



OFFICE OF INSPECTOR GENERAL

AUDIT OF USAID/CAMBODIA'S PROGRAM ON RIGHTS AND JUSTICE II

AUDIT REPORT NO. 5-442-12-003-P
JANUARY 31, 2012

MANILA, PHILIPPINES



Office of Inspector General

January 31, 2012

MEMORANDUM

TO: USAID/Cambodia Director, Flynn Fuller

FROM: Regional Inspector General/Manila, William S. Murphy /s/

SUBJECT: Audit of USAID/Cambodia's Program on Rights and Justice II
(Report No. 5-442-12-003-P)

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

This report contains two recommendations to assist the mission in improving the efficiency and effectiveness of the Program on Rights and Justice II. On the basis of information provided by the mission in its response to the draft report, we determined that management decisions have been reached on Recommendations 1 and 2. Please provide the Audit Performance and Compliance Division of USAID's Office of the Chief Financial Officer with evidence of final action to close these recommendations.

I want to thank you and your staff for the cooperation and courtesies extended to us during this audit.

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SUMMARY OF RESULTS

After decades of conflict, Cambodia is experiencing peace and strong economic growth that has lifted many Cambodians out of poverty.¹ Fundamental improvements in governance, however, are still needed to secure the country's democratic transition and to provide a better future for the Cambodian people. While Cambodia has made progress in reforming its legal system, the country still lacks a professionally run judiciary. U.S. foreign assistance in this area has focused on supporting civil society groups advocating for political and legal rights—especially land rights—while remaining engaged in reforms to increase government accountability.

To carry out this work, USAID/Cambodia signed a \$20 million cooperative agreement with the East-West Management Institute, Inc. to implement the Program on Rights and Justice II,² covering the 5-year period from October 1, 2008, to September 30, 2013. This program seeks to strengthen the rule of law and promote respect for human rights in Cambodia so that citizens can live in a transparent, just, and peaceful society.

The program has five main objectives: (1) to improve the collection and use of justice systems data, (2) to improve the quality of legal education at Cambodia's universities and other institutions, (3) to promote more transparent and efficient judicial administration, (4) to strengthen constituencies supporting justice sector reform, and (5) to improve access to legal assistance. As of March 31, 2011, the program's cumulative obligations totaled \$14.8 million, and disbursements totaled \$11.8 million.

The objective of this audit was to determine whether the program was achieving its goal of strengthening the foundation for reform of the justice sector in Cambodia.

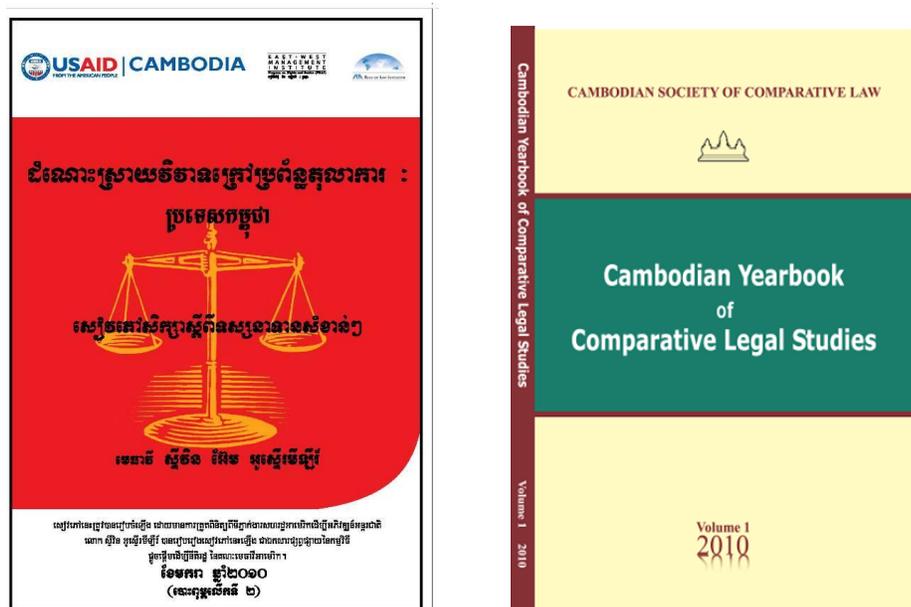
For the areas reviewed, the audit team determined that the program was making progress in achieving its five main objectives. Examples of notable achievements to date under each of these objectives include the following.

- **Improving the Collection of and Access to Justice Systems Data.** To improve the collection and availability of meaningful data related to the Cambodian judicial system, the program launched the Justice Documentation Training Program, an intensive 6-month training series designed to develop Ministry of Justice (MOJ) staff skills to improve Ministry information systems. Program activities included the creation of several databases, including a Justice Statistics Database to track court information such as caseloads and clearance rates. The program also developed an MOJ Trafficking Database that tracks all human trafficking prosecutions in the country. Use of this database reportedly resulted in a 200 percent increase in documented trafficking prosecutions and convictions, prompting the MOJ to request a similar database for tracking criminal cases. The program also created a Web-based database that tracks and maps human rights violations, government land concessions, and other information.

¹ Source: Cambodia U.S. Foreign Assistance Performance Publication Fiscal Year 2009 (page 1)

² Program on Rights and Justice II carries out activities similar to those implemented under the original Program on Rights and Justice, implemented by East-West Management Institute, Inc. from 2003 to 2008.

- Improving Legal Education.** To improve the quality of education provided to the next generation of legal professionals, the program provided training at several institutions, including Cambodia’s Royal University for Law and Economics. This training included classes for law professors on interactive teaching techniques, workshops in basic advocacy skills for law students and professors, and seminars devoted to developing skills in alternative dispute resolution. In addition, the program developed a textbook on alternative dispute resolution for use at universities and other institutions. The program also helped develop the country’s first legal academic journal, the *Cambodian Yearbook of Comparative Legal Studies* (pictured below).



An alternative dispute resolution textbook (left) and a legal academic journal (right) are two products developed under the program’s Legal Education component. (Book images furnished by the program)

- Promoting Transparency and Efficiency.** To improve public understanding and knowledge of the Cambodian judicial system and basic rights, the program developed and distributed for public display a series of information boards and posters (like the one pictured following this paragraph) on the roles and duties of officials and persons involved in court cases, as well as information on court fees, judicial procedures, and citizen rights. Program-supported activities also contributed to the production of a television series called “Scales of Justice,” which seeks to provide the public with information on legal rights and procedures. In addition, the program worked to improve court administration. A key output in this area involved the creation of a database of Supreme Court judgments from 1996 to 2006—the first such collection available to legal professionals and academics in Cambodia—which has enabled users to have access to a large body of jurisprudence. In an interview with the audit team, one Supreme Court Justice stated that, with the creation of this database, prior Supreme Court decisions are now documented electronically and can be distributed and made available to everyone through the Internet, which will be helpful not only for lawyers and judges, but also for students.



Above is an example of one in a series of public information posters produced by the program on the roles and duties of officials and persons involved in court cases, including the accused, the victim, witnesses, the prosecutor, and the trial judge. According to data maintained by the implementer, these posters are now displayed at every trial court in the country, like the one at right. (Poster and photo furnished by the program)



- Strengthening Constituencies for Judicial Sector Reform.** To help communities address and resolve specific human rights issues, the program provided subgrants to 12 human rights and grassroots civil society organizations that investigate human rights violations, monitor detention centers and prisons, conduct training to raise awareness of human and legal rights, and provide legal representation to victims of human rights abuses. From January 2009 to September 2010, these organizations investigated 1,052 cases of human rights violations, which included 418 cases of major land disputes, many resulting from forced evictions, land grabbing, and people displaced because of land concessions made to private owners by the state. Of the 46,620 families involved in these land disputes, some 9,600 families benefited from settlements brokered by program-supported organizations involving about 44,523 hectares of land.
- Improving Access to Legal Assistance.** To strengthen the capacity of Cambodia’s legal aid providers, the program has provided grants totaling approximately \$1.4 million to six local partners who provide legal aid to indigent clients. Thanks to this financial support, the legal aid providers have been able to work on 4,150 cases, involving 16,710 beneficiaries. Their efforts have reportedly resulted in a reduction in excessive pretrial detention periods and in a reduction in the number of juveniles being detained longer than the period of their sentences. For example, program data for a sample of beneficiaries (clients) who were in pretrial detention showed that within 3 weeks the majority were released or tried after receiving legal assistance under the program.

However, the audit could not determine whether the mission was achieving its overall goal because:

- The majority of performance indicators lacked end-of-program targets (page 5).

The report recommends that USAID/Cambodia require the program implementer to:

1. Establish end-of-program targets for all of the program's performance indicators (page 6).
2. Revise the format of its quarterly progress reports to compare data reported under individual performance indicators with applicable end-of-program targets (page 6).

A detailed discussion of the audit finding appears in the following section. The scope and methodology are described in Appendix I. USAID/Cambodia's written comments on the draft are included in Appendix II. Our evaluation of these management comments is included in the report on page 7.

AUDIT FINDING

The Majority of Performance Indicators Lacked End-of-Program Targets

USAID's Automated Directives Systems 203.3.4.5 states that, for each indicator in a performance management plan, the development objective team³ should set performance targets specifying a planned level of result to be achieved by the end of the development objective period. The development objective teams may also set targets for the interim years. Furthermore, the program agreement requires that the implementer report details of the progress achieved, including progress against each performance indicator target.

However, the audit found that the implementer had not established end-of-program targets for the majority of the program's performance indicators. Of the 14 performance indicators listed in the program's updated performance monitoring plan and in effect at the time of the audit, only 5 had end-of-program targets established. Among the nine without targets were several key performance indicators, including *Increased public awareness on key issues related to what CSOs are advocating*, which was to be based on the results of a survey to be conducted both at the midway point and at the end of the program. This indicator was intended to measure the effectiveness of program efforts to promote public awareness of specific issues being advocated by civil society organizations (CSOs)—awareness achieved partly through public display of program-designed posters like the one shown below.



This scene is from a poster designed to educate members of the public about their legal rights in acquiring ownership of state-owned land. (Poster furnished by the program)

³ As stated in USAID's Automated Directives Systems 201.1 (b), USAID uses bilateral development objectives to provide comprehensive long-term support to achieve clearly defined foreign assistance results. These objectives are established for USAID programs covered by joint country assistance strategies as well as for programs covered by USAID strategic plans. According to ADS 200.2 b and 200.2 d, the head of each USAID Mission and bureau/independent office establishes development objective teams that have the capacity to manage foreign assistance programs. Development teams conduct analyses as required to identify key opportunities and constraints in the priority areas in which they work; plan and design development objectives to achieve tangible development results and impact; manage and monitor the implementation of these development objectives; and report on and evaluate performance.

In addition to the lack of end-of-program targets, the audit team noted that the implementer's quarterly progress reports, which summarized the results of activities taking place during the period under each performance indicator, failed to show the progress achieved against the end-of-program targets that had been established. For example, the latest quarterly report, covering the quarter ending March 31, 2011, provided a detailed narrative account of the activities and achievements for the current quarter, but did not compare the reported results data for that period with related annual or end-of-program targets.

These monitoring deficiencies existed, in part, because the mission had not taken steps early in the program to (1) verify that all performance indicators had end-of-program targets established and (2) require the implementer to report on progress achieved against these targets in its quarterly progress reports. Consequently, the implementer was under the false impression that such targets either did not have a major bearing on the program or were of limited use. In an interview, an implementer official stated that the lack of targets did not represent a significant detriment to the program since the implementer based its work on annual work plans that the mission approved. The official explained further that these work plans were developed each year based on what the implementer estimated it could accomplish that year and, once approved by the mission, were used as the basis for the activities performed and reported on during the year.

Although annual work plans represent a key management tool, it is important that the results of the activities carried out in connection with these plans be reported in the context not just of annual but also of end-of-program targets so that the mission can effectively measure the progress achieved toward these long-term targets. By focusing on results in the context of the annual work plans alone, it is difficult to assess how current results mesh with what is expected to be achieved by the end of the program—i.e., how well the program is performing. A short-term focus can mask shortfalls related to specific end-of-program targets and undermine mission efforts to hold the implementer accountable for achieving those targets. Likewise, if no such targets exist, the implementer will be even less likely to achieve the level of outputs USAID originally desired or envisioned by the end of the program. To avoid both of these situations and help ensure that the implementer achieves the results intended under each indicator by the end of the program, the audit team recommends the following.

Recommendation 1. *We recommend that USAID/Cambodia work with the implementer to develop and document end-of-program targets for all of the active performance indicators under the mission's Program on Rights and Justice II.*

Recommendation 2. *We recommend that USAID/Cambodia require, in writing, the implementer of the Program on Rights and Justice II to revise the format of its quarterly progress reports to compare data reported under individual performance indicators with applicable end-of-program targets.*

EVALUATION OF MANAGEMENT COMMENTS

The Office of Inspector General has reviewed the mission's response to the draft report and determined that management decisions have been reached on Recommendations 1 and 2.

For Recommendation 1, the mission plans to work with the implementer on the revision of the current performance management plan (PMP) to include end-of-program targets for all active indicators. The mission expects to complete the revised PMP by March 30, 2012. On the basis of this plan, we conclude that a management decision has been reached on this recommendation.

For Recommendation 2, the mission, on January 4, 2012, instructed the implementer by e-mail to revise the format of its quarterly progress reports to compare data reported under the individual performance indicators with applicable end-of-program targets, as outlined in the forthcoming revised PMP. Also, a further instruction was sent to the implementer on January 11, 2012, to include in its annual progress reports more details on the achievement of goals. According to the mission, the implementer acknowledged the instructions and agreed that its FY 2012 second quarterly report, which will be completed by May 31, 2012, as well as all subsequent quarterly and annual progress reports, will contain the detailed information. On the basis of these actions, we conclude that a management decision has been reached on this recommendation.

SCOPE AND METHODOLOGY

Scope

We conducted this audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions in accordance with our audit objective. We believe that the evidence obtained provides that reasonable basis. The purpose of this audit was to determine whether USAID/Cambodia's Program on Rights and Justice II was achieving its goal of strengthening the foundation for reform of the justice sector in Cambodia.

To implement the program, USAID/Cambodia entered into a \$20 million cooperative agreement with the East-West Management Institute, Inc., covering a 5-year period from October 1, 2008 to September 30, 2013. As of March 31, 2011, the program's cumulative obligations totaled \$14.8 million, and disbursements totaled \$11.8 million.

The audit covered program activities over a 2.5-year period, from program inception to March 31, 2011. Audit fieldwork was performed at the USAID/Cambodia mission and at the offices of the implementer and subimplementers, all located in Phnom Penh, from June 27 to July 22, 2011. During the fieldwork, the audit team interviewed key officers of two Government of Cambodia ministries (Ministry of Justice and Ministry of Interior), members of the Cambodia Judiciary (including a Supreme Court Justice), officials from the Cambodian Bar Association in Phnom Penh and officials of a public law university supported by the project. The audit team also conducted field trips through seven Cambodian provinces—Kompong Thom, Siem Reap, Banteay Mean Cheay, Pursat, Kompong Speu, Kompong Som, and Kampot. During these trips, the team visited the field offices of eight subimplementers and interviewed project staff and selected beneficiaries. The team also met with officials of and inmates at the Kompong Thom prison.

In validating reported performance results data, the audit team tested reported results related to six selected performance indicators, checking the data reported during the period covered by the audit against supporting records on file. Items included in this testing were selected based on a judgmental sample. As a result, the results and overall conclusions related to this testing were limited to the items tested and could not be projected to the entire audit universe.

As part of the audit, the audit team assessed relevant controls that the mission used to manage the program and ensure that its implementer was providing adequate oversight of program activities. The assessment included controls related to whether the mission had (1) conducted and documented site visits to evaluate progress, (2) approved the implementer's annual implementation plans, (3) reviewed quarterly progress reports submitted by the implementer, and (4) compared reported progress with planned progress and the mission's own evaluations of progress. Additionally, the team examined the mission's FY 2010 annual self-assessment of management controls, which the mission is required to perform to comply with the Federal Managers' Financial Integrity Act of 1982,⁴ to determine whether the assessment cited any relevant weaknesses.

⁴ Public Law 97-255, as codified in 31 U.S.C. 3512.

Methodology

To determine whether the program was achieving its goals, the audit team interviewed key personnel from USAID/Cambodia, the implementer and its subimplementers; government officials, including members of the Cambodian Judiciary; and various beneficiaries. The team also reviewed relevant documents at both the mission and implementer's offices. These documents included the cooperative agreement (including subsequent modifications) between USAID/Cambodia and the implementer, a data quality assessment, performance management plans, annual work plans, quarterly progress reports, evaluation reports, and financial reports.

The audit team focused on six performance indicators in the performance management plan to verify the accuracy and reliability of the reported performance data. The team interviewed mission and implementer staff regarding processes for collecting, verifying, and reporting performance results.

To test the reliability of the reported project results, the audit team reviewed the results data reported under the sampled six performance indicators from the inception of the program to March 31, 2011. This process entailed a review of the cumulative results data contained in the program's quarterly progress report indicator charts for the quarter ending March 31, 2011. This data was checked against the figures recorded in the program's database and supporting source documents on file with the implementer. Based on tests conducted, the audit team found the data in the program's database to be reliable.

In addition, site visits were conducted to obtain input from program stakeholders in the field, including the implementer's and subimplementers' field personnel and project beneficiaries, and to inquire about program-related activities carried out in the seven selected provinces.

MANAGEMENT COMMENTS



January 11, 2012

MEMORANDUM

TO: William Murphy
Regional Inspector General, Manila

FROM: Flynn Fuller /s/
Mission Director, USAID/Cambodia

SUBJECT: Audit of USAID/Cambodia's Program on Rights and Justice II (Audit Report No. 5-442-12-00x-P)

This memorandum conveys USAID/Cambodia's management response to the above referenced audit report of the Program on Rights and Justice II dated December 16, 2011. The Mission thanks the audit team for its professionalism and concurs with the two recommendations. The Mission's responses to the RIG's specific audit recommendations are detailed below.

Recommendation 1: We recommend that USAID/Cambodia work with the implementer to develop and document end-of-program targets for all of the active performance indicators under the mission's Program on Rights and Justice II.

USAID/Cambodia agrees with this recommendation. The Mission will work with the implementer East West Management Institute to develop and document end-of-program targets for all of the active performance indicators under the Program on Rights and Justice II. Specifically, the implementer will collaborate with the program's Agreement Officer's Representative (AOR) to revise the current performance monitoring plan (PMP) to include end-of-program targets for all active indicators. The revised and finalized PMP will be completed by no later than March 30, 2012.

Recommendation 2: We recommend that USAID/Cambodia require, in writing, the implementer of the Program on Rights and Justice II to revise the format of its quarterly progress reports to compare data reported under individual performance indicators with applicable end-of-program targets.

USAID/Cambodia agrees with this recommendation. On January 4, 2012, the Program on Rights and Justice II's AOR instructed the implementer East West Management Institute via email to revise the format of its quarterly progress reports to compare data reported under individual performance indicators with applicable end-of-program targets, as outlined in the forthcoming revised PMP. In addition, the AOR provided further instruction to the implementer via email on January 11, 2012. In those instructions, the AOR requested that the East West Management Institute include a summary in its annual progress reports that goes into more detail of its advancements in satisfying end-of-program goals, and explains how it is on track or how the project will shift emphasis in the outlying years to ensure goal achievement. The East West Management Institute acknowledged these instructions and agreed that its FY 2012 Second Quarterly Report, as well as all subsequent quarterly and annual progress reports, will contain said information. The first report that includes this data will be completed by no later than May 31, 2012.

Please let us know if we can clarify any comments. We look forward to strengthening the project through the implementation of the audit's recommendations.

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