mission and supporting documentation provided, management decision has been made on all 14 recommendations. The mission took final action on Recommendations 1, 3, 5, 9, 10, 11, 12, and 13. Management's comments are included in their entirety in Appendix II.

Abbreviations

The following abbreviations are used in this report:

COTR	contracting officer's technical representative
FAR	Federal Acquisition Regulation
FY	fiscal year
GAO	U.S. Government Accountability Office
JTI	Judicial Training Institute; the training institute
NCSC	National Center for State Courts
RIG	Regional Inspector General

AUDIT FINDINGS

Is USAID/Lebanon’s rule of law program achieving its main goal of increasing the effectiveness and independence of the Lebanese judicial system?

USAID/Lebanon’s rule of law program is not achieving its main goal of increasing the effectiveness and independence of the Lebanese judicial system. To achieve the main goal, USAID/Lebanon’s implementer, the National Center for State Courts (NCSC), had planned to complete activities under eight major tasks. According to NCSC officials, judicial independence is the task most critical to achieving the main goal of the program. Under this task, the implementer did not complete any activities on legal journalism and cancelled two of the activities planned for developing consensus for institutional judicial independence between the Ministry of Justice and Supreme Judicial Council. The two activities included a regional colloquium on judicial independence and an assessment for a judges’ association, and they were cancelled because of a lack of support from Lebanese Government officials.

In addition, from January 2008 to December 2009, the implementer completed only 10 of 56 (18 percent) of its rule of law activities and 18 of 56 (32 percent) of planned activities that experienced delays ranging from 1 to 12 months. NCSC did not complete 25 of 56 (45 percent) of its activities and canceled 3 of 56 (5 percent) of the activities during this timeframe, as shown in Table 1 and Appendix IV. The rule of law activities consisted primarily of training, assessments, and two refurbishment and renovation activities. The implementer’s revised performance monitoring plans and work plans showed that the program had achieved only 7 percent of its results during 2008 and 43 percent of its results during 2009, as shown in Table 2 and Appendix V. The audit verified that the program had not achieved any results during fiscal year (FY) 2008 and had achieved only three of five results during FY 2009, as reported in USAID/Lebanon’s Full Performance and Plan Report and shown in Table 3 (page 25).

Table 1. Status of Work Plan Activities Tested for Calendar Years 2008 and 2009

	2008 Activities	Percentage Achieved	2009 Activities	Percentage Achieved	Total No. of Activities	Percentage Achieved
Completed as planned	4	13	6	24	10	18
Completed with delays	9	29	9	36	18	32
Not completed	17	55	8	32	25	45
Canceled	1	3	2	8	3	5
TOTAL	31	100	25	100	56	100

Table 2. Status of Indicator Results* for Calendar Years 2008 and 2009

	2008 Indicators	Percentage Achieved	2009 Indicators	Percentage Achieved	Total No. of Indicators	Total Percentage Achieved
Number of indicator results achieved	3	7	18	43	21	24
Number of indicator results not achieved	42	93	24	57	66	76
TOTAL	45	100	42	100	87	100

*Unaudited implementer data as updated for the audit in February 2010.

Although the program has made progress since replacing two key personnel in mid-2009, the program has faced numerous difficulties in achieving its main goal. USAID/Lebanon reported positive and negative program results for its rule of law program during 2008 and 2009 for eight tasks to develop the capacity of the training institute, enhance judicial independence, improve court administration, improve access to justice, provide grants, and develop a long-term strategic plan for the Lebanese judicial sector. Although USAID/Lebanon reported some of the program's achievements, the mission acknowledged some of the reasons that limited the accomplishment of its goal (see Appendix IV).

The first 2 years of program implementation were hampered by a shift in program focus on renovation tasks that were not critical; loss of credibility with and resistance from some Lebanese counterparts; staffing losses resulting from employee dismissals and resignations; lack of program leadership by the implementer; and significant program revisions. Although USAID/Lebanon's rule of law program was designed to increase the effectiveness of the Lebanese judicial system with better trained judges, Lebanese Government officials did not need some of the training activities because another international donor was conducting similar trainings. Moreover, some activities fell behind schedule because of weak management by the implementer, inadequate oversight by USAID/Lebanon, and the formation of a new government following parliamentary elections that delayed government business for 6 months

For 2 years, USAID/Lebanon and its implementer have proceeded slowly in conducting rule of law activities within Lebanon. Although the implementer completed about 50 percent of its rule of law activities, at a cost of \$4.5 million, the implementer has planned to expend much of the USAID funds (\$1.9 million) on construction and has revised some of the planned training activities because of insufficient planning. For the program to be successful, USAID/Lebanon will need to strengthen its internal controls and attention to management reviews over administrative and program activities and documentation. Specifically, USAID/Lebanon should take the following actions:

- Ensure sustainability of and commitment to program activities
- Strengthen oversight over renovation activities
- Ensure that funding requests are appropriate
- Strengthen management controls over expenditures

- Negotiate tax exemption for USAID-funded property
- Strengthen program oversight
- Strengthen its data reporting

USAID/Lebanon Should Obtain Commitment From Beneficiaries

The Department of State and USAID's joint *Strategic Plan, Fiscal Years 2007–2012* discusses the concept of *transformational diplomacy* as a relationship wherein U.S. assistance plays a catalytic role in supporting a host country's national vision for advancement. However, the primary responsibility for achieving transformation ultimately rests with the developing nation's leadership and citizens. Lasting economic, social, and democratic progress—through a transformation of institutions, economic structures, and human capacity—can begin with USAID development, but host countries, as benefactors, will need to sustain further advances on their own. USAID programs are expected to help move countries through the development process that leads to their graduation from U.S. foreign assistance.

Also, Automated Directives System 596.3.1, "Establishing Internal Controls," states that USAID managers and staff must develop and implement appropriate, cost-effective internal controls toward management that produce results. These controls include appropriate documentation. The U.S. Government Accountability Office's (GAO) *Standards for Internal Control in the Federal Government*² states that all transactions and other significant events need to be clearly documented, and the documentation should be readily available for examination.

While USAID/Lebanon's rule of law program supports transformational diplomacy structurally, USAID/Lebanon did not obtain a written commitment from the Ministry of Justice for the use of renovated JTI facilities for its intended purposes. In 2009, Lebanon's Supreme Judicial Council administered the first examination in 4 years and selected 15 judge trainees to enter the training institute.³ However, the council has not yet identified viable candidates for the continuing training program.

In December 2008, the Lebanese Ministry of Justice entered into a lease agreement with a private owner to rent five floors in an apartment building. Although the lease agreement was not specific about the intended use of the building, USAID/Lebanon expects to expend approximately \$1.2 million to refurbish the space to be used as the new training institute. At the request of the JTI director, USAID/Lebanon agreed to modify its NCSC task order to add \$1.5 million,⁴ partly to refurbish five floors of an eight-floor structure, and to renovate classrooms, offices, a kitchen, bathrooms, and an archive room, and provide IT equipment⁵ in a computer training room. The renovations

² GAO/AIMD-00-21.3.1 (11/99), page 15.

³ Within the country, a law school graduate who aspires to become a judge may receive specialized judicial training and graduate within 3 years.

⁴ The mission approved Task 8 in June 2009 at an estimated cost of \$1.5 million, which would include costs for furnishing and equipment for the training institute and court.

⁵ USAID/Lebanon plans to purchase IT equipment that includes computers, printers, and servers and furnishings valued at approximately \$212,000 for the training institute.

also included demolition and alterations, concrete work, masonry, flooring, and electrical and mechanical work.



**This eight-story building will be used for the Judicial Training Institute in Beirut, Lebanon.
(Photograph taken by RIG/Cairo auditor, February 2010.)**

Although the Government of Lebanon and the private owner entered into a lease, the agreement does not restrict the transfer of the use of the facility to another Lebanese Government office. Consequently, use of the training institute may be transferred to another governmental body, and it may be used for purposes other than judge training, for which USAID/Lebanon has expended funds. For the past 36 years, since 1974, the Government of Lebanon has leased the building but has transferred it among ministries. In fact, the Ministry of Agriculture had used the leased building prior to transferring it to the Ministry of Justice. Moreover, as a part of the lease agreement, although the Ministry of Justice (as the lessee) has the right to alter the building, the building owner may require the lessee to return the property to its original condition at the lessee's expense, upon vacating. The Ministry of Justice might be responsible for returning the building to its original condition as apartments.

In March 2009, USAID/Lebanon's implementer suggested that USAID/Egypt's Regional Contracting Office⁶ obtain the Ministry of Justice's and the training institute's commitment to the long-term use of the facilities. Although the Ministry of Justice gave NCSC a verbal commitment that the ministry would use the renovated building long term for judicial training, the Regional Contracting Office did not adequately address the issue raised by the implementer. USAID/Lebanon never entered into a memorandum of understanding or agreement to document the Ministry of Justice's guarantee that the U.S. Government's investment of \$1.2 million for refurbishments would be used as intended for the training institute.

U.S. taxpayers' investments of foreign aid in developing countries should be justifiable and sustainable to ensure that lasting economic, social, and democratic progress occurs through a transformation of institutions, economic structures, and human capacity. Judicial training is an essential component of USAID/Lebanon's rule of law program to

⁶ USAID/Egypt's Regional Contracting Office is responsible for contracting actions for USAID/Lebanon.

increase the effectiveness and independence of the Lebanese judicial system. However, without assurance that the facilities will be used as planned, the U.S. Government's investment could be jeopardized. Since USAID/Lebanon did not obtain any written commitment from Lebanese Government officials regarding the renovated building, USAID/Lebanon cannot be assured that the training institute will be used as intended. Consequently, the audit recommends the following:

Recommendation 1. *We recommend that USAID/Lebanon develop a memorandum of understanding with the Government of Lebanon's Ministry of Justice regarding a commitment to use the Judicial Training Institute for a specific time for its intended purpose and document the results of any disagreements.*

USAID/Lebanon Should Strengthen Oversight of Renovation Activities

The FAR prescribes policies and procedures for acquisitions of supplies and services with federally appropriated funds. FAR Part 36, "Construction and Architect-Engineer Contracts," documents policies and procedures regarding contracting for construction and architect-engineer services. The guidance requires the use of certain clauses and standard forms that are applicable to contracts for dismantling, demolishing, or removing improvements. In addition, according to FAR Subpart 36.6, "Architect-Engineer Services," the Federal Government's policy is to negotiate architect-engineer services contracts on the basis of the demonstrated competence and qualifications of prospective contractors to perform the services at fair and reasonable prices. Moreover, GAO's *Standards for Internal Control in the Federal Government*⁷ states that internal control should generally be designed to assure that ongoing monitoring occurs continually as an integral part of the agency's operations, including regular management and supervisory activities, comparisons, and reconciliations.

During August 2008, NCSC asked USAID/Lebanon to add more activities to the task order that would be formally approved by its regional contracting officer. After much discussion about the refurbishment of the facilities, in June 2009 the regional contracting officer modified the NCSC task order to add refurbishment activities for two facilities in Lebanon's capital—the Beirut Judgment Executions Court and the training institute. The total estimated cost of the renovations and refurbishments at both buildings is \$1.9 million, approximately 23 percent of the total estimated cost of the rule of law program (see Appendix VI).⁸

⁷ GAO/AIMD-00-21.3.1 (11/99), page 20

⁸ Although the contracting officer modified the task order to add an additional \$1.5 million for the renovation work, the implementer plans to incur an additional \$400,000 for renovation work, furnishings, and equipment.



**The renovated Beirut Judgment Executions Court in Adlieh, Lebanon.
(Photograph provided by the USAID implementing partner, March 2010.)**



**The renovated Beirut Judgment Executions Court in Adlieh, Lebanon.
(Photograph provided by RIG/Cairo engineering consultants, March 2010.)**

Initially, USAID/Lebanon and NCSC had planned to furnish a few rooms dedicated to the training institute within the Ministry of Justice's facilities. But the mission's and implementer's plans changed after the JTI director requested that USAID refurbish five floors of privately owned rental property in a primarily residential area in Beirut. Although the regional contracting officer did not approve the task to prepare bid documents for construction until March 2009, the implementer hired an architect-engineer in November 2008 to assist in a tendering process, subcontracting, and monitoring the construction for the training institute. Also during November 2008, the implementer hired an architect-engineer to assist in developing architectural designs and bidding documents and provide construction oversight for the Beirut Judgment Executions Court.

USAID/Lebanon could have saved approximately \$160,000 if the implementer had negotiated fees and building material costs more thoroughly. The engineering consultants hired by RIG/Cairo reviewed and assessed the renovation and refurbishment activities performed under USAID/Lebanon's subcontracts for the rule of law program. RIG/Cairo's engineering consultants identified several problems regarding (1) management and supervision, including oversight of technical specifications, and (2) execution of the construction works that USAID/Lebanon and NCSC will need to address. The engineering consultants prepared a technical report that included numerous observations needing immediate action for correction. Specifically, the engineering consultants' report included 11 recommendations for specific improvements, which are summarized in Appendix VII.

Renovation Program Management and Supervision

- USAID/Lebanon paid somewhat higher than normal fees for the architect-engineer hired to supervise the refurbishment and renovation programs in relation to the value of job and type of work to be performed. NCSC could have decreased paid costs by \$30,000 by negotiating the architect-engineer's fees.
- Although NCSC had hired an architect-engineer with suitable technical qualifications for the required scope of work, the implementer did not ensure that management reviews were provided to electromechanical staff by qualified technicians trained in heating, air-conditioning, electrical, and plumbing services.
- NCSC's architect-engineer could have selected building materials suitable to the function of high-traffic areas. Selecting local building materials such as marble and ceramic tile could have reduced material costs by at least 25 percent (\$40,000). For example, the subcontractor used high-quality imported marble and porcelain for the floors in the model court, when a lower-quality product would have been less costly and just as suitable to the function of a high-traffic area.
- The NCSC architect-engineer allowed some changes to specifications for an air-conditioning system that will be more costly to court beneficiaries in the future. At the request of the Lebanese Ministry of Justice, the implementer changed the central air-conditioning system (chiller) to install individual units (a DX system). The change superficially reduced the initial system cost by \$26,000. Although the initial cost of a chiller system is higher than a DX system, the operational cost of a chiller system is less than a DX system by about 10 percent—making the chiller system a better choice, as shown in Appendix VIII.



Partial heating and air-conditioning ventilation work begun at the JTI in Beirut, Lebanon. (Photograph taken by RIG/Cairo Auditor, February 2010.)

- RIG/Cairo engineering consultants reported that all testing and commissioning for the electricity, air-conditioning, computer system, and plumbing at the Judicial Training Institute must be performed in accordance with international qualifications and codes. These required tests should be performed in the presence of both the construction project supervisor and the subcontractor.



Electrical wiring begun at the JTI in Beirut, Lebanon. (Photograph taken by RIG/Cairo Auditor, February 2010.)

Execution of the Construction Works

- NCSC did not negotiate contract prices with the general contractor and other contractors that had submitted proposals to reduce costs before selecting a contractor and making an award to perform the construction work for the model court and judicial training buildings.

- NCSC did not ensure that renovation costs were adequate, by comparing the high cost of work performed to the overall quality of work performed, which was slightly below required specifications. Costs for building materials could have been decreased by 10–15 percent, on the basis of current market prices as of April 2010, resulting in savings of approximately \$130,000 (11 percent). Consequently, total renovation costs, to date, have been higher. For example, NCSC paid over \$4,000—22 percent higher than market rates—for the masonry work, as illustrated in Appendix IX.



**Renovation work begun at the JTI in Beirut, Lebanon.
(Photograph taken by RIG/Cairo Auditor, February 2010.)**

Although a grand opening for the Beirut Judgment Executions Court was held in March 2010, the training institute was only 50 percent complete as of April 2010. The mission expected NCSC to complete the remaining construction by June 2010.

USAID/Lebanon’s construction at the training institute was beset with problems. USAID could have saved approximately \$160,000 if the implementer had negotiated costs and purchased alternative suitable materials. USAID/Lebanon and NCSC could not complete construction projects tasks on schedule because of construction delays, incomplete work performance, and inadequate supervision. The implementer stated that delays had occurred initially because the solicitation of the subcontractors needed to be rebid. The original solicitation had not complied with a FAR statute requiring that architect-engineer services contracts be negotiated on the basis of the demonstrated competence and qualifications of prospective contractors to perform services at fair and reasonable prices.

The U.S. Government’s investment of resources for renovation activities supporting USAID/Lebanon’s rule of law program should provide a return on investment. Although mission officials expect the costs for renovation activities, furnishings, and equipment to reach more than \$1.9 million, the total renovation costs could well exceed the estimate if management oversight is not strengthened. To prevent further delays and ensure that a quality product is delivered at the best price, the audit recommends the following:

Recommendation 2. *We recommend that USAID/Lebanon review the recommendations documented in the engineering consultant’s technical report,⁹*

⁹ See pages 6–8 of the engineering consultant’s technical report, *Technical Assistance for the Examination of the Status of Construction Work Funded by USAID for Two Facilities in Beirut, Lebanon*, April 28, 2010.

require the implementer to implement the recommendations, and document justifications for any deviations from the recommendations contained in the technical report.

USAID/Lebanon Should Ensure That Funding Requests Are Appropriate

USAID guidance on forward funding generally prohibits program managers from carrying obligations for more than 12 months beyond the end of the fiscal year in which the obligation takes place [ADS 602.3.2].¹⁰ However, Automated Directives System 602.3.3, “Exceptions to the Maximum Length of Forward Funding,” states that some flexibility is required to facilitate the execution of some activities, if compelling reasons exist. Operating unit directors have the authority to approve exceptions to the policy directives and required procedures, if compelling reasons exist and are documented. For example, an exception for new programs is made that allows full funding to be provided at the outset if a new program is under \$2 million. If a new program costs \$2 million or more, obligations must be sufficient to cover at least the first 18 months but not more than 24 months.

Although USAID/Lebanon had obligated \$4.7 million for its rule of law program, the mission had expended only \$317,000 prior to a modification to fully fund the task order in September 2008. Moreover, during the same period, the implementer had not completed many activities or achieved program results. Despite the program’s weak performance, in September 2008 the mission director approved a waiver that allowed USAID/Lebanon to fully fund the task order and provide advance funding to the rule of law program for more than 24 months. In a waiver request to the mission director, the COTR cited “major renovation” of the training institute and an “unanticipated opportunity to take a leadership role in an overall operational planning process for the entire [Ministry of Justice]” as compelling reasons for the waiver. After the mission director had signed the waiver for additional funding of the program, the regional Financial Management Office fully funded the program before the regional contracting officer had approved adding the two additional tasks in March and June 2009. Moreover, that office’s staff did not have the supporting contract documentation with the waiver to verify the propriety of the funding. Consequently, the waiver request was based on a false justification since the task order had not been modified.

A waiver to fully fund the rule of law program helped the mission in two ways. Using a waiver, USAID/Lebanon would be allowed to use 2007 Economic Support Fund supplemental funds to pay for the program in full and proceed with plans to add tasks to the program. Otherwise, if the mission did not use the supplemental funding or 2-year funds by September 2008, USAID/Lebanon would no longer be able to use the funds. Although the mission director approved the waiver, the regional contracting officer had not approved the mission’s request to modify tasks.

Since the implementer reported achieving only 7 percent of its planned activities during 2008, mission managers should be vigilant to exercise extreme caution in expending

¹⁰ The availability of funds to support future expenditures for a specified time period after a planned obligation. This definition of forward funding applies to the use of program funds. (ADS 602)

more funds on an unsuccessful program. Decisions to fully fund the program with little regard for achieving intended results increase the risk that scarce resources will be expended on programs with poor performance and few results. Therefore, the audit recommends the following:

Recommendation 3. *We recommend that USAID/Lebanon develop written procedures regarding the required support documentation that should accompany waiver requests for funding.*

USAID/Lebanon Should Ensure That Costs Are Appropriate

Automated Directives System 596.3.1, “Establishing Internal Controls,” states that managers must implement appropriate, cost-effective internal controls that reasonably ensure that obligations and costs comply with applicable laws and regulations. Moreover, these controls should reasonably ensure that assets are safeguarded against waste, loss, unauthorized use, or misappropriation.

USAID/Lebanon paid approximately \$71,000 for program expenses that included costs for unauthorized renovation activities and ineligible or unallowable staff fees and benefits. The mission relied on the COTR and implementer to review contractual and financial data for expenditures to ensure that they were consistent with the terms of the task order and properly supported. In this regard, USAID/Lebanon paid for some unauthorized renovation activities, unauthorized program activities, and questioned ineligible costs for implementer staff benefits.

USAID/Lebanon Authorized Expenditures for Unapproved Renovation Activities

Automated Directives System 634.3.2, “General Standards for Funds Control,” states that obligations and expenditures may not be authorized or incurred in excess of available funds.

USAID/Lebanon’s implementer, NCSC, had incurred \$37,600 for engineering services during 2008 before the regional contracting officer approved modifications authorizing the mission to incur costs for renovation activities in March 2009. The mission initially obligated \$4.6 million of \$6.7 million (70 percent) for program activities and wanted to include additional renovation activities for two Lebanese facilities. Modifications to the program required additional funding of \$1.5 million for two renovation/refurbishment projects at the Beirut Judgment Executions Court and at the training institute.

The original scope of work required the implementer to develop the capacity and the infrastructure of the existing training institute located in the Ministry of Justice’s building complex and to provide equipment, furniture, training, and technical assistance for the institute. The training institute at that time was a one-room facility that had a restroom two floors above the training room. In 2004, the Council of Ministers approved the

Ministry of Justice's use of another leased building as the new location for its training institute, and in 2008 the JTI director requested the mission's support for the refurbishment of the "new" facility that was to be renovated, to include classrooms and a computer lab on five of eight floors in the selected building.

Although the implementer had submitted a proposal and a budget for the refurbishment work for the two facilities, the regional contracting officer refrained from issuing a task order modification unless a review of the estimated costs for the refurbishment of the training institute was performed. Consequently, in March 2009, the regional contracting officer issued modification no. 4, which outlined the requirements for an assessment, cost estimates, and the procurement of a general contractor. NCSC had hired an engineer for the project, terminated the contract because of poor performance, and restarted the procurement for an architect-engineer, following instructions outlined in modification no. 4. During November and December 2008, NCSC made payments valued at \$37,600 to two engineers, including the terminated engineer, for both facilities. The implementer billed \$37,600 to USAID for services rendered by the two engineers during the period of November 1 to December 31, 2008, prior to the task order modification no. 4.

USAID/Lebanon and NCSC's management control activities have been inadequate. NCSC stated that the implementer's staff was not knowledgeable about federal regulations to procure engineering services. Furthermore, since funds had not been approved or obligated for engineering services, USAID/Lebanon should have requested that the implementer not begin any work or incur costs for any activities related to the refurbishment work until the regional contracting officer had appropriately and administratively issued a modification to the task order.

USAID mission managers are required to implement appropriate, cost-effective internal controls for results-oriented management to ensure the financial integrity of its programs. USAID/Lebanon must make sure that Agency funds are expended only for appropriately authorized activities. Program funds that were inappropriately expended could have been invested in approved activities for strengthening the judiciary in Lebanon. The audit recommends the following:

Recommendation 4. *We recommend that USAID/Lebanon ask the Regional Contracting Office to make a management decision regarding the allowability of questioned ineligible costs in the amount of \$37,600, paid prior to the task order modification no. 4, and recover amounts determined to be unallowable.*

Recommendation 5. *We recommend that USAID/Lebanon establish written procedures regarding actions required for approvals of activity expenditures and provide them to the implementer.*

USAID/Lebanon's Implementer Performed Unauthorized Program Activities

Automated Directives System 202.3.6.1, "Assessing Performance of Contractors and

Recipients,” states that the COTR¹¹ for direct procurement instruments must ensure that the implementing partner is performing in accordance with the terms contained in the contract or other agreements. It also states that COTR responsibilities for monitoring contractor performance may include reviewing and approving deliverables and performance reports.

From July 2008 to March 2009, NCSC inappropriately paid two subcontractors \$26,052 for legal journalism activities that were not part of the original scope of the task order for the rule of law program.¹² During 2008, NCSC’s chief of party proposed the activity to the Ministry of Justice without requesting an amendment to the task order from USAID/Lebanon. To carry out program activities, the implementer awarded to a local consultant a subcontract that included developing a means to formalize regular media access to court proceedings, advocate legal journalism training at universities, obtain the Ministry of Justice’s recognition of certified legal journalists, and work with the courts to establish rules for media access to court activities. In December 2008, the implementer awarded a second subcontract to another consultant to provide legal journalism training.

The legal journalism activities were politically sensitive because they allowed the media to criticize the judges and Ministry of Justice. In fact, the program was a source of contention between NCSC officials and the Minister of Justice. NCSC reported in its quarterly reports that a Lebanese newspaper editor’s association had sent letters of protest to the U.S. Ambassador and USAID/Lebanon’s mission director for not being invited to a program event. Moreover, the association publicized objections to professionalizing legal journalism and the exclusion of the association from the mission’s rule of law program. Consequently, the NCSC deputy chief of party terminated both subcontracts between February and March 2009, and the NCSC’s chief of party cancelled the journalism activities.

USAID/Lebanon did not exercise prudent management controls to safeguard program assets against waste and unauthorized use. USAID/Lebanon’s COTR stated that the rule of law program was monitored by mission staff who participated in meetings and had other communications with the implementer’s field and home office staff. Although NCSC had reported in its work plans that the implementer was pursuing legal journalism activities and that NCSC’s staff had informed the mission’s COTR about the local protests over the legal journalism activities, USAID/Lebanon’s mission staff approved payments for unauthorized activities that beneficiaries did not want.

Agency policy requires managers to establish controls to ensure that assets are safeguarded against waste. Since mission managers did not conduct adequate management reviews at the various levels of the program, USAID/Lebanon paid for activities that were outside the scope of the task order and that the benefactors did not desire for its rule of law activities. These resources could have been better invested in more relevant activities to advance the program’s objective. Consequently, because legal journalism was not a part of the scope of work for USAID/Lebanon’s rule of law

¹¹ The Automated Directives System (ADS) 202 (revised September 1, 2008) uses the title “cognizant technical officer” (CTO), which this report replaces with the title “contracting officer’s technical representative” (COTR), in accordance with USAID policy (USAID/General Notice, “Revisions to Cognizant Technical Officer (CTO) Policy,” Notice 15970, January 23, 2009).

¹² As of the billing period ending on November 30, 2009, NCSC had billed USAID \$22,902 for legal journalism activities.

activities, the audit recommends the following:

Recommendation 6. *We recommend that USAID/Lebanon ask the Regional Contracting Office to make a management decision regarding the allowability of questioned ineligible costs in the amount of \$26,052 and recover all amounts determined to be unallowable.*

*USAID/Lebanon Paid
Ineligible Charges for Staff Benefits*

NCSC's Subcontract SC-07-06, Section A.6, with its subcontractor, America-Mideast Educational and Training Services, Inc. (AMIDEAST)¹³ states that overtime and premium pay are not authorized and defines the work week as Monday to Friday. Given 52 weeks per year and a 5-day work week, a work year constitutes only 260 workdays.

NCSC hired the nonprofit organization AMIDEAST as a subcontractor to help implement USAID/Lebanon's rule of law program. On December 21, 2007, NCSC awarded AMIDEAST a \$1,638,151 contract to provide a consultant as a senior judicial training adviser for 24 months and a full-time local staff person as a training and grants manager. The consultant managed the refurbishment and renovation activities for the training institute and was also responsible for managing training activities and a grants program to enhance public engagement, support reform activities, and foster a culture of respect for rule of law.

During a 12-month period from March 3, 2008, to February 28, 2009, NCSC overpaid the AMIDEAST consultant by \$7,010 for 273 workdays. The consultant—who was also the NCSC deputy chief of party—had not been authorized to perform work in excess of 260 workdays. AMIDEAST billed NCSC \$147,216 for 273 workdays, which included direct-charged labor plus absences. Of the 273 workdays, the subcontractor billed 236 direct workdays to the program and paid the staff person a salary of \$122,146. In addition, AMIDEAST billed NCSC 37 days in absences, valued at \$25,070, as an indirect cost. The 37 days of absences included 15 days for rest and recuperation, 10 regular U.S. holidays, and 12 local holidays. As a result, AMIDEAST overcharged NCSC for \$7,010 in direct and indirect labor costs for 13 days more than authorized, as illustrated in Appendix X.

AMIDEAST budgeted \$122,662 for the consultant's salary on the basis of 238 workdays for 2008. In 2009, AMIDEAST budgeted \$140,700 for the consultant's salary for 260 workdays for the year. According to AMIDEAST's director of accounting, the budgeted salaries for both years included direct-charged labor plus absences. The implementer's reviews of the subcontractor's invoices did not prevent or detect errors that invoice costs for staff benefit payments were allocable or allowable.

Management control activities for USAID programs and operations should be effective

¹³ USAID/Lebanon has also hired AMIDEAST under two agreements to implement a grants program and a professional training program, valued at \$11 million.

and efficient. These controls include reviews by management of activities such as approvals, authorizations, verifications, and reconciliations. USAID/Lebanon and its implementers share a critical role to ensure, among other things, that transactions are allowable, reasonable, and properly supported. Since questioned costs unnecessarily decreased available resources for other program activities, this audit recommends the following:

Recommendation 7. *We recommend that USAID/Lebanon ask the Regional Contracting Office to make a management decision regarding the allowability of questioned ineligible costs of \$7,010 and recover all amounts determined to be unallowable.*

Recommendation 8. *We recommend that USAID/Lebanon request an agency-contracted audit of the implementer's locally incurred costs to determine whether the recipient complied, in all material respects, with contract terms.*

USAID/Lebanon Should Develop Negotiation Points for Tax Exemptions for USAID-Funded Property

USAID/Lebanon operates its programs under a technical cooperation agreement that the Governments of the United States and Lebanon signed in 1951. The agreement offers customs duties exemption privileges to USAID and the Department of State staff but does not provide tax protection to implementers of U.S. Government programs. Accordingly, implementers have no protections from payment of local taxes, customs duties, or levies. Although Automated Directives System 155.3.2, "Tax Exemptions," sets forth USAID's general policy that USAID assistance should be exempt from host government taxes and customs duties, the policy is not self-executing. The policy states that operating units must negotiate exemptions with a host government to include exemption clauses in bilateral agreements, strategic objectives grant agreements, and other agreements.

On June 17, 2009, USAID/Lebanon signed a memorandum of understanding with the Ministry of Justice to provide, among other things, exemptions from local taxes and customs duties for commodities associated with the rule of law program. However, NCSC encountered difficulties for the exemption because the Ministry of Finance has authority over taxation matters, and the Government of Lebanon does not recognize the memorandum of understanding. The implementer did not receive a tax exemption from the Ministry of Finance until June 2009, a year and half into the implementation of the program.

According to the implementer, NCSC experienced difficulties securing tax and customs duties exemptions from the Government of Lebanon; as a result, the implementer reported the payment of \$3,952 in value-added taxes for program purchases over \$500 for FY 2008. In addition, the implementer issued two subcontracts for the refurbishment of the Judicial Training Institute and the Beirut Judgment Executions Court with value-added taxes to be paid to local authorities amounting to \$52,655.

In the past, attempts to negotiate exemptions for USAID/Lebanon programs have been

unsuccessful. The regional legal advisor stated that these negotiations failed because the Government of Lebanon has been reluctant to sign a bilateral agreement, most likely because it does not want to grant tax exemptions. The regional legal advisor stated that until a bilateral agreement is successfully brokered, the mission's contracting officials should allow the payment of value-added tax, on a case-by-case basis, if it is evident that the implementer exhausted all possible venues to avoid the payment of value-added taxes.

Historically, the U.S. Congress has expressed concern that U.S. assistance in developing country populations not be diverted to the treasuries of foreign governments.¹⁴ Since value-added taxes are revenues based on local purchases sometimes valued at millions of dollars, these tax payments decrease the availability of scarce resources for program activities. Therefore, this audit reinstates a prior audit finding,¹⁵ as follows:

Recommendation 9. *We recommend that USAID/Lebanon, in cooperation with the regional legal advisor, develop written procedures for negotiations to protect USAID-funded property from being subjected to taxes and customs duties imposed by the host country government.*

Recommendation 10. *We recommend that USAID/Lebanon, in cooperation with its Regional Contracting Office, develop written procedures for incurring costs for taxes and customs duties imposed by the host country government.*

USAID/Lebanon Should Strengthen Program Oversight

In USAID's Automatic Directives System (ADS) Chapter 302, *Procedures for Designating the Contracting Officer's Technical Representative (COTR) for Contracts and Task Orders*¹⁶ states that the COTR is in a unique position to monitor the contractor's performance and is delegated authorities that are otherwise vested in the contracting office. The COTR is expected to monitor the contractor's performance, verify that it conforms to the technical requirements and quality standards, and document and elevate any material deficiencies in the contractor's performance to the contracting office. Accordingly, the COTR's approval of implementation plans, work plans, or monitoring or evaluation plans must be consistent with the terms and conditions of the contract.

During the life of the rule of law program, two USAID/Lebanon staff served as the COTRs for the mission's rule of law program. However, neither staff member sufficiently reviewed the implementer's activities, for several reasons. According to the implementer, USAID/Lebanon's previous COTR seldom visited the implementer during

¹⁴ GAO, "Foreign Assistance: USAID and the Department of State Are Beginning to Implement Prohibition on Taxation of Aid," Report No. GAO-04-314R, February 20, 2004.

¹⁵ In a previous audit, , RIG/Cairo recommended that USAID/Lebanon consult with the regional legal advisor on measures needed to protect USAID-funded property from being subjected to taxes and customs duties imposed by the host country government ("Audit of USAID/Lebanon's Lebanon Education Assistance for Development Program," Audit Report No. 6-268-09-005-P, July 14, 2009).

¹⁶ A mandatory reference for ADS 302, "USAID Direct Contracting," ADS 302.4.2q.

2008 and 2009. Further, because of the disruption of staffing changes, USAID/Lebanon did not verify the implementer's reported results or maintain documentation of significant program management decisions. Instead, the COTRs relied in part on reading quarterly reports to obtain information about the program activities. In numerous examples during 2008 and 2009, the mission's COTRs were not aware that planned activities had not occurred and did not know the reasons for delays.

Moreover, although USAID/Lebanon measured the results of the program primarily by reading the implementer's performance monitoring plans, the implementer's reports were not consistent or complete. Specifically, the audit found that:

- From 2008 to 2009, the implementer dropped 42 of 45 indicators from the work plan. During 2009, the implementer reported on 43 indicators, of which 40 (93 percent) were newly established indicators.
- The implementer reported on a calendar year basis rather than USAID's fiscal year basis. This problem was corrected for FY 2010.
- In its quarterly reports, the implementer did not clearly indicate whether actual data were cumulative or only for the quarter. The implementer also did not report on annual or life-of-program data because reporting this data was not required.
- USAID/Lebanon did not verify the performance monitoring plan data. The current COTR did not verify reported data or request to see supporting documentation for reported results.

The mission did not ensure that documentation of significant management decisions was maintained for the program to provide continuity. Although the prior USAID/Lebanon COTR had insisted that numerous write-ups from meetings had been left at the mission after a staff reassignment, the current COTR stated that only two meeting write-ups with the implementer could be found for the period from December 2007 to October 2009. Since the COTR had very limited knowledge about the rule of law program, many of the historical management decisions were not available. When the staff person tried to locate and open electronic program files, the electronic folder of information could not be accessed.¹⁷

Furthermore, the current COTR did not know many details regarding the program and did not know the history of the program, details of specific work plan activities, reasons for delays for the renovation and refurbishment activities, or reasons for the modifications to the task order. Although the mission's regional contracting officer had designated the current COTR as an alternate in February 2009, the COTR had limited knowledge of the program prior to October 2009.

Compounding the problems that kept USAID/Lebanon from achieving program goals were the significant staffing issues that occurred during FY 2009. The mission cited budget increases and inadequate staff as reasons for insufficient program management. Frequent turnover of key managers at USAID/Lebanon and NCSC also deterred the program. During the program implementation, USAID/Lebanon's mission director and

¹⁷ Although the COTR stated that he had left behind his electronic files in directories, the current representative could find only limited information regarding the program prior to October 2009.

COTR changed during October 2008 and October 2009, respectively. NCSC reassigned the program director in November 2008 and terminated the chief of party in February 2009. The positions for chief of party and a task manager, who were responsible for key functions and six of eight major tasks, were vacant for up to 3 months during this transition.

USAID/Lebanon's internal controls over the program were not adequate to ensure that historical data for continuity and review were maintained for proper accountability over its records. Because the American people entrust the stewardship and management of public funds to USAID, mission management must ensure that program oversight addresses problems that may impede desired results and weaken accountability and credibility. When mission staff participate directly with implementers, managers can identify and resolve performance issues promptly. Although the implementer anticipates needing a program extension to complete work, further expenditures are questionable since USAID/Lebanon's rule of law program has produced few if any results in the first 2 years of a 3-year program. Consequently, the audit recommends the following:

Recommendation 11. *We recommend that USAID/Lebanon develop and document a checklist of required information to monitor completion of work plan activities.*

Recommendation 12. *We recommend that USAID/Lebanon develop written procedures for access requirements, transfer, and maintenance of electronic program files.*

Recommendation 13. *We recommend that USAID/Lebanon document and publicize requirements for its electronic records retention and link them to an official staff-departure checklist.*

Did USAID/Lebanon's program reports provide stakeholders with complete and accurate information on the progress of the activities and the results achieved?

USAID/Lebanon's program reports on its rule of law program did not provide stakeholders with complete and accurate information on the progress of activities and the results achieved. In USAID/Lebanon's FY 2008 and 2009 full performance plans and reports, USAID/Lebanon inaccurately and incompletely reported on 10 of 12 measures of performance tested.

USAID/Lebanon Should Strengthen Its Data Reporting

Under ADS 203.3.5.1, "Data Quality Standards," USAID missions should ensure that performance data meet five data quality standards—validity, integrity, precision, reliability, and timeliness. USAID missions should ensure that data quality standards are met so that performance data are useful in managing for results and credible for reporting. Moreover, USAID's Performance Management Toolkit provides guidance to

operating units to periodically sample and review the implementing partner's data to ensure completeness, accuracy, and consistency.

To monitor the program, the current USAID/Lebanon COTR did not measure progress or results against the scope of work and work plan. Without comparing specific work plan activities to the quarterly reports, the mission could not be assured that its reports were accurate, that specific activities were completed on time, or that intervening actions were necessary. In response to audit requests for verifiable information during the audit, the COTR created a chart to track pertinent information and completion dates for FY 2010 work plan activities to use for program management and monitoring.

In USAID/Lebanon's FY 2008 and 2009 performance reports to USAID/Washington, USAID/Lebanon inaccurately reported on 10 of 12¹⁸ measures of performance that RIG/Cairo had tested and verified, as shown in table 3.

Table 3. Full Performance Plan and Report for Judicial Independence (FY 2008–2009)

	Performance Indicator	FY 08 Target	Actual Reported	Verified	Achieved	FY 09 Target	Actual Reported	Verified	Achieved
1	Number of judges trained	None	5	0	No	40	264	155	Yes
2	Number of women	None	2	0	No	15	132	84	Yes
3	Number of men	None	3	0	No	25	132	71	Yes
4	Number of campaigns and programs to enhance public understanding, NGO support, and media coverage of judicial independence and accountability	None	4	0	No	8	4	5	No
5	Number of laws, regulations, and procedures related to judicial independence	None	1	0	No	2	1	0	No
6	Number of merit-based criteria or procedures for justice sector personnel selection adopted	None	0	0	No	Dropped	Dropped	Dropped	Dropped
7	Number of regulations or procedures that improve judicial transparency adopted	None	0	0	No	Dropped	Dropped	Dropped	Dropped

In USAID/Lebanon's *Fiscal Year 2008 Full Performance Plan and Report*, the mission reported positive results for five of seven measures of performance tested and no results for two of the performance measures. However, the audit found that no results were actually achieved for any of the mission's performance measures during FY 2008. The five performance measures reported in FY 2008 were either achieved during FY 2009 or did not meet the definition¹⁹ established by the State Department's Office of the Director of U.S. Foreign Assistance. Specifically:

¹⁸ For the 2 fiscal years, USAID/Lebanon reported on 7 performance indicators in FY 08 and 5 performance indicators in FY 09.

¹⁹ U.S. Department of State, "Governing Justly and Democratically—Indicators and Definitions," *Standard Foreign Assistance Indicators*, <http://www.state.gov/f/indicators/index.htm>.

- During FY 2008, USAID/Lebanon reported that five judges had been trained with U.S. Government assistance through a study tour. However, the study tour that took place in Egypt did not occur until October 2008 (during FY 2009).
- USAID/Lebanon also reported that the mission had conducted four U.S. Government-assisted campaigns and programs to enhance public understanding, nongovernmental support, and media coverage of judicial independence and accountability. All four events occurred early in the subsequent reporting period, FY2009.
- USAID/Lebanon reported that one law, regulation, or procedure related to judicial independence was supported with U.S. Government assistance. The mission reported on a roundtable meeting to discuss the drafting of a judicial code of ethics that had occurred in November 2008. By definition, the law, regulations, or procedures must be official and must have been passed in accordance with the country's legal requirements. The Government of Lebanon neither passed the code of ethics nor made it official.

In USAID/Lebanon's *Fiscal Year 2009 Full Performance Plan and Report*, the mission inaccurately and incompletely reported on all five of its performance measures. The reported numbers did not take into account the events that had occurred in the first quarter of FY 2009 or did not meet the established definitions. The numbers also included double-counting of trained individuals. Specifically:

- USAID/Lebanon reported that 264 judges were trained with U.S. Government assistance during FY 2009. However, the NCSC report double-counted and triple-counted individuals as well as "judge trainees" who were not officially judges. The implementer also counted judges twice for one training session. Furthermore, this figure did not include a study tour that had occurred in the first quarter of FY 2009. The net result reveals that the mission over-reported the number of judges by 70 percent in FY 2009. Supporting documentation showed that the program had trained 155 judges, not 264 judges. Consequently, the mission also over-reported the number of male and female judges trained, by 86 and 57 percent, respectively.
- USAID/Lebanon reported four U.S. Government-assisted campaigns and programs to enhance public understanding, nongovernmental support, and media coverage of judicial independence and accountability. The definition states that campaigns include all organized outreach activities intended to build support for a specific cause, relying, for example, on electronic media, print media, public meetings, or plays. However, two events were not consistent with the definition because they were closed to the public and were not outreach activities. Furthermore, the mission did not report some program activities, which included a press room reopening, legal aid training, and an awards ceremony, which occurred in early FY 2009.
- As in FY 2008, USAID/Lebanon reported that one law, regulation, or procedure related to judicial independence was supported with U.S. Government assistance in reference to a section of the code of ethics drafted for the Lebanese Government. However, the code of ethics was not officially passed in the Lebanese Government. As such, it does not meet the definition, and the mission should have reported that this indicator did not achieve any results.

NCSC's task managers did not track judges' attendance to verify that judges were not attending multiple training sessions within one another's areas of responsibility. The implementer did not have a central database to document participants by names, gender, and occupation for each training event. The implementer also had difficulty in obtaining signatures of senior judges who did not want to sign in at events. Instead, the implementer estimated those figures, resulting in incomplete and inaccurate data.

In January 2009, USAID/Lebanon hired a consultant to conduct a data quality assessment for the indicators that the mission had reported to USAID/Washington in FY 2008 and intended to report in FY 2009. The assessment reported that the indicator included "judge trainees," which is not consistent with the definition. It also noted potential errors for double-counting of trainees. The assessment recommended that "USAID ensure that the implementing partner understands the indicator definition." Although the COTR forwarded the data quality assessment and one of the definitions to the implementer, the implementer's staff did not recall receiving such information when reporting on FY 2009 indicators and was not aware that double-counting and inclusion of judge trainees were not allowed.

Moreover, in response to a prior audit in October 2008, the mission director issued a memorandum to the COTRs requiring the staff to visit implementing partners to sample and review their data for completeness, accuracy, and consistency.²⁰ Although the prior audit had recommended that the mission take corrective action, the problems regarding the mission's monitoring continued to persist. When the implementer e-mailed its results to be reported in the *Full Performance Plan and Report*, the COTR did not verify those results by requesting supporting documentation or conducting site visits to verify the information.

The purpose of performance reporting is to document the results achieved by the end of each fiscal year. USAID uses the information in its annual performance plan and financial report, and technical specialists at both the State Department and USAID use it to examine past performance. The Agency also communicates performance information to higher management levels and external audiences, such as Congress and the Office of Management and Budget. These examinations result in management decisions about future plans and are the basis for establishing future annual budgets.

Performance reports are a basis for budget decisions and are vital in presenting complete and accurate information. Since USAID/Lebanon reported inaccurate and incomplete data about its rule of law program, USAID/Washington officials were not aware that the program was not achieving results so that they could limit additional U.S. investment in the program. Accordingly, the audit makes the following recommendation:

Recommendation 14. *We recommend that USAID/Lebanon develop and implement a monitoring system to validate its reported data regularly.*

²⁰ "Audit of USAID/Lebanon's Democracy and Governance Activities," Audit Report No. 6-268-09-002-P, November 9, 2008.

EVALUATION OF MANAGEMENT COMMENTS

In response to the draft report, USAID/Lebanon agreed with eight recommendations and generally agreed with the remaining six recommendations. In preparing the final report, the Regional Inspector General/Cairo (RIG/Cairo) carefully considered management's comments. Management decision has been made on all 14 recommendations. The mission took final action on Recommendations 1, 3, 5, 9, 10, 11, 12, and 13.

To address Recommendation 1, USAID/Lebanon implemented corrective action. On July 29, 2010, USAID/Lebanon received a letter from the Minister of Justice confirming that the Judicial Training Institute will remain in use as a training institute for at least 5 to 6 years, until another facility is built. The mission has taken final action to address the recommendation.

In response to Recommendation 2, USAID/Lebanon agreed with the recommendation and sent the implementing partner a copy of the technical report with a request to implement the recommendations found in the report. The mission expects final action to be taken by August 31, 2010. Management decision has been reached on this recommendation.

To address Recommendation 3, USAID/Lebanon implemented corrective action. On August 17, 2010, the mission director issued a mission notice to establish guidelines regarding supporting documentation for forward funding waiver requests. The mission has taken final action to address this recommendation.

In response to Recommendation 4, USAID/Lebanon requested that the Regional Contracting Office make a management decision regarding the allowability of questioned ineligible costs in the amount of \$37,600. The mission expects final action to be taken by November 15, 2010. Management decision has been reached on this recommendation.

Regarding Recommendation 5, USAID/Lebanon issued a mission notice on August 17, 2010, regarding actions required for approvals of activity expenditures. The mission sent the notice to its implementing partners on August 17, 2010. The mission has taken final action to address this recommendation.

In response to Recommendation 6, USAID/Lebanon agreed with the recommendation and requested the Regional Contracting Office to make a management decision regarding the allowability of questioned ineligible costs in the amount of \$26,052. However, the mission erroneously attributed the questioned costs to those paid prior to the task order modification no. 4. Contrary to the mission's response, RIG/Cairo questioned costs because the mission had paid for unauthorized program activities. The mission expects final action to be taken by November 15, 2010. Management decision has been reached on this recommendation.

In response to Recommendation 7, USAID/Lebanon agreed with the recommendation and requested the Regional Contracting Office to make a management decision regarding the allowability of questioned ineligible costs in the amount of \$7,010. However, the mission erroneously attributed the questioned costs to those paid prior to the task order modification no. 4. Contrary to the mission's response, RIG/Cairo questioned costs because the mission had paid ineligible staff benefits. The mission expects final action to be taken by November 15, 2010. Management decision has been reached on this recommendation.

To address Recommendation 8, USAID/Lebanon agreed with the recommendation and requested Cairo's financial management office to arrange for an agency-contracted audit of the locally incurred cost with a target date for completion by December 31, 2010. Management decision has been reached on this recommendation.

In response to Recommendation 9, USAID/Lebanon stated that it has taken all possible corrective actions to meet the intent of the audit recommendation. In March 2010, USAID/Lebanon issued a mission notice for implementing partners to seek and obtain all customs duties and tax exemptions authorized by the Government of Lebanon. Because the Lebanese Government has no current customs duties and tax exemptions in place, under a bilateral agreement or otherwise, customs duties and tax exemptions will continue to be an issue for implementing partners. However, within the mission's purview, RIG/Cairo determined that the mission has taken final action to address the intent of the audit recommendation.

In response to Recommendation 10, USAID/Lebanon stated that it has taken all possible corrective actions to meet the intent of the audit recommendation to develop written procedures for incurring costs for taxes and customs duties imposed by the host country government. In March 2010, USAID/Lebanon issued a mission notice that encourages implementing partners to seek USAID approval of any customs duties or taxes as allowable costs prior to incurring such costs. The mission notice also instructs USAID implementing partners to contact local counsel and host government officials for further information. Accordingly, RIG/Cairo determined that the mission has taken final action to address the recommendation.

To address Recommendation 11, USAID/Lebanon agreed with the recommendation and developed a checklist to monitor completion of work plan activities. The mission has taken final action to address the recommendation.

Regarding Recommendation 12, USAID/Lebanon agreed with the recommendation and requested the Information Service Center to strengthen USAID electronic files management. In addition, the mission developed a checklist as a tool for records management and the transfer of files. The mission has taken final action to address the recommendation.

To address Recommendation 13, USAID/Lebanon agreed with the recommendation and developed a staff-departure checklist for both hard copy and electronic files. The mission has taken final action to address the recommendation.

In response to Recommendation 14, USAID/Lebanon agreed with the recommendation, and the mission director issued a memo regarding implementing partners' data and the data quality assessment to be performed. Furthermore, the mission expects to award a

monitoring and evaluation contract in September 2010 that will provide the mission additional support in validating and verifying partner data. Management decision has been reached. Final action will be determined by the Office of Audit Performance and Compliance Division (M/CFO/APC) when the monitoring and evaluation contract has been awarded by the target date for completion, August 31, 2010.

SCOPE AND METHODOLOGY

Scope

The Regional Inspector General/Cairo (RIG) 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 based on an audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective. The purpose of this audit was to determine whether USAID/Lebanon's rule of law program is achieving its main goal and whether the mission reported complete and accurate information on the progress of the activities and the results achieved.

The audit covered a 2-year period from January 1, 2008, through December 31, 2009. According to the mission, the rule of law program consists of one program implemented by the National Center for State Courts (NCSC). The mission had obligated \$8.2 million as of June 2009 and had disbursed \$3.3 million as of December 31, 2009, for the program. The audit conducted detailed testing of \$1.4 million for the audit period covered.

In planning and performing the audit, we assessed internal controls related to documentation and data verification, supervisory and management review, proper execution of transactions and events, and review of performance measures and indicators. Specifically, we evaluated the mission's program documentation that included USAID/Lebanon's 2008 and 2009 Federal Managers' Financial Integrity Act of 1982 assessment, USAID/Lebanon's 2008 and 2009 full performance plans and reports, the 2009 Lebanon data quality assessment, and oversight performed by the contracting officer's technical representative.

We conducted the audit fieldwork at USAID/Lebanon and at the NCSC office, Beirut Judgment Executions Court, Judicial Training Institute, Beirut Bar Association, and Foundation Pere Affif Osseiran in Beirut, Lebanon, from February 8 to May 13, 2010. We also conducted audit fieldwork at the offices of Regional Contracting and Financial Management in Cairo, Egypt. An engineering firm, Chemonics Egypt Consultants, assisted us in reviewing and assessing renovation and refurbishment activities at the training institute and Beirut Judgment Executions Court.

We reviewed two prior performance audits²¹ related to this review regarding a previous recommendation on tax exemptions and reviews of implementing partners' data for completeness and accuracy.

²¹ "Audit of USAID/Lebanon's Lebanon Education Assistance for Development Program," Report No. 6-268-09-005-P, July 14, 2009, and "Audit of USAID/Lebanon's Democracy and Governance Activities," Audit Report No. 6-268-09-002-P, November 9, 2008.

Methodology

To answer the audit objectives, we interviewed USAID/Lebanon staff to gain an understanding of the program history, associated risks, and status. We also interviewed the implementer (NCSC), subcontractors, beneficiaries, and Lebanese Government officials. We reviewed applicable laws and regulations and USAID policies and procedures. To determine progress toward the achievement of planned goals, we reviewed documentation provided by the implementer and the mission, including the 2008 and 2009 work plans; the implementer's quarterly reports; the task order and modifications; performance management plans; operational plans; site visit reports; contracting officer's technical representatives' files; and supporting documentation, such as training attendance sheets and assessment reports.

In answering the audit objectives, we set specific thresholds for the rule of law performance indicators and program activities. For the performance indicators, we considered the planned target "achieved" if the mission had met at least 90 percent of the planned target. Indicators were judged to have been "not achieved" if the mission had met less than 90 percent of the planned target.

RIG/Cairo selected a statistical sample of rule of law activities to verify activities completed. With the assumption of a 5 percent error and a variation of +/- 4 percent and 95 percent confidence, the Office of Inspector General statistician in Washington selected a random statistical sample of 55 activities to test (30 activities from 2008, 25 activities from 2009). The audit also verified the task order's single deliverable. The audit team verified the reported results with the implementer and by conducting site visits. On the basis of this randomly selected statistical sample, we could project the results onto the entire universe.

The consultant engineering firm assessed the basis for and the reasonableness of the estimated costs, inspected the construction work to determine whether the work had been executed in accordance with approved architectural and engineering plans, and determined whether the work had progressed in accordance with approved construction schedules. The engineering firm documented the results of its review in a technical report, *Technical Assistance for the Examination of the Status of Construction Work Funded by USAID for Two Facilities in Beirut, Lebanon*, dated April 28, 2010.

MANAGEMENT COMMENTS

August 17, 2010

MEMORANDUM

To: Regional Inspector General/Cairo, Jacqueline Bell

From: USAID/Lebanon Mission director, Denise A. Herbol/S/

Subject: Audit of USAID/Lebanon's Rule of Law Program
(Report No. 6-268-10-00X-P)

Recommendation No. 1: We recommend that USAID/Lebanon develop a memorandum of understanding with the Government of Lebanon's Ministry of Justice regarding a commitment to use the Judicial Training Institute for a specific time for its intended purpose and document the results of any disagreements.

Mission Response: The Mission implemented corrective action to address this recommendation. On July 19, 2010, the Mission Director met with the Minister of Justice to discuss his vision for length of time this facility will continue to be used as a Judicial Training Institute. The Minister advised that at some point (if and when financial resources are provided by the Government of Lebanon to the Ministry) there will be a new construction on the property of the Ministry of Justice for a training institute. He then said until such time, the facility renovated by USAID through NCSC will remain in use as a training institute for at least 5 to 6 years. The Minister requested USAID send a letter on this subject and he would respond in writing.

On July 20, 2010, the Mission Director sent a letter to the Minister of Justice, requesting confirmation that the Judicial Training Institute facility will remain in use as a training institute for judges for the foreseeable future and at least 5 to 6 years. On July 29, 2010 the Ministry of Justice confirmed that the Judicial Training Institute will remain in use as a training institute for at least five to six years, until another facility is built (copy of letter attached-Attachment A).

Based on the above, the Mission believes a management decision has been reached on this audit recommendation and requests closure of audit Recommendation No. 1 upon report issuance.

Recommendation No. 2: We recommend that USAID/Lebanon review the recommendations documented in the engineering consultant's technical report, require the implementer to implement the recommendations, and document justifications for any deviations from the recommendations contained in the technical report.

Mission Response: The Mission agrees with this recommendation. USAID/Lebanon reviewed the recommendations documented in the engineering consultant's technical report which has been sent to the implementing partner on July 29, 2010 (copy of email attached--Attachment B). The COTR, Regional Office of Acquisition and Assistance, and implementing partner will work to implement those recommendations that will benefit the project and are within the existing Scope of Work and are considered cost effective given the length of time the facility will be in service.

Target date for completion: August 31, 2010 (email from Philippe Lamarche dated Aug. 12, 2010--Attachment K

Recommendation No. 3: We recommend that USAID/Lebanon develop written procedures regarding the required support documentation that should accompany waiver requests for funding.

Mission Response: On March 26, 2010 Mission Order 10/04 was issued establishing activity approval procedures including waivers for USAID/Lebanon (copy attached-Attachment C). In addition, on May 13, 2010 an Approval and Clearance Matrix (attached-Attachment D) was developed and adopted by the Mission stating clearances and approvals requirements. Moreover, guidelines regarding supporting documentation for forward funding waiver requests was issued on August 17, 2010 under Mission Notice 002-2010 -Attachment L (a). Mission Director's email dated August 17, 2010-Attachment L (b) was sent to all technical officers to adhere to the notice.

Based on the above, the Mission believes that a management decision has been reached on this audit recommendation and requests closure of Recommendation No. 3 upon report issuance.

Recommendation No. 4: We recommend that USAID/Lebanon request the Regional Contracting Office to make a management decision regarding the allowability of questioned ineligible costs in the amount of \$37,600, paid prior to the task order modification no. 4, and recover amounts determined to be unallowable.

Mission Response: On July 29, 2010 the COTR requested in writing that the Regional Contracting Office review these costs questioned by the RIG in this audit and take a management decision regarding the allowability of the of the \$37,600, paid prior to the task order modification no. 4 (copy of email attached-Attachment E). OAA will negotiate with the implementing partner the questioned costs and will consider any appeals from them. If OAA Cairo determines that these costs are unallowable, then OAA will issue a bill of collection.

Target date for completion: November 15, 2010 as per Contract/Agreement Officer email dated August 17, 2010-Attachment O

Recommendation No. 5: We recommend that USAID/Lebanon establish written procedures regarding actions required for approvals of activity expenditures and provide them to the implementer.

Mission Response: Subsequent to extensive written email exchange with the Cairo OAA, OAA reached an agreement with the contractor on how tasks should be completed. Only when OAA was fully satisfied regarding procedures and actions was a modification issued. Following a review of the staff work-load and COTR/AOTR (Agreement Officer's Technical Representative) duties, OAA Cairo was requested to provide the new COTRs/AOTRs designation letters for management responsibilities including those for the Rule of Law program. The designation letters clearly spell out the written procedures and responsibilities of COTRs and AOTRs regarding actions required for approvals of activity expenditures. The new COTRs and AOTRs, including for the NCSC program, then met with their implementers to discuss working relationships and roles and responsibilities. Moreover, guidelines regarding COTR/AOTR approval of activity expenditures was issued on August 17, 2010 under Mission Notice 003-2010-Attachment M (a). Mission Director's email dated August 17, 2010-Attachment M (b) was sent to all technical officers to adhere to the notice. A copy of Mission Notice 003-2010 was sent by email to all USAID implementing partners on August 17, 2010-Attachment M (c) and a request was sent to post Notice 003-2010-Attachment M (d)

Based on the above, the Mission believes this meets the recommendation of the audit recommendation and requests closure of Recommendation No. 5 upon report issuance.

Recommendation No. 6: We recommend that USAID/Lebanon request the Regional Contracting Office to make a management decision regarding the allowability of questioned ineligible costs in the amount of \$26,052 and recover all amounts determined to be unallowable.

Mission Response: The Mission agrees with this recommendation. On July 29, 2010 the COTR requested in writing that the Regional Contracting Office review these costs questioned by the RIG in this audit and take a management decision regarding the allowability of the of the \$26,052, paid prior to the task order modification no. 4 (copy of email attached-Attachment E). OAA will negotiate with the implementing partner the questioned costs and will consider any appeals from them. If OAA Cairo determines that these costs are unallowable, then OAA will issue a bill of collection.

Target date for completion: November 15, 2010 as per Contract/Agreement Officer email dated August 17, 2010-Attachment O

Recommendation No. 7: We recommend that USAID/Lebanon request the Regional Contracting Office to make a management decision regarding the allowability of questioned ineligible costs of \$7,010 and recover all amounts determined to be unallowable.

Mission Response: The Mission agrees with this recommendation. On July 29, 2010 the COTR requested in writing that the Regional Contracting Office review these costs questioned by the RIG in this audit and take a management decision regarding the allowability of the of the \$7,010, paid prior to the task order modification no. 4 (copy of email attached-Attachment E). OAA will negotiate with the implementing partner the questioned costs and will consider any appeals from them. If OAA Cairo determines that these costs are unallowable, then OAA will issue a bill of collection.

Target date for completion: November 15, 2010 as per Contract/Agreement Officer email dated August 17, 2010-Attachment O

Recommendation No. 8: We recommend that USAID/Lebanon request an agency-contracted audit of the implementer's locally incurred costs to determine whether the recipient complied, in all material respects, with contract terms.

Mission Response: The Mission agrees with this recommendation. On July 29, 2010 the Mission has sent an email -Attachment N (a) to FM Cairo-Attachment N (a) to arrange an agency-contracted audit of the locally incurred cost with a reputable audit firm in Lebanon. As a follow on action, on August 12, 2010 a MAARD was sent by the Mission to the RCO to initiate the action-Attachment N (b)

Target Date for completion: December 31, 2010.

Recommendation No. 9: We recommend that USAID/Lebanon, in cooperation with the regional legal advisor, develop written procedures for negotiations to protect USAID-funded property from being subjected to taxes and customs duties imposed by the host country government.

Mission Response: The Mission has taken all possible corrective actions to meet the intent of the audit recommendation.

USAID/Lebanon's Mission Director and the USAID/Cairo Regional Legal Advisor, held discussions on April 16, 2009 with the Government of Lebanon regarding the existing bilateral agreement and in particular the question of tax exemptions and customs duties. USAID/Lebanon received a letter from the Government of Lebanon on May 21, 2009 (attached-Attachment F) regarding our discussions and a detailed list of tax exemptions available to USAID and our implementing partners. The GOL stated in our meeting that the current exemptions are the same as those provided to the European Union and that no further changes to exemptions or customs duties could be given. The current political environment in Lebanon does not allow for the Embassy or the Mission to seek any change at this time to the bilateral agreement.

Subsequent to receipt of the letter of May 2009, USAID/Lebanon worked with USAID/Cairo OAA and RLA to develop a document which could be posted at our website for all implementing partners to review. The purpose was to ensure partners would ensure they avail themselves to the maximum extent possible of all exemptions which the GOL do authorize. In addition, USAID/Lebanon has worked with the USAID/Cairo Regional Legal Advisor to develop use of a standard format be used for all MOUs to the maximum extent possible. Within the Government of Lebanon, each Ministry holds the ability at the discretion of the Minister, to develop MOUs that meet their requirements including tax and customs exemptions. All MOUS must be submitted to the Council of Ministers for approval. USAID Lebanon is working to ensure that our MOUS contain the appropriate tax and customs exemption language in line with the USAID/Lebanon Mission Notice Number 001-2010 (attached-Attachment G) dated March 18, 2010.

Based on the above, the Mission deems that a management decision has been reached on this audit recommendation and requests closure of Recommendation No. 9 upon report issuance.

Recommendation No. 10: We recommend that USAID/Lebanon, in cooperation with its Regional Contracting Office, develop written procedures for incurring costs for taxes and customs duties imposed by the host country government.

Mission Response: The Mission has taken all possible corrective actions to meet the intent of the audit recommendation.

USAID/Lebanon's Mission Director and the USAID/Cairo Regional Legal Advisor, held discussions on April 16, 2009 with the Government of Lebanon regarding the existing bilateral agreement and in particular the question of tax exemptions and customs duties. USAID/Lebanon received a letter from the Government of Lebanon on May 21, 2009 (attached-Attachment F) regarding our discussions and a detailed list of tax exemptions

available to USAID and our implementing partners. The GOL stated in our meeting that the current exemptions are the same as those provided to the European Union and that no further changes to exemptions or customs duties could be given. The current political environment in Lebanon does not allow for the Embassy or the Mission to seek any change at this time to the bilateral agreement.

Subsequent to receipt of the letter of May 2009, USAID/Lebanon worked with USAID/Cairo OAA and RLA to develop a document which could be posted at our website for all implementing partners to review. The purpose was to ensure partners would ensure they avail themselves to the maximum extent possible of all exemptions which the GOL do authorize. USAID/Lebanon Mission Notice Number 001-2010 dated March 18, 2010 (copy attached-Attachment G) states that “ It is the responsibility of the implementing partner to seek and obtain all customs duties and tax exemptions authorized by the GOL under the laws of Lebanon”. Furthermore it is the discretion of the RCO to approve paid taxes and duties on a case by case basis if no there is bilateral exemption available and all attempts for such exemptions under local law have been exhausted.

Based on the above, the Mission deems that a management decision has been reached on this audit recommendation and requests closure of Recommendation No. 10 upon report issuance.

Recommendation 11: We recommend that USAID/Lebanon develop and document a checklist of required information to monitor completion of work plan activities.

Response: The Mission agrees with this recommendation. A checklist (attached-Attachment H) was developed by the current COTR for the NCSC program including all the activities as per the work plan in line with the task order. The COTR uses this checklist to monitor completion of work plan activities. This checklist was sent to RIG on February 11, 2010. In addition the checklist is periodically updated.

Based on the above, the Mission believes that a management decision has been reached on this audit recommendation and requests closure of Recommendation No. 11 upon report issuance.

Recommendation 12: We recommend that USAID/Lebanon develop written procedures for access requirements, transfer, and maintenance of electronic program files.

Response: The Mission agrees with this recommendation. On March 26, 2010 the Mission Director requested that the Information Service Center strengthen USAID electronic files management. Unless a document is placed for general use on the shared drive, access to employee folders is now restricted to each employee. In addition, documents placed by an

employee on the shared drive, unless a draft document, are limited to read-only ability and cannot be changed. To further strengthen files and records management, on May 14, 2010 the Mission Director established written procedures regarding record management and transferring files (email attached-Attachment I).

Based on the above, the Mission believes that a management decision has been reached on this audit recommendation and requests closure of Recommendation No. 12 upon report issuance.

Recommendation 13: We recommend that USAID/Lebanon document and publicize requirements for its electronic records retention that are linked to an official staff-departure checklist.

Response: The Mission agrees with this recommendation. This written procedure was established and circulated to staff on May 14, 2010 (attached-Attachment J). The checkout form from the US Embassy which the mission uses also has established procedures for opening and closing accounts and moving records. The Mission developed a staff-departure checklist for both hard copy and electronic files.

Based on the above, the Mission believes that a management decision has been reached on this audit recommendation and requests closure of Recommendation No. 13 upon report issuance.

Recommendation 14: We recommend that USAID/Lebanon develop and implement a monitoring system to validate its reported data regularly.

Response: The Mission agrees with this recommendation. On October 27, 2008 the Mission Director issued a memo regarding the “Implementing Partners’ Data and Data Quality Assessments to be performed” (copy attached). The memo is already in place and requires COTRs and AOTRs to conduct data verification on projects on a quarterly basis. The requirements outlined in this memo have been actively implemented in FY 2010. Furthermore, the new Mission-contracted Monitoring and Evaluation (M&E) contract which is due to be awarded in September 2010 will provide the mission additional support in validating and verifying partner data.

Based on the above, the Mission believes that a management decision has been reached on this audit recommendation and requests closure of Recommendation No. 14 upon award of the M&E contact.

Target Date for completion: August 31, 2010.

Attachments:

- A. Letter by Minister of Justice
- B. COTR email to implementing partner dated July 29, 2010
- C. March 26, 2010 Mission Order 10/04
- D. Clearance Matrix
- E. COTR email to OAA dated July 29, 2010
- F. Letter from the Government of Lebanon dated May 21, 2009 regarding our discussions and a detailed list of tax exemptions available to USAID and our implementing partners
- G. Mission Notice Number 001-2010 dated March 18, 2010
- H. Checklist developed by the current COTR to monitor project activities, COTR email to RIG dated February 11, 2010.
- I. May 14, 2010 written procedures established by the Mission Director regarding record management and transferring files
- J. On October 27, 2008 memo by the Mission Director regarding the “Implementing Partners’ Data and Data Quality Assessments to be performed”
- K. Email from Philippe Lamarche dated Aug. 12, 2010
- L. (a) Mission Notice 002-2010, Forward Funding Waiver Requests (b) Mission Director Email to staff dated Aug. 17, 2010
- M. Mission Notice 003-2010, Approval of Activity Expenditures (b) Mission Director Email to staff dated Aug. 17, 2010 (c) Copy of Notice sent to USAID implementing partners (d) Request to post Notice 002-2010 on the website
- N. (a) Mission has sent an email on July 29, 2010 (Attachment to FM Cairo to arrange an agency-contracted audit (b)
- O. Contract/Agreement Officer email dated August 17, 2010

History of Modifications to the Task Order

Modification No.	Task Order/Modification Description	Date	Increase in Obligations (\$)
Task Order	Awarded a cost-plus-fixed-fee completion task order to National Center for State Courts for \$6,672,845	12/11/07	4,680,000
1	Fully funded the task order	9/22/08	1,992,845
2	Changed the fund citation source	11/19/08	–
3	Added Federal Acquisition Regulation language, “Restrictions on Certain Foreign Purchases”	2/19/09	–
4	(Originally modification no. 3) Added two tasks to the Statement of Work—(1) strategic planning and (2) assessment, design, and preparation of bid documents for refurbishment work	3/8/09	–
5	Renumbered modification no. 3 to no. 4	4/1/09	–
6	Increased the total estimated cost to \$8,202,845; increased the total obligated amount; and added task 8 for the refurbishment of the Model Court and Judicial Training Institute	6/18/09	1,500,000
7	Added a participant training clause	12/16/09	–
			Total Obligations (\$)
			8,172,845

Work Plan Activities for Calendar Years 2008 and 2009

To achieve the main goal, the implementer had planned in 2008 to complete five major tasks but increased the activities to include three additional tasks in 2009. The audit included Tasks 7 and 8 for the renovation/refurbishment activities under Tasks 1 and 3, respectively, for a net result of six program tasks instead of eight for discussion purposes in this report. The eight tasks included activities as shown below:

- Task 1.** Develop the capacity and infrastructure of the Judicial Training Institute for initial and continuing training.
- Task 2.** Enhance judicial independence by supporting the Ministry of Justice and Supreme Judicial Council.
- Task 3.** Support the Ministry of Justice's efforts to improve court administration in order to reduce backlogs, improve case management techniques, and increase transparency.
- Task 4.** Improve access to justice by providing technical assistance to the Beirut and Tripoli Bar Associations.
- Task 5.** Provide subgrants to enhance public engagement, support reform efforts, and foster a culture of respect for the rule of law.
- Task 6.** Develop a long-term strategic plan for the justice sector in Lebanon for the Ministry of Justice.
- Task 7.** Conduct engineering work for the assessment, design, and preparation of bid documents for the refurbishment of the Judicial Training Institute and pilot courts.
- Task 8.** Refurbish the Beirut Judgment Executions Court and Judicial Training Institute.

Task 1. Develop the Capacity and Infrastructure of the Judicial Training Institute. In developing the capacity and infrastructure of the training institute, NCSC planned to revise the curriculum, develop a continuing education program for Lebanese judges, and procure information technology (IT) equipment. Specifically, the program planned to furnish a few rooms dedicated to the training institute within facilities of the Ministry of Justice, where the ministry provides a 3-year training program to law school graduates aspiring to become judges. In 2009, the Supreme Judicial Council administered the first examination in 4 years and selected 15 judge trainees to enter the training institute. During 2009, NCSC provided training to the 15 judge trainees and approximately 150 of 500 sitting Lebanese judges during 1-day seminars in subjects such as arbitration, information technology and the law, and court management.

During 2008 and 2009, the implementer made little progress in completing its capacity building and infrastructure activities or achieving results. In August 2008, the program shifted its focus after the JTI director requested that USAID/Lebanon refurbish a

separate building to be used for the training institute.²² Although not in the original scope of work or approved by the mission's regional contracting officer, NCSC began activities to renovate five floors of an eight-story building for the judge trainees. According to the implementer, the additional renovation activities required more time and resources because of the lack of leadership, unfamiliarity with the Federal Acquisition Regulation (FAR) for construction activities—which resulted in recompetitions for construction work—and a loss of credibility with USAID/Lebanon's regional contracting office in Cairo and some Lebanese Government officials. Although NCSC planned to open the newly renovated training institute by February 2009, NCSC subcontractors had not completed 50 percent of the facility, valued at \$1.2 million, as of April 2010. The mission did not expect the facilities to be completed until June 2010.

USAID/Lebanon's rule of law program suffered an additional setback when it shifted its training focus, from modern teaching techniques to primarily 1-day seminars on topics such as arbitration, after Lebanese officials informed staff that an international nonprofit organization was conducting similar training.²³

Task 2. Enhance Judicial Independence. Under this task, the implementer achieved some progress in improving judicial ethics reform but canceled or did not complete most of the program activities. According to NCSC officials, judicial independence is the task most critical to achieving the main goal of the program. NCSC was successful in organizing a 2-day regional colloquium on judicial ethics.

The implementer did not complete any activities on legal journalism and cancelled two of the activities planned for developing consensus for institutional judicial independence between the Ministry of Justice and Supreme Judicial Council. The two activities included a regional colloquium on judicial independence and an assessment for a judges' association, and they were cancelled because of a lack of support from Lebanese Government officials. According to NCSC, a colloquium was no longer needed because the President of Lebanon had requested that the Supreme Judicial Council draft legislation on judicial independence. However, the council did not want any direct foreign assistance or international expertise in drafting the revised legislation. Although the Lebanese Government did not desire NCSC's assistance, the implementer hired retired Lebanese judges as local consultants to assist in drafting the revised legislation.

Task 3. Support Efforts by the Ministry of Justice to Improve Court Administration. To support the Ministry of Justice in court administration, the program planned to improve case management and backlog management in a model court. In 2008, the program selected the Beirut Judgment Executions Court as a model court to improve court administration techniques in reducing case backlogs. USAID/Lebanon later approved a major renovation of the model court as an addition to the original plan, valued at \$678,000, which included a new mobile shelving system. By the end of 2009, the program had completed 75 percent of the renovation of the court facilities.

²² Originally, the implementer planned to refurbish a one-room training facility and a restroom located in the Ministry of Justice. This plan is discussed more fully on page 12.

²³ The international nonprofit organization providing training to Lebanese judicial participants is called ACOJURIS—the Agency for International Legal Cooperation—and is funded by the European Commission.

According to an NSCS assessment, the implementer could not determine the case load and processing times by court type, geographic area, or type of case in Lebanon, as required by the task order, because the implementer had not had sufficient time to sort through monthly reports regarding case dispositions that had been submitted by the Lebanese courts. The assessment was expected to be the basis for subsequent court administration work under the program. Although the task order required the implementer to submit the assessment to the contracting officer's technical representative (COTR), the mission did not retain documentation to indicate when the COTR had received the assessment or approved the assessment in writing.

In addition, the implementer did not adequately complete a task for a court administration improvement plan. After a change in NCSC staff in 2009, the implementer developed a new court administration improvement plan to serve as a model for nationwide reform. Although USAID/Lebanon and NCSC opened a newly renovated and refurbished model court in March 2010, the project was more than 6 months late because the implementer had to recompile bids for construction in accordance with the FAR, causing the subcontractor to delay construction.

Task 4. Improve Access to Justice. NCSC planned to develop consensus for the reform of legal aid and assist bar associations in strengthening skills of legal aid attorneys to handle cases for indigent persons. The project included a study tour and an assessment to improve citizens' access to legal aid. Although the tour was delayed by 2 months, the implementer supported an 11-day study tour in November 2009 for four legal aid lawyers and staff to observe legal aid institutions and practices in the United States. In addition, an assessment of the Beirut Bar Association's legal aid procedures was completed 5 months later than planned because Beirut Bar Association members were initially cautious about opening its internal functions to the public.

Task 5. Subgrants to Enhance Public Engagement, Support Reform Efforts, and Foster a Culture of Respect for the Rule of Law. USAID/Lebanon succeeded in providing grants to benefit women, disadvantaged youth, and other citizens. In February and March 2009, NCSC awarded \$25,000 to each of three Lebanese nongovernmental organizations to inform abused women about their rights, to strengthen judicial institutions to address disadvantaged juveniles, and to inform citizens about traffic laws and regulations. One grantee has reported that 11 juveniles have received regular psychological care, tuition for literacy activities, and opportunities to participate in extracurricular activities as part of their rehabilitation.

Task 6. Develop a Long-Term Strategic Plan for the Justice Sector in Lebanon. USAID/Lebanon added a task to the program in 2009 to develop a long-term strategic plan for the justice sector in Lebanon. The implementer designed the task to provide the Ministry of Justice with a long-term plan for historical continuity in the event of interruption in government operations. The implementer planned several activities, which included an assessment of the Lebanese judicial sector to determine the need for a strategic plan and the process and methodology for its development. Although the activity was delayed by 7 months, two international consultants and a local consultant completed the assessment in November 2009. Another activity—to form an advisory committee—was also delayed by 7 months because of the formation of the new Lebanese Government.

Implementer's Work Plan Activities for Calendar Year 2008

Planned Activity	Planned End Date	Verification
1. Enhance judicial independence		
1.3 Professionalize legal journalism		
Develop consensus among the bench for journalistic competency and certification for courtroom reporting	12/31/2008	Not completed. Canceled in FY10. The implementer had difficulty communicating with key counterparts. This task was not a part of the original task order and was dropped by the implementer for 2010.
Host a 2-day training session on legal journalism for Lebanese journalists	12/31/2008	Not completed. Canceled in FY10. This task was not a part of the original task order and was dropped by the implementer for 2010.
Host a 2-day training session for trainers of journalists at trade schools and universities	12/31/2008	Not completed. Canceled in FY10. The implementer met with universities but no further action resulted. This task was not a part of the original task order and was dropped by the implementer for 2010.
Host two seminars for bar associations and Lebanese Journalist Association on legal journalism	12/31/2008	Not completed. Canceled in FY10. The implementer proposed seminars, but the Lebanese Government counterparts never accepted the plan. This task was not a part of the original task order and was dropped by the implementer for 2010.

Planned Activity	Planned End Date	Verification
2. Develop the capacity and infrastructure of the Judicial Training Institute		
2.1 Provide IT technical assistance, training, and procurement		
Provide technical assistance to establish a Judicial Training Institute Web site	9/30/2008	Completed 5 months later than planned. The Web site was completed in March 2009.
2.2 Support curriculum revision and modernization		
Survey sitting judges for their views on the training needs of new judges	6/30/2008	Not completed
Establish a working group denominated the Curriculum Development Committee	6/30/2008	Completed 12 months later than planned
2.3 Train Judicial Training Institute trainers in modern techniques		
Identify and hire local resources that are expert in modern teaching techniques to train Judicial Training Institute trainers	12/31/2008	Canceled
2.4 Develop a continuing education program for judicial personnel		

Develop a proposal for a policy on mandatory continuing judicial education that is suitable for the needs of Lebanese judges in collaboration with a Judicial Training Institute working group	12/31/2008	Not completed. The activity is pending on the sitting judges' survey and recommendation of curriculum changes.
2.5 Create a sustainable library at the Judicial Training Institute		
Procure and install an automated library inventory system	9/30/2008	Not completed. In process in 2010.
Working with a local contractor, evaluate the library's holdings and determine which legal publications are required in both hardcopy and electronic versions	3/31/2009	Not completed. In process in 2010.
2.6 Assist Judicial Training Institute in revising entry criteria for trainees		
Compare the Judicial Training Institute's entrance exam and the selection process with those of other countries that have modern and effective judge selection and training programs	6/30/2008	Not completed. In process in 2010.

Planned Activity	Planned End Date	Verification
3. Support efforts by the Ministry of Justice to improve court administration		
3.1 Reduce backlog and improve case flow		
Contract Deliverable		
Assess case backlogs and recommendations		Completed
Use working groups to plan for change by defining new policies, procedures, and practices for records management and case management, taking into account pilot court culture and circumstances	12/31/2008	Completed 10 months later than planned
Work with the various entities and individuals to implement new policies, procedures, and practices that take into account individual court culture and circumstances	12/31/2008	Completed 10 months later than planned
Monitor performance by implementing self-assessment in pilot court based on the Court Improvement Action Plan	12/31/2008	Completed but was redone. The implementer's prior task manager initially prepared the action plan in 2008, but it was useless. The new task manager redid the plan in October 2009.

Establish a working group to document the challenges experienced and solutions found in planning and implementing the Court Improvement Action Plan in the pilot court. The working group will provide the Ministry of Justice and Supreme Judicial Council with recommendations for rolling out the pilot court to two or three other pilot courts in Years 2 and 3.	12/31/2008	Not completed. The new task manager started the activity in July 2009.
3.2 Improve management and administrative techniques		
Prepare the chosen pilot court for the work that is about to begin	12/31/2008	Completed. The pilot court was selected on October 30, 2008.
Establish a small team of experienced court office staff from the pilot court to define a new organizational framework and functional relationships for effective court administration	12/31/2008	Not completed
Implement performance monitoring with pilot court staff and Ministry of Justice supervisory personnel	12/31/2008	Not completed. This activity will be completed by July 2010.
3.3 Increase accessibility of court records and information		
Arrange for the training of personnel, either paid or volunteer, to serve the general public at a court information kiosk	12/31/2008	Not completed
Create a materials/infrastructure working group of staff from the Ministry of Justice and Beirut Courthouse to develop a list of material needs for the public areas of the courthouse building, foyer and bathrooms, and the pilot court	12/31/2008	Not completed

Planned Activity	Planned End Date	Verification
4. Improve citizens' access to justice		
4.3 Assist bar associations in strengthening skills of legal aid attorneys		
Develop a curriculum handbook for training attorneys in legal assistance for indigent persons	3/31/2009	Not completed. The Beirut Bar Association was hesitant to open information to public, and the infrastructure was not in place for training to take place. The implementer plans to complete this activity in 2010.
4.4 Support bar associations to increase attorney participation in legal aid		
Conduct a roundtable discussion with each of the Beirut and Tripoli bar associations on the merits of legal aid work	12/31/2008	Not completed. The Beirut Bar Association met in October 2008. The Tripoli Bar was facing problems with security situations and could not meet.

Planned Activity	Planned End Date	Verification
5. Implement grants program		
5.1 Establish grant procedures		
Adapt existing grants management manual	6/30/2008	Completed 1 month later than planned. The implementer completed the grants manual in July 2008.
Obtain USAID approval for grant management manual	6/30/2008	Completed 4 months later than planned. USAID approved the manual in October 2008.
Establish the funds disbursement mechanism	9/30/2008	Completed. The implementer included the funds disbursement mechanism in the grants manual, which was completed in July 2008.
5.2 Issue request for proposals and select grantees		
Issue request for proposals	9/30/2008	Completed 2 months later than planned. The implementer issued the request for proposals in three newspapers in November 2008.
5.3 Support grantees		
Conduct organizational assessments of applicants to identify any weaknesses in financial accounting procedures	9/30/2008	Completed 4 months later than planned. The implementer completed the assessments after the final proposals were submitted for all six applicants in January 2009.
To ensure that grantee initiatives receive prominent press coverage, revise public and media outreach components of proposals of grantees before their proposals are finalized and submitted to USAID for approval	12/31/2008	Completed 1 month later than planned. The implementer finished revising proposals in January 2009. However, the media component was very briefly mentioned in the proposals.
Provide continuous input to grantee activities and outputs and review monthly narrative and financial reports	12/31/2008	Not completed. The implementer had not selected grantees as of the end of 2008.

Implementer's Work Plan Activities for Calendar Year 2009

Planned Activity	Planned End Date	Verification
1. Develop the capacity and infrastructure of the Judicial Training Institute for initial and in-service training		
1.2 Judicial Training Institute curriculum development and training of judges		
Curriculum development expert	3/31/2009	Completed 6 months later than planned. The implementer awarded a judge a subcontract on August 14, 2009.
Curriculum Development Committee review of seminar recommendations	5/31/2009	Not completed

and implementation of changes		
Participation at Lisbon Network Seminar	9/30/2009	Completed 1 month later than planned
1.3 Modern training techniques for Judicial Training Institute faculty/personnel		
Computer training	12/31/2009	Completed. The implementer trained three clerk staff members from the Judicial Training Institute.
1.4 Develop continuing judicial education		
Arbitration expert hired	3/31/2009	Completed but not as required in the work plan. The implementer did not hire an American expert as required in the work plan.
Training for judicial personnel in computer use and Internet	12/31/2009	Not completed
1.5 Develop Judicial Training Institute library		
Assessment of Judicial Training Institute library needs	3/31/2009	Not completed. The implementer reported that the assessment was completed but could not provide any evidence
1.6 Improve Judicial Training Institute capacity to recruit/select judicial candidates		
Delivery of selection tool manual and protocol	1/31/2009	Completed

Planned Activity	Planned End Date	Verification
2. Enhance judicial independence		
2.1 Develop consensus for institutional judicial independence		
Regional colloquium on independent judiciary	11/30/2009	Canceled. The President of Lebanon requested that legislation on independence be proposed, so this activity was not necessary anymore. Also, ethics was a higher priority for the implementer.
Judges' association assessment	9/30/2009	Canceled. The implementer stated that the executive branch does not support a judges' association. Without that support, an association cannot be formed. Therefore, the implementer dropped the activity.
2.2 Assist Ministry of Justice in developing a long-term strategic plan for justice		
Assessment with recommendations	3/31/2009	Completed 7 months later than planned. An assessment was completed on November 9, 2009.
Form advisory committee	4/30/2009	Completed 8 months later than planned. Committees were established at the strategic planning retreat on December 29, 2009.
Retreat	11/30/2009	Completed 1 month later than planned. Retreat on December 29, 2009.

Conference on new plan	12/31/2009	Not completed. In progress; no specified date planned for a conference.
2.3 Improve foundation for judicial ethics reform		
Legislative drafting committee meetings	10/31/2009	Not completed. The implementer stated that the Supreme Judicial Council president asked the consultant to draft a code of ethics for the legislative committee. The implementer would assist the legislative drafting committee meetings; this activity is not in their control.

Planned Activity	Planned End Date	Verification
3. Support efforts by the Ministry of Justice to improve court administration		
3.1 Improve case management and backlog management and policy		
Progress meetings with model court judges and staff	12/31/2009	Completed
Training and follow-up on new filing methods	12/31/2009	Not completed
Job descriptions for court staff developed	10/31/2009	Completed but delayed
Data on successes and obstacles at Model Court compiled	12/31/2009	Not completed
3.2 Complete and launch Model Court		
Architectural drawings for Model Court prepared and finalized	2/28/2009	Completed 2 months later than planned.

Planned Activity	Planned End Date	Verification
4. Improve citizens' access to justice		
4.1 Develop consensus for upgrade of legal aid procedures		
Assessment with recommendations	4/30/2009	Completed 5 months later than planned. Beirut Bar Association was initially hesitant to open its internal functions to outside assistance. Not all members were supportive.
Study tour to United States	9/30/2009	Completed but delayed by 2 months. Completed in November 2009 for four participants.
4.2 Assist bar in strengthening skills of legal aid attorneys		
4.3 Support bar to increase attorney participation in legal aid		
Second Annual Legal Aid Awards Ceremony	11/30/2009	Not completed. From September 2009, members of the bar were busy campaigning for key elections held on November 15, 2009. This activity was not a priority for the bar association.

Planned Activity	Planned End Date	Verification
5. Implement grants program		
5.1 Award grants		
Grantees chosen by Proposal Evaluation Committee	2/28/2009	Completed. The committee met on January 29, 2009, and selected three grantees. USAID approved the three grantees on January 29, 2009.
Grantee monitoring	6/30/2009	Ongoing, completing as planned. The implementer was monitoring the financial reports every quarter and the progress reports every month.

**Indicator Results for
Calendar Years 2008 and 2009
(Unaudited)**

**Implementer's Indicator Results for
Calendar Year 2008
(Unaudited)**

Task 1. Enhance judicial independence²⁴				
Expected Result	Performance Measurement	Target	Actual	Results Achieved (Y/N)
Improved judicial independence	Recommendations developed and approved by stakeholders for improved strategy and growing consensus for reforms to increase judicial independence	Yes	No	No
	Number of action plans developed for the Supreme Judicial Council	2	0	No
Judges honor code of ethics	Code of ethics written and submitted for passage to Parliament	No	No	No
Increased transparency of judicial proceedings	Legal journalism certification program established	Yes	No	No
	Number of courthouses with upgraded facilities for legal reporting	1	1	Yes
	Number of legal journalism courses offered at trade schools and universities	1	0	No
Task 2. Develop the capacity and infrastructure of the Judicial Training Institute for initial and continuing training				
Expected Result	Performance Measurement	Target	Actual	Results Achieved (Y/N)
Judges are well trained and qualified	Automated library inventory system installed and functional	Yes	No	No
	Number of new holdings procured	30	0	No
	Number of judges/trainees using automated library system per month	15	0	No
	Number of judges/trainees using Judicial Training Institute library per month	15	0	No
	Online resource database added to Judicial Training Institute Web site	Yes	No	No
	Number of Supreme Judicial Council members and Judicial Training Institute president and director who believe the newer judge trainees are substantially better qualified than the trainees in the past 5 years	8	0	No
	Percentage of judge trainees responding that curriculum is satisfactory in meeting their training needs	75	0	No

²⁴ The implementer erroneously categorized Task 1 and Task 2 in its 2008 performance monitoring plan. Task 1 should refer to Judicial Training Institute activities and Task 2 to judicial independence activities.

	Percentage increase in courses incorporating modern/interactive approaches	20	0	No
	Policy developed and approved	Yes	No	No
	Ministry of Justice allocates sufficient budget resources for continuing judicial education	Yes	No	No
	Judicial Training Institute facility refurbished	No	No	No
	Percentage of Judicial Training Institute officials and judge trainees that have access to computers, Internet, and other IT equipment	100	0	No
	Number of classrooms with audio/video equipment installed	1	0	No
	Percentage of administrative staff with computer skills	70	0	No

Task 3. Support efforts by the Ministry of Justice to improve court administration				
Expected Result	Performance Measurement	Target	Actual	Results Achieved (Y/N)
Pilot court office functioning efficiently and with added transparency	Percentage of redundant files and documents boxed in Beirut and moved to storage	100	100	Yes
	Percentage of active files properly indexed and filed in Beirut Executions Court Office	100	0	No
	Percentage of closed files moved offsite	100	100	Yes
	Standardized filing system designed.	Yes	No	No
	Percentage of files found within the same day using new system	80	0	No
	Number of counters installed to serve the public	1	0	No
	Number of lawyers attending orientation session to explain new counter services	100	0	No
	Number of offices created for judges presently working without an office	2	0	No
	Computer network installed at Ministry of Justice for managing supplies and repairs	Yes	0	No
	Number of manuals prepared and approved for new counter service and filing procedures	1	0	No
	Number of court staff and judges trained in new counter service and filing procedures	20+	0	No
	Number of staff trained to be part of Pilot Court Specialized Working Group	3	0	No
	File review area created in pilot court with photocopy service established	Yes	No	No
	Job descriptions, competencies, entry requirements, and performance criteria defined and approved	Yes	No	No
	Percentage of staff evaluated using new performance evaluation criteria	100	0	No
	Percentage of visitors to the court receiving assistance at information kiosk	50	0	No
	Number of persons trained to assist public at an information kiosk	3	0	No
	Signage installed	Yes	No	No
Main entrance of the courthouse opened to the public	Yes	No	No	

	Public restrooms repaired and cleaned according to established schedule/standards	Yes	No	No
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Task 4. Improve access to justice				
Expected Result	Performance Measurement	Target	Actual	Results Achieved (Y/N)
Indigent citizens receive quality legal services	Percentage of attorneys responding that it is important for lawyers to volunteer to provide legal aid services	50	0	No
	Number of legal aid attorneys receiving feedback on services provided	50	0	No
	Number of law schools with curriculum for legal aid work	1	0	No

Task 5. Grants to enhance public engagement, support reform efforts, and foster a culture of respect for the rule of law				
Expected Result	Performance Measurement	Target	Actual	Results Achieved (Y/N)
Increased public support for reforms and respect for the rule of law	Number of participants in workshops	35	15	No
	Number of grant applications submitted and awarded	3	0	No

**Implementer's Indicator Results for
Calendar Year 2009
(Unaudited)**

Task 1. Develop the capacity and infrastructure of the Judicial Training Institute for initial and continuing training				
Expected Result	Performance Measurement	Target	Actual	Results Achieved (Y/N)
Judges are well trained and qualified	Number of judicial trainees attending classes at the Judicial Training Institute renovated by project or attending project-supported courses elsewhere	20	15	No
	Number of sitting judges trained or participating in study tours	15	247	Yes
	Number of computer stations available for judicial training	40	1	No
	Number of online legal resource sites operated by the Judicial Training Institute	1	1	Yes
	Number of judicial trainee candidates examined for entry into judicial profession with modern techniques	20	600	Yes
	Percentage of judge trainees responding that curriculum is satisfactory in meeting their training needs	80	0	No
	Number of new or upgraded IT stations for	30	0	No

	e-library			
	Number of judicial training management information systems created or supported by the project	1	1	Yes
Task 2. Enhance judicial independence				
Expected Result	Performance Measurement	Target	Actual	Results Achieved (Y/N)
Improved judicial independence	Number of programs to enhance public understanding and media coverage of judicial independence and accountability	1	1	Yes
	Number of assessments for adjustment to rules and regulations for budget control for the Supreme Judicial Council	1	1	Yes
	Number of assessments for change in law to allow judiciary determination of composition of Supreme Judicial Council over competing authority of the Council of Ministers	1	0	No
Judicial code of professional conduct honored and enforced	Number of programs to reform the judicial code of conduct and procedures for enforcement	5	2	No
	Number of assessments to reform procedures for the enforcement of judicial discipline	1	1	Yes
Increased transparency of judicial proceedings and avoidance of personal attacks against judiciary in media	Number of seminars, training sessions, training handbooks, and programs in legal journalism at journalism trade schools and universities to enhance the competency of legal journalists	6	0	No
	Number of programs supporting the establishment of a Supreme Judicial Council/Ministry of Justice media relations office	5	0	No

Task 3. Support efforts by the Ministry of Justice to improve court administration				
Expected Result	Performance Measurement	Target	Actual	Results Achieved (Y/N)
Improved court administration	Number of courts with improved infrastructure adequate to serve modern court administration	2	0	No
	Number of modern manual filing systems designed, implemented, or supported— installation of modernized filing systems in the Model Court and Solicitor General's Office	2	0	No
	Number of court personnel trained in modern administrative techniques	120	87	No
	Number of management information systems created or supported— installation of automation-assisted case management systems in Judgment Executions Court and Solicitor General's office	2	0	No

	Number of information educational and awareness events regarding court administration improvements completed by the project	8	3	No
Number of modernized administrative processes and procedures created, implemented, or supported	Case management systems of Judgment Executions Court and Solicitor General's office	2	0	No

Task 4. Improve access to justice

Expected Result	Performance Measurement	Target	Actual	Results Achieved (Y/N)
Indigent citizens receive quality legal services	Number of legal aid attorneys trained	250	4	No
	Number of legal aid administrative systems analyzed and recommended for improvement	2	2	Yes
	Number of publicized events in support of legal aid	2	0	No
Public is informed of justice services	Number of publications created and distributed by the project regarding justice services	2	1	No
	Number of informative events targeted for public awareness of justice	2	0	No

Task 5. Grants to enhance public engagement, support reform efforts, and foster a culture of respect for the rule of law

Expected Result	Performance Measurement	Target	Actual	Results Achieved (Y/N)
Increased public support for reforms and respect for the rule of law	Number of participants in workshops	35	0	No
	Number of grant applications submitted and awarded	0	3	Yes

Task 6. Strategic planning for justice sector in Lebanon

Expected Result	Performance Measurement	Target	Actual	Results Achieved (Y/N)
Institutional consensus on reforms for justice sector for short- to medium-term captured in strategic plan	Strategic planning assessment—organizational readiness	1	1	Yes
	Number of workshops to build justice sector institutional consensus on strategic planning methodology	1	1	Yes

Task 7. Facility assessment and architectural-engineering design/bid material				
Expected Result	Performance Measurement	Target	Actual	Results Achieved (Y/N)
Architectural-engineering design for Judicial Training Institute facility	Architectural-engineering firm produces design, technical specifications, and bill of quantities	1	1	Yes
	Submission of building assessment report	1	1	Yes
	USAID approval of Request for Proposals/bid documentation	1	1	Yes
Architectural-engineering design for Model Court	Architectural-Engineering firm produces design, technical specifications, and bill of quantities	1	1	Yes
	Submission of building assessment report	1	1	Yes
	USAID approval of Request for Proposals/bid documentation	1	1	Yes

Task 8. Refurbishment of Model Court and Judicial Training Institute				
Expected Result	Performance Measurement	Target	Actual	Results Achieved (Y/N)
Renovation of Judicial Training Facility	Subcontract for construction works through competitive process	1	0	No
	Procurement list with assistance of expert advice	1	0	No
	Completion of all construction works	1	0	No
Renovation of Model Court	Subcontract for procurement of furniture/fixtures and IT/computer equipment through competitive process	1	1	Yes
	Procurement list with assistance of expert advice	1	0	No
	Completion of all construction works	1	0	No

Total Costs of Renovated Facilities

Judicial Training Institute	Project Cost (\$)	Comment
Project supervisor	79,200	Contracted amount
General contractor	924,330	Contracted amount
Terminated project supervisor	13,600	Actual paid costs
Furnishings & IT equipment	211,967	Estimated cost
Subtotal	1,229,097	
Beirut Judgment Executions Court	Project Cost (\$)	Comment
Project supervisor	60,000	Contracted amount
General contractor	448,527	Amended contracted amount
Furnishings	169,215	Actual paid costs
Subtotal	677,742	
Total	1,906,839	
Total estimated cost per revised task order—modification no. 6	8,202,845	
Percentage of renovation to task order	23	

Engineering Consultants' Recommendations

Recommendation No.	Recommendation
Beirut Judgment Executions Court	
Ventilation	
1	The duct metal works and wall crossings need to be checked by qualified technicians and under supervision from the project consultant team.
2	The humidity of the filling room needs to be reviewed to maintain the humidity percentages within suitable limits.
Air Conditioning	
3	The DX units were installed on the building's roof; all the cables and rubber items should be protected from direct sunlight. The contractor must cover the cables and any rubber items with a steel cover.
Judicial Training Institute	
Interior Architectural Finishing	
4	Site supervision needs to be reinforced by the project consultant especially during the final stage of the work and the limited remaining construction time.
Electrical Works	
5	All required tests, such as the insulation resistance tests and loop tests, need be conducted and recorded in a checklist.
Cabling and Wiring	
6	Termination of wires and cables in the equipment and the junction boxes needs approved terminal blocks. The project consultant needs to check the termination of wires and cables.
7	The circuits need to be identified and checked by the project consultant.
8	The contractor needs to review the number and size of wires per conduits, and accordingly the project consultant should check and approve the work.
Ventilation	
9	The duct metal works and wall crossing need to be reviewed by qualified technicians under supervision from the project consultant team.
Air-Conditioning Works	
10	The DX units were installed above the false ceiling. Required performance tests should be applied and certified by the project consultant.
Plumbing Works	
11	The required hydrostatic test should be applied and certified by the project consultant.

Source: Engineering consultant's report, *Technical Assistance for the Examination of the Status of Construction Work Funded by USAID for Two Facilities in Beirut, Lebanon*, dated April 28, 2010, pages 6–8.

Comparison of Air-Conditioning Systems

Items	DX System	Chiller System
Initial cost	Smaller	Larger
Running cost	Larger	Smaller (about 10% saving in energy)
Space temperature control	Greater temperature fluctuation	Better control quality
Air cleanliness	Not satisfactory because low-efficiency air filters have been installed	Meets any requirement because medium- or high-efficiency air filters may be installed
Space sound level	Higher space noise criteria curve	Lower space noise criteria curve because of better sound attenuation
Load diversity	No diversity	Lower diversity
System component efficiency	Lower	Higher
Equipment life	Shorter	Longer
Maintenance	More maintenance work Maintenance of conditioned space	Less maintenance work Maintenance of fan room and plant room

Source: Engineering consultant's report, *Technical Assistance for the Examination of the Status of Construction Work Funded by USAID for Two Facilities in Beirut, Lebanon*, dated April 28, 2010.

Price Comparison Analysis of Renovated Facilities

Beirut Judgment Executions Court	Project Costs (\$)	Market Costs (\$)	Difference (\$)	Percentage Difference
Demolition and alteration	18,500	10,000	8,500	85
Concrete work	59,173	59,173	–	0
Masonry	15,641	14,447	1,194	8
Wall and roof cladding and covering	19,919	19,919	–	0
Thermal and moisture protection	9,700	9,603	9	1
Dry linings, flooring, and partition	19,771	19,399	372	2
Metalwork and woodwork	62,185	54,074	8,111	15
Surface finishes	26,470	19,641	6,829	35
Glasswork	4,809	3,435	1,374	40
Painting and decorating	11,350	1,350	–	0
Fittings, specialties, and equipment	15,383	13,705	1,678	12
Electrical works	50,483	44,672	5,811	13
Heating and HVAC	103,409	92,544	10,864	12
Subtotal	416,792	371,962	44,830	12

Judicial Training Institute	Project Costs (\$)	Market Costs (\$)	Difference (\$)	Percentage Difference
Demolition and alteration	7,800	7,800	–	0
Masonry	23,023	18,837	4,186	22
Thermal and moisture protection	9,420	9,420	–	0
Dry linings, flooring, and partition	145,611	132,374	13,237	10
Metalwork and woodwork	41,205	37,714	3,491	9
Surface finishes	129,271	109,083	20,188	19
Glasswork	21,299	19,776	1,523	8
Painting and decorating	14,345	14,345	–	0
Fittings, specialties, and equipment	25,650	25,650	–	0
Electrical works	227,143	201,103	26,040	13
Mechanical	216,770	200,588	16,183	8
Contingencies and unforeseen	10,000	10,000	–	0
Subtotal	871,536	786,689	84,847	11

Renovated Facilities	Project Costs (\$)	Market Costs (\$)	Difference (\$)	Percentage Difference
Beirut Judgment Executions Court	416,792	371,962	44,830	12
Judicial Training Institute	871,536	786,689	84,847	11
Total	1,288,328	1,158,651	129,677	11

Source: Engineering consultant's report, *Technical Assistance for the Examination of the Status of Construction Work Funded by USAID for Two Facilities in Beirut, Lebanon*, dated April 28, 2010.

Questioned Costs

Description	Amount (\$)	Questioned
Engineering fees	37,600	Cost incurred by the implementer prior to contract modification
Journalism expert consultants fees	26,052	Costs incurred for activities that are unauthorized because they are outside the original scope of work. The contract was not amended to add activities.
Overtime charges	7,010	Cost incurred for the payment of overtime that is not authorized under the subcontract
Total	70,662	

Overtime Charges

	Workdays March 2008 to February 2009	Salary & Benefits (\$)
Direct workdays	236	122,146
Paid rest and recuperation	15	
Paid U.S. holidays	10	
Paid local holidays	12	
Total salary—direct labor costs		122,146
Absences—indirect labor costs		25,070
Total direct and indirect labor charges	273	147,216
Overtime charges	13	7,010

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