



OFFICE OF INSPECTOR GENERAL

AUDIT OF USAID/IRAQ'S LEGISLATIVE STRENGTHENING PROGRAM

AUDIT REPORT NO. 6-267-13-001-P
OCTOBER 3, 2012

BAGHDAD, IRAQ



Office of Inspector General

October 3, 2012

MEMORANDUM

TO: USAID/Iraq Mission Director, Thomas Staal

FROM: Regional Inspector General/Cairo, Catherine Trujillo /s/

SUBJECT: Audit of USAID/Iraq's Legislative Strengthening Program
(Report No. 6-267-13-001-P)

This memorandum transmits our final report on the subject audit. In finalizing the report, we carefully considered your comments on the draft report and have included them in Appendix II. Based on consideration of the mission's comments, we expanded the discussion in some of the finding areas and deleted six draft recommendations from the final report.

The final report includes eight recommendations to help USAID/Iraq strengthen its democracy and governance programs. Final action has been taken on Recommendations 5 and 6. Management decisions have been reached on Recommendations 3 and 4. Management decisions can be reached on Recommendations 1, 2, 7, and 8 when we agree with USAID/Iraq on a firm plan of action with time frames for implementation. Please advise our office within 30 days of the actions planned or taken to implement these recommendations.

A determination of final action for Recommendations 1, 2, 3 4, 7, and 8 will be made by the Audit Performance and Compliance Division on completion of the proposed corrective actions.

Thank you and your staff for the cooperation and courtesies extended to us during the audit.

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Abbreviations

The following abbreviations appear in this report:

COR	contracting officer's representative
CPARS	Contractor Performance Assessment Reporting System
DG	director general
DGO	Democracy and Governance Office
FAR	Federal Acquisition Regulation
ICPD	Iraqi Center for Parliamentary Development
IT	information technology
MOU	memorandum of understanding
OIG	Office of the Inspector General
MP	member(s) of Parliament
PMP	performance management plan
TEC	technical evaluation committee

SUMMARY OF RESULTS

On March 17, 2008, USAID/Iraq asked four organizations to submit proposals to design a program for the Democracy and Governance Office (DGO) targeting the Iraqi Parliament.¹ Mission officials identified Parliament as an institution whose elected members and staff lacked political experience and an understanding of the parliamentary process. Therefore, the scope of work that the mission included in the request for proposals stated that the Iraq Legislative Strengthening Program would provide support to the existing Parliament and to the one scheduled to be elected in March 2010.

Two months later—on May 30, 2008—USAID/Iraq awarded a cost-plus-fixed-fee completion form task order² (contract) to AECOM International Development for \$241,497 to design the program. USAID/Iraq included in the contract an option for AECOM to implement the program without requiring further competition. The mission exercised the option on September 12, 2008, a month after AECOM completed the final report on the program's design.

The implementation phase included a 2-year period and an option for a third year. Modifications to the contract throughout the program increased the budget and total obligations, extended the schedule, changed objectives, and created additional activities.

The program focused on two areas: (1) support for a parliamentary institute and (2) developing the capacity of members of Parliament (MPs) and their staffs. The two areas were divided into six objectives:

- Developing and strengthening the institute
- Strengthening the staff's capacity and their political will to improve hiring and recruiting procedures in Parliament
- Streamlining parliamentary processes and improving committee operations
- Strengthening oversight and budget review capacity
- Strengthening Parliament's public outreach
- Improving Parliament's abilities to work with the donor community

As of December 2011, 3 years into the contract, USAID/Iraq disbursed \$42.3 million and obligated \$46.8 million.

The Office of Inspector General (OIG) conducted this audit to determine whether the program achieved its objectives of supporting a parliamentary institute and developing the capacity of MPs and staff.

¹ Parliament was elected in December 2005 and convened on March 16, 2006.

² Federal Acquisition Regulation (FAR) 16.306(d)(1) states that this form of contract normally requires the contractor to complete and deliver the specified end product within the estimated cost, if possible, as a condition for receiving the entire fixed fee.

A USAID/Iraq-funded evaluation by the QED Group found incremental improvements in the legislative process and with various Parliament committees. Accomplishments included:

- Implementation of a fellowship program for professionals to provide research to inform Parliament on legislative matters.
- Nearly 75 percent of new MPs registered for an orientation program that provided them with information on the legislative process, oversight responsibilities, the role of caucuses, the representational role of MPs, and Parliament's code of conduct.
- Providing assistance to MPs and staff in developing and managing budgets.
- Increased skills in areas such as information technology (IT), communication, media, and public hearings.

However, because the program was terminated before the implementation period was complete, it did not complete the tasks that were necessary to support a parliamentary institute and to develop the capacity of MPs and their staffs. The audit team found that:

- AECOM encountered performance problems (page 4). The institute was never established, tasks were not completed on time, not all IT systems were operating, training programs were not always effective, and AECOM's senior management for the program changed several times.
- The mission did not adequately manage implementation issues (page 8). The COR did not monitor spending closely, and the mission did not commission a third-party assessment of the program's performance in time to be useful.

In September 2011 Parliament's leaders evicted AECOM from its office space and reneged on the memorandum of understanding (MOU) with USAID that authorized the program to operate. USAID/Iraq responded by terminating the contract with AECOM on November 7, 2011, nearly 2.5 years before the program was scheduled to conclude and after spending \$42 million.

To prevent future democracy and governance programs from experiencing these problems, we recommend that the mission:

1. Implement a monitoring plan so that it tracks the status of programs in comparison with their deadlines (page 7).
2. Reevaluate and document ongoing and periodic training needs assessments so that training courses are effective and meet the needs of the target audience (page 8).
3. Request in writing that the Center of Excellence on Democracy, Human Rights and Governance in the Bureau for Democracy, Conflict and Humanitarian Assistance conduct a worldwide evaluation of legislative strengthening programs and update the *USAID Handbook on Legislative Strengthening* to include guidance on how to implement projects based on past experiences (page 8).
4. Report AECOM's performance on the Contractor Performance Assessment Reporting System (CPARS) so the Compliance and Oversight Division for Partner Performance has an

accurate, descriptive narrative of AECOM's contract termination (page 8).

5. Determine the allowability of \$1,486,609 in questioned costs from the contract and recover any amounts determined to be unallowable (page 12).
6. Reconsider all programs that were exempted from cost-share requirements, and determine in writing how to obtain cost-share commitments from the Iraqi Government (page 12).
7. Require each program to include a contingency plan that establishes rules for when it is necessary to reobligate resources toward programs that are demonstrating meaningful results (page 12).
8. Implement a process that reviews MOUs when political leadership undergoes significant change and a process to determine whether the MOU should be updated or a program should be suspended until an official agreement has been reached with the Iraqi Government (page 12).

Detailed findings appear in the following section. The scope and methodology appear in Appendix I. USAID/Iraq's written comments (without attachments) on the draft are included in Appendix II, and our evaluation of management comments is included on page 14.

AUDIT FINDINGS

AECOM Encountered Performance Problems

USAID/Iraq awarded a cost-plus-fixed-fee completion form task order to AECOM to implement the program. For this type of contract, the scope of work states a definite goal or target and specifies an end product; it also normally requires the contractor to complete and deliver the product within the estimated cost, if possible, as a condition for payment of the entire fee.

USAID/Iraq's technical evaluation committee (TEC) unanimously agreed that AECOM's program approach was the most realistic in terms of working with a complex organization like the Iraqi Parliament and handling the challenges of working in that country. Even though AECOM would be working in a changing political environment, USAID/Iraq expected results to be achieved within a critical period to maintain sustainable momentum with the new incoming government.

In Section 2 of the contract, USAID/Iraq explained the need for this program.

The end of the first parliament and the beginning of its second parliament represents a critical period in the institution's development; it is the period in which many practices and precedents will become institutionalized and will heavily influence the long-term trajectory of the institution's development. There is a critical need to support the development of practices, precedents and institutions (such as the Parliamentary Institute) to help strengthen [Parliament] and guide its future institutional development along a more sustainable democratic path, thereby strengthening the likelihood of sustainable democratic governance in Iraq.

The critical period for establishing the groundwork toward sustainable institutional development was during the first 17 months of the contract. However, AECOM's performance fell short during this time in the following areas.

Key Deliverables Were Not Completed on Time. The contract required AECOM to complete 16 deliverables by the March 2010 parliamentary elections. AECOM completed only 6 on time and completed the remaining 10 after the first Parliament adjourned—ranging from 7 to 21 months after the expected delivery dates.

According to Section C.4 of the contract scope of work, AECOM was supposed to carry out specific tasks and activities spelled out in the contract and subsequent modifications, from October 1, 2008, to September 30, 2010—the period that included the 17-month time frame leading up to the March elections.

The original contract included 96 tasks and activities for AECOM to carry out starting in the first year of contract implementation. USAID/Iraq modified the contract in September 2009, and September 2010, adding and omitting tasks both times. In total, USAID/Iraq spelled out 194 tasks to be completed by the end of the second year. By September 2010, 2 years into the contract, USAID/Iraq omitted 50 of the tasks through contract modifications. Of the 144 tasks

left as of September 2010, AECOM reported completing 47 and 97 still in progress; 23 of the 97 were supposed be completed by that time.

The modifications in activities and tasks from the original contract were indicators that AECOM was not achieving the expected results. For example, 50 of the tasks and activities omitted initially required AECOM to deliver, design, commission, train, and develop resulting in a specific output. However, the modified contracts required AECOM to assist, support, enable, and encourage—all of which are difficult to gauge.

Then in April 2011, the mission modified the contract extending the completion date to March 2014 and revising the deadlines because the extension of the option period. In exercising the option year, USAID/Iraq recognized that a number of assumptions were flawed and that required making adjustments and modifications during the option period. When the mission extended the scheduled completion dates, program activities, and deliverables beyond the original completion date, it lost the window of opportunity to put into place the expected practices and precedents that would become integral parts of the country's political system.

Parliamentary Institute³ Was Not Established. One of the six contract objectives called for AECOM to develop and strengthen a parliamentary institute. According to the original contract, AECOM was to complete most of the tasks for this objective by March 2010, just in time for the March 7 parliamentary elections. The scope of work for the implementation stage indicated that the Members Affairs and Parliamentary Development Committee wanted the institute completed by the time the first Parliament adjourned.

AECOM did not achieve this objective. As of November 2011, the Government of Iraq donated a building to house the institute. However, AECOM had not completed significant tasks required to support it.

Throughout 2011, AECOM officials reported on the political challenges of working with the second Parliament to establish the institute. In the program's quarterly report from April to June 2011, the officials blamed certain members of Parliament for stalling the program. Prior to that, AECOM cited the fact that 80 percent of MPs changed after the March 2010 election; because of the huge turnover, about 9 months passed before the new unity government chose a speaker of Parliament and a first and second deputy speaker.

As of November 2011, AECOM had spent more than \$6 million on implementing the institute. It spent \$2.7 million through March 2010—the implementation period of the first Parliament. It then continued to spend the remaining \$3.3 million throughout most of 2010 and 2011 after Parliament had effectively stalled the institute.

Information Technology Systems Not in Use. Contract tasks and activities required AECOM to design and implement various IT systems. Those systems and their status follow:

- Bill tracking system: Not in use because of delays that occurred during USAID's required independent verification and validation review of the system's deployment and then the eventual cancellation of the MOU between USAID and Parliament.

³ This was later referred to as the Parliamentary Development Center or Iraqi Center for Parliamentary Development (ICPD) and would function as a training facility for MPs and staff after the program was complete.

- Content management system: Not in use because Parliament withdrew its support after implementation began.
- Networked constituency case management system: Feasibility study completed but system not deployed according to implementation schedule because of conflicting views in Parliament on the design of the system and the elimination of Parliament's Complaints Committee.
- Transcription and recording system: Effort suspended after delays with the bill tracking system.
- Parliamentary archive system/archival database: Effort suspended after delays with the bill tracking system.

Various IT systems were stalled or had to be abandoned because of the political environment that developed during 2011 toward U.S. foreign assistance in Parliament.

A previous OIG audit found that the bill tracking and content management systems were not in use.⁴ The audit reported that USAID spent nearly \$1 million on developing those systems, neither of which Parliament used.

Training Did Not Meet Parliament's Needs. One of the program's major activities was identifying and providing training courses to MPs and their staffs.

The audit team did not observe training sessions because Parliament had evicted AECOM's staff from their offices, and the mission was in the process of terminating the contract.

According to AECOM's biannual performance management plan (PMP) report, AECOM conducted a training needs assessment in February 2010 when the first Parliament was about to adjourn to determine what training courses would be held after the second Parliament was established. Unfortunately, the assessment did not take into account the needs of members elected in the March 2010 election, 80 percent of whom were new.

AECOM's performance measures in the program's April 2011 PMP stated that training for Parliament staff members was effective because it was based on a survey of 18 people from 1 training course. However, because AECOM did not survey a large group of participants from a variety of training courses that was reflective of the more than 100 offerings, the measure was not effective in judging the effectiveness of the training.

USAID/Iraq commissioned QED to conduct an independent assessment of the program that addressed the qualitative aspects of the training. According to that assessment, AECOM needed to make several improvements, such as "institute case-oriented training; ensure that trainers are skilled practitioners and Arabic speakers; coordinate training from one central office in line with the organizational chart; ensure training is competency-based and performance needs are gauged; utilize state-of-the-art training methods and materials; and ensure the use of training participant selection criteria."

In its assessment of training, the report said:

⁴ "Audit of the Sustainability of USAID/Iraq-Funded Information Technology Systems" Report No. E-267-12-002-P, March 21, 2012.

However, evaluation findings reveal that training has not always been adapted to the needs of [Parliament], sometimes being too basic and other times too advanced. Indicator 2.2 (“[Parliament] staff effectively trained”) appears to be based loosely on test scores or outcomes of two individual and stand-alone training workshops, rather than the application of an intentional training approach.

AECOM recognized the need for improvements, the report continued.

Several AECOM representatives acknowledge [Parliament] training standards need to be higher, citing [Parliament] staff not always having received training relevant to their functions, and [director generals] reportedly using [program] training to reward their staff rather than to meet identified capacity needs.

In democracy and governance programs like the one in Iraq in which the vast number of activities focus on developing capacity, missions should evaluate training courses regularly to determine whether they are effective and meeting the needs of the target audience. Based on the observations of the independent evaluation, it does not appear that AECOM or USAID conducted such evaluations.

Chief of Party Changed Frequently. During the program’s duration, AECOM had a total of four chiefs of party. The chief of party is critical to managing the operations of the program. In two cases, the USAID/Iraq contracting officer’s representative (COR) asked AECOM to dismiss the chief of party because of poor performance implementing the program, and in a third, the mission issued a cure notice that called for AECOM to appoint a qualified person because the previous leadership was not effective.⁵ When the leadership changed, priorities and management styles changed within the program, and these changes further complicated the already complex situation.

As a result of the problems outlined above, the program did not provide the intended support to the parliamentary institute and to MPs and their staffs. By the time USAID terminated AECOM’s contract, it spent \$42 million on program activities that did not achieve its objectives. AECOM’s performance and contract termination should be documented accurately in CPARS overseen by USAID’s Compliance and Oversight of Partner Performance division.

Because the program was terminated, the audit team’s recommendations focus on improving the design and management of future democracy and governance programs. In addition, it recommends updating USAID’s legislative strengthening handbook. The book is intended to help field staff make informed decisions about legislative strengthening strategies. It outlines a framework for assessing the needs of legislative bodies and designing appropriate responses to those needs, and it describes the legislative strengthening work that the Agency carries out. Since the handbook was issued in February 2000, USAID has gained more experience with legislative strengthening programs in complex political environment like Iraq’s. Updating this handbook would help the Agency design and implement future programs.

Recommendation 1 (revised). *We recommend that USAID/Iraq’s Democracy and Governance Office implement a monitoring plan so that it tracks the status of programs in comparison with their deadlines.*

⁵ A cure notice asks a contractor to act immediately or risk defaulting. The notice gives the government the right to terminate the contract under FAR 52.249-6.

Recommendation 2. We recommend that USAID/Iraq's Democracy and Governance Office work with implementers to reevaluate and document ongoing and periodic training needs assessments so that training courses are effective and meet the needs of the target audience.

Recommendation 3. We recommend that USAID/Iraq ask the Center of Excellence on Democracy, Human Rights and Governance in the Bureau for Democracy, Conflict and Humanitarian Assistance to conduct a worldwide evaluation of legislative strengthening programs and update the USAID Handbook on Legislative Strengthening to include guidance on how to better design and implement effective projects based on past experiences.

Recommendation 4. We recommend that USAID/Iraq's Democracy and Governance Office report AECOM's performance in the Contractor Performance Assessment Reporting System so that the Compliance and Oversight for Partner Performance division has an accurate, descriptive narrative of AECOM's contract termination.

USAID/Iraq Did Not Adequately Manage Implementation Issues

In its program design, AECOM identified a number of factors that it needed to be sustainable. Three of the notable ones were:

- The Iraqi Government must demonstrate the political will to undertake the necessary activities to strengthen its institutions.
- The program must stress getting ownership and buy-in from MPs, as well as building personal relationships with them.
- It should have an MOU with Parliament during implementation.

AECOM fell short of making sure these factors were in place, and that should have served as indicators or red flags for USAID/Iraq to manage both AECOM and the program and to adjust to Iraq's rapidly changing political environment. Monitoring for red flags is critical when using cost reimbursement contracts to implement a program in a politically charged host country because USAID is required to reimburse costs even if the implementer could not complete the work within the estimated budget.

Program Spending Was Monitored Poorly. Automated Directives System (ADS) 630.3.2.1, "Administrative Approval by a COTR⁶ or Other Approving Official," explains that having specially designated administrators approve contractors' invoices "provides written evidence that work is proceeding satisfactorily under an assistance agreement or that, for a contract, USAID received the goods and/or services specified on the invoice and they conform to the requirements of the agreement between the vendor and USAID."

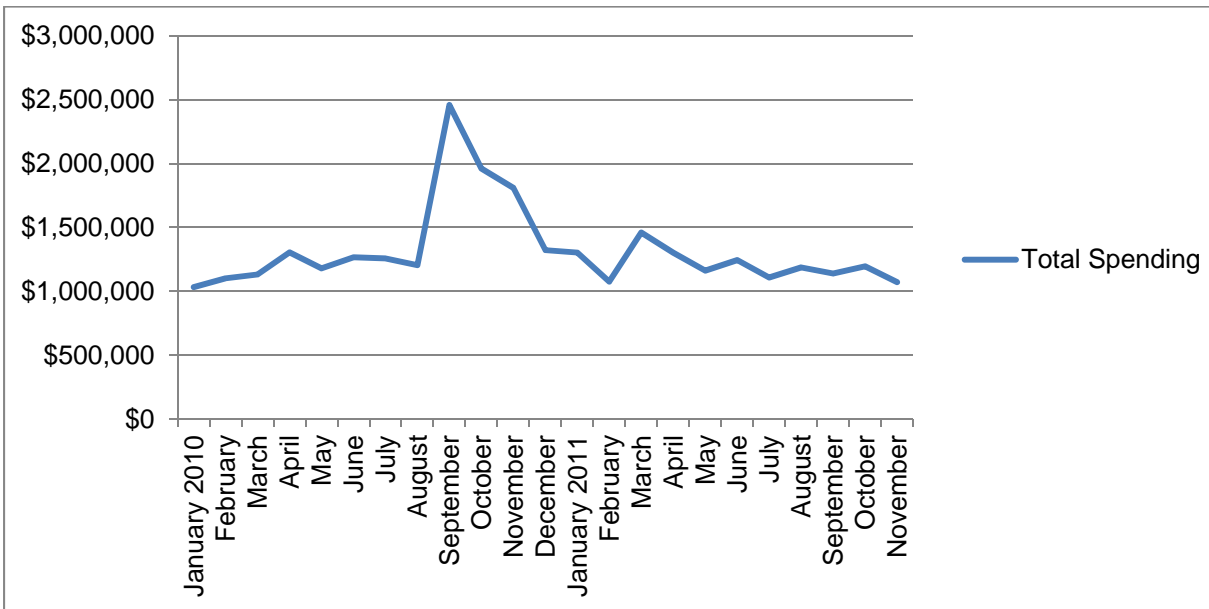
Monitoring any contractor's performance is critical to minimizing risks of paying for

⁶ Before January 2012, contracting officer's representatives (CORs) were called contracting officer's technical representatives (COTRs).

unsatisfactory work. Furthermore, FAR 16.301-3(a)(4)(ii) requires “appropriate Government surveillance during performance to provide reasonable assurance that efficient methods and effective cost controls are used.”

USAID/Iraq CORs approved monthly invoices averaging \$1.3 million from January 2010 through November 2011, as shown in Figure 1, when AECOM was not keeping up with its contractual requirements. For example, between April and November 2011 AECOM received about \$1.2 million for the Parliamentary Institute objective after it was stalled.

Figure 1. Program Monthly Expenditures, January 2010-November 2011 (Unaudited)



Source: AECOM monthly invoices.

Total program spending did not abate during the post-election period between Parliaments from March 2010 to November 2010. The U.S. Government spent \$13.6 million before a government was organized. Nor did the spending abate after AECOM encountered significant implementation issues; in fact, USAID spent \$9.4 million during the program’s final 8 months when implementation was stalled.

In addition, USAID/Iraq reimbursed AECOM \$1,486,609 for unsupported costs that were considered unreasonable and unallowable, listed below.

- Security and life support subcontractor billing included \$1.1 million for additional armored vehicles, generators.
- The COR questioned \$113,000 paid to AECOM for war insurance that AECOM had not reimbursed.
- A worker’s compensation policy was prepaid through September 2012 including \$47,000 for 9 months when AECOM was no longer in the country.
- Monthly invoices showed that \$213,000 was paid for unknown employees through 2011.

- Internet connection costs for 2 months totaled \$24,000— when only two employees were still in Iraq.

Despite the notable lack of progress, USAID/Iraq's COR did not monitor the costs to make sure they were in line with AECOM's performance. As a result, the COR approved invoices averaging \$1.3 million throughout 2010 and 2011 when AECOM was reporting problems getting work done. Had the COR been comparing the spending rate with the program's progress, timelier adjustments could have been made.

Mission Did Not Get Parliament to Share Program Costs. AECOM's final report on the program design discussed the successes and failures of other donor assistance programs. One outcome of those experiences was the importance of having the support of parliament or other host-country government. And one way to get that is to have host countries share program costs. According to statutory requirements in Section 1106(b) of the Supplemental Appropriations Act of 2009⁷ and the Department of State's April 2009 *Guidelines for Government of Iraq Financial Participation in United States Government-Funded Civilian Foreign Assistance Programs and Projects*, which is still in force, USAID/Iraq should seek Government of Iraq financial commitments to the extent possible for all ongoing programs or when those programs directly benefit or involve the Iraq central government.

This requirement applied to all civilian foreign assistance programs funded by the United States with a few exceptions, and one of those was democracy and human rights programs. Since the program AECOM was implementing in Iraq was considered to be a democracy and governance program, USAID/Iraq did not seek cost share initially—even though it was designed to directly benefit and involve Iraq's central government (Parliament). However, mission officials revisited this decision, and on March 30, 2011, they modified the contract to seek cost sharing. In the modification memo, mission officials wrote, "Through this program, USAID will seek the maximum [Government of Iraq] counterpart financial participation through the form of operating or capital costs" because the program "directly benefits the Iraqi central government."

USAID/Iraq missed an opportunity to share the program's cost with Parliament during the first 2 years of the program and also missed an opportunity to be sure that Parliament supported it financially.

Objective Review of Program Sustainability Not Performed on Time. In a March 30, 2011, request to extend the program for 2 years, the mission stated that even though multiple political developments slowed the implementation of some activities, the program had demonstrated that it was able to accomplish the tasks envisioned. In its request to extend the contract another 2 years, the mission's representation of the Parliament's success did not agree with AECOM's assessment of its abilities to succeed.

For example, the mission's memo states:

The [Parliament's] new political leadership is beginning to set the overall tone for assistance, which is open to partnership with USAID and as such presents new and unforeseen opportunities.

USAID is mindful of the extenuating factor of the eight month delay in the

⁷ Public Law 111-32, June 24, 2009.

formation of the government, which held up the election of the Speaker and Deputy Speakers, the formation of [Parliament] committees and other critical [Parliament] functions thus affecting the contractor's implementation timeline. Now, the [program] not only has [Parliament] leadership buy-in and support, it has momentum.

[DGO] believes that the current contractor performance is favorable and that USAID has an opportunity to maximize the relationship with [Parliament] leadership to foster more profound skills building and work towards genuine sustainability of training programs with this extension. The DGO is convinced that the current contractor will continue to perform at the same high level.

DGO considered the possibility of not extending this Task Order and engaging in a redesign of the activity as well as a competitive process. However, the DGO concluded that continued utilization of the current contractor will be cost-effective for USAID because it will reduce the time and resources that a new contractor would have to spend to mobilize and field its team, establish rapport and build effective working relationships with counterparts, as well as adapt to program technical demands and the myriad of challenges on the ground. Given the positive feedback USAID has received from the [Parliament] Speaker and [Parliament] members and staff on the implementation of the [program], a change in contractor would be unwise and counterproductive.

However, these observations do not agree with AECOM's assessment of its progress documented in its October 2010 to March 2011 PMP (which was prepared at the same time that USAID/Iraq wrote its memo).

Unfortunately, the environment inside the [Parliament] has become more uncertain for [the program] since the election of the Presidency Council due to the rising tension caused by the emergence of an anti-US political agenda. Despite the election of a Presidency Council, the development of the ICPD remains stalled. During this reporting period, the [redacted] has blocked the appointment of a [redacted], reportedly because of objections to the proposed structure to the ICPD. In addition, both the [redacted] and the [redacted] are unwilling to adopt an active role in donor coordination on behalf of the [redacted].

The most troubling episode occurred immediately before [the program] conducted an IT satisfaction survey among [redacted]. Although the [redacted] had previously granted permission to [the program] to conduct the survey, and had even volunteered to appoint a member of the staff to accompany the survey distributor to encourage staff cooperation, he withdrew his permission, reportedly because he anticipated opposition.

[The program's] attempts to work with the Legal Advisor to the Speaker, who had served as the [Parliament's] focal point on donor coordination during the reporting period, were met with apathy. Further attempts to promote donor coordination within the [Parliament] were resisted by the former Secretary General.

The mission had the QED Group conduct a third-party midterm evaluation in the summer of

2011 to review the program's performance and offer recommendations to improve it. However, QED issued its final report in November 2011, at which time the mission was in the process of terminating AECOM's contract.

MOU Not Updated. In its project approval document that describes the program design, the mission addresses the importance of sustainability and having an MOU with Parliament, acknowledging that USAID interventions would be sustainable only if Parliament supported them. To secure that support, the mission needed to have an MOU with Parliament. The mission intended for the MOU to provide a framework for assistance and guidance on the methods for ongoing communication and coordination, to clarify responsibilities of the donor and program partners, and to ensure that Parliament funded the program after USAID's support ended. As part of the overall design, the mission planned to negotiate the MOU with Parliament at the start of implementation—recognizing that these were delicate negotiations and had to be well-timed.

On March 24, 2010, 17 months into the program implementation, USAID and Parliament signed an MOU outlining the parties' responsibilities. By this time, AECOM was behind schedule on a significant number of critical deliverables that should have been in place for the incoming government. Furthermore, the mission negotiated the MOU just 2 weeks after the elections when no permanent Parliament was yet in place.

In November 2010, when new government officials were in place, USAID/Iraq did not pursue updating the MOU because the mission relied on the understanding in place. Had the mission made a concerted effort to negotiate with the new government, it could have stood a better chance of getting the commitment and support the program needed to succeed.

By not managing AECOM carefully, USAID/Iraq allowed \$42 million to be spent on a program that was eventually cancelled by the host country. The mission continued to approve invoices averaging \$1.3 million when work was being obstructed or slowed and possibly missed opportunities to make sure the program ultimately succeeded.

Because the program was terminated, the recommendations below focus on improving the design and management of future democracy and governance programs.

Recommendation 5. *We recommend that USAID/Iraq determine the allowability of \$1,486,609 in questioned costs from the Iraq Legislative Strengthening Program contract (identified on page 9) and recover any amounts determined to be unallowable.*

Recommendation 6. *We recommend that USAID/Iraq reconsider all programs that were exempted from cost-share requirements and determine in writing how to obtain them from the Government of Iraq.*

Recommendation 7 (revised). *We recommend that USAID/Iraq's Democracy and Governance Office require each program to include a contingency plan that establishes rules for when it is necessary to reobligate resources toward programs that are demonstrating meaningful results.*

Recommendation 8. *We recommend that USAID/Iraq implement a process that reviews memorandum of understandings when political leadership undergoes significant change and a process to determine if the memorandum of understanding should be updated or a program should be suspended until an official agreement has been*

reached with the Government of Iraq.

EVALUATION OF MANAGEMENT COMMENTS

Based on our evaluation of USAID/Iraq's comments to the draft report, we revised the report to expand the discussion of findings that the mission did not believe were supported in the findings. We also removed six draft recommendations from the final report (Draft Recommendations 2, 3, 5, 8, 11 and 13) and renumbered those included in this final report.

We have determined that final action has been taken on Recommendations 5 and 6. We agreed with the management decisions on Recommendations 3 and 4, but did not agree with those for Recommendations 1, 2, 7, and 8.

Recommendation 1. The mission did not agree with the draft recommendation to supplement contractor's self-reporting because it believed the finding did not support that it was not monitoring its programs. The mission stated that it actively monitored the program activities and deliverables, and it contracted for an independent review of the program in 2011. The mission states that the audit report did not analyze why activities and tasks were not done on time.

We expanded the finding area explaining the modifications that the mission made to the scope during the first 2 years of contract implementation. We also reviewed the work plans that AECOM submitted and USAID approved during that time. In its plans, AECOM discussed accomplishments but did not explain why it changed deadlines or omitted tasks and activities. In its annual reporting on activities, AECOM did not explain why certain activities and tasks were cancelled, nor did it provide the information necessary to show how ongoing activities and tasks were progressing toward meeting their deadlines.

The audit team reviewed the COR's files to understand the reasons why actions were taken and to gauge the degree and depth of oversight of the program. However, the files did not support the mission's claims that the COR was managing the program to reach the results USAID/Iraq expected to have in place prior to the 2010 elections. Therefore, we maintain our position that DGO should implement a monitoring plan so that it tracks contractual requirements closer and makes sure they're on schedule. We revised Recommendation 1 and ask the mission to give it consideration and provide an action plan within 30 days or justify why such a plan is not necessary. Therefore we do not agree with the mission's management decision for Recommendation 1.

Recommendation 2. The mission disagreed that it should work with implementers to reevaluate and document ongoing and periodic training needs assessments so that training courses are effective and meet the needs of the target audience. The mission believes that the ongoing and periodic assessments of training are met by the contract reporting requirements and submission of work plans and the PMP updates.

We expanded the finding area reporting the results of the independent assessment that USAID/Iraq commissioned that addressed the qualitative aspects of the training and the need for improvement. In democracy and governance programs that focus the vast number of activities on capacity development, it is critical to evaluate training activities to determine whether they are effective and meeting the needs of the target audience. We further stress that

DGO require qualitative assessments of training as part of program implementation. Therefore we do not agree with the mission's management decision for Recommendation 2.

Recommendation 3. The mission agreed to ask the Center of Excellence on Democracy, Human Rights and Governance in the Bureau for Democracy, Conflict and Humanitarian Assistance to conduct a worldwide evaluation of legislative strengthening programs and update the *USAID Handbook on Legislative Strengthening* to include guidance on how to better design and implement effective projects based on past experiences. The mission's target date for completion is November 30, 2012. We agree with the management decision for Recommendation 3.

Recommendation 4. The mission agreed to complete the contractor performance assessment report on AECOM by October 31, 2012. We agree with the management decision for Recommendation 4.

Recommendation 5. USAID/Iraq's contracting officer made a determination that \$240,253 was not allowable and the remaining amount was allowable. USAID/Iraq denied \$185,250 in housing costs in AECOM's reimbursement request, and, as part of the termination settlement claim, adjusted \$55,003 for reimbursement of worker's compensation costs. Based on the mission's actions and support provided, final action has been taken on Recommendation 5.

Recommendation 6. The mission agreed to reconsider all programs that were exempted from cost-share requirements and determine in writing how to seek cost-share commitments from the Government of Iraq. The mission provided informational material illustrating that it targeted cost-share requirements in three projects that previously did not have them. Based on the mission's actions in response to the recommendation, final action has been taken on Recommendation 6.

Recommendation 7. The mission disagreed with the need to include a contingency plan that establishes rules for when it is necessary to reobligate resources toward programs that are demonstrating meaningful results. The mission stated that it has an ongoing process to monitor, review, and evaluate implementer performance, as is evidenced by the termination of the program. The mission explained that the COR monitored the program's performance on a weekly and sometimes daily basis, and problems and challenges were well-known and discussed with DGO's director, and the director and deputy director of the mission. The mission stated that it reviewed the implementation status during semiannual portfolio reviews and each time additional funding was obligated.

The mission's response does not address the recommendation. USAID designed the program knowing that AECOM would be working in a changing political environment. For that reason the need for a contingency plan is even more critical. USAID plays a lead role implementing the President's vision for global development. In this role, USAID is expected to manage resources effectively with increased responsibility for budgeting that expands the Agency's capacity to align resources with country strategies, make difficult trade-offs, and redeploy resources toward programs that are demonstrating meaningful results. This expectation is critical in light of the limited foreign assistance resources.

USAID/Iraq states it addressed the program problems and challenges with additional obligated funds. It is the mission's responsibility to monitor the quality and timeliness of key outputs. USAID policy states that delays in completing outputs or problems in output quality provide an

early warning that results may not be achieved as planned. Early action in response to problems is essential in managing for results.

This program's success depended significantly on the traction it was expected to gain within the first 17 months of implementation and during the transition between the first and second Parliaments. During the first 2 years of contract implementation, USAID modified and deleted tasks and activities intended to lay the foundation for the institution's development. As contract implementation proceeded past the second year, AECOM faced challenges and was not able to gain the Iraqi Government's cooperation and support that were essential to sustaining the activities carried out in the previous 2 years.

USAID will probably face the very same challenges within future democracy and governance programs. To effectively manage its resources, USAID must have a contingency framework to proactively react and adjust to the significant changes in the political arena. Based on the events that occurred during implementation and how the mission reacted to the challenges, the audit's position remains the same. However, we are revising the recommendation and request the mission to submit within 30 days from the audit report date its implementation plan for this recommendation. Therefore we do not agree with the mission's management decision for Recommendation 7.

Recommendation 8. The mission did not agree to implement a process that reviews MOUs when political leadership undergoes significant change to determine whether it should update the MOU or suspend a program until an official agreement is reached with the Government of Iraq. The mission stated that it monitors MOUs and takes action as needed and that the COR reviewed and monitored the status of MOU in place with the program. There were ongoing meetings with various Parliament leaders in 2011, and there was cooperation between Parliament and the program until late August 2011.

We expanded the finding section showing that the mission did not have an MOU in place until after the program was experiencing delays—which occurred during a government transition when the incoming parliament was not yet in place. As the mission noted, its DGO implements sensitive, complex programs in a changing political environment and its contractors are not in control of every participant or host-country stakeholder agendas. For those reasons we stress that the recommendation to establish such a process is even more critical. We ask the mission to further evaluate the feasibility of this recommendation and provide an action plan for implementation for future programs within 30 days of the final report date. Therefore we do not agree with the mission's management decision for Recommendation 8.

SCOPE AND METHODOLOGY

Scope

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

The audit was initiated after the program was given notice to terminate operations and AECOM employees were leaving Baghdad. Near the end of 2011, the security situation within the city's International Zone deteriorated when a car bomb exploded outside Parliament. As a result of the bombing and other security threats, movements within the zone by U.S. Government employees were curtailed, which prevented access to Parliament. Except for any adverse effects of not being able to observe and interview AECOM employees or MPs in Baghdad, we believe that the evidence obtained provides a reasonable basis for our findings and conclusions.

The purpose of this audit was to determine whether USAID/Iraq's legislative strengthening program achieved its objectives of supporting a parliamentary institute and developing the capacity of MPs and staff. USAID/Iraq spent \$42.3 million between the program's inception on October 1, 2008, and when AECOM's contract was terminated in November 2011.

We conducted this audit from November 22, 2011, through April 26, 2012, at USAID/Iraq located at the U.S. Embassy in Baghdad. Because of movement restrictions and the lack of AECOM's presence in Baghdad, we relied on interviews with USAID/Iraq officials within DGO, Office of Acquisition and Assistance, and the regional legal advisor. In addition, we conducted interviews with U.S. State Department political officers who were familiar with the program, as well as AECOM officials overseeing the program's closeout from Washington, D.C.

Internal controls related to the program were not assessed because it was terminated when the audit was being conducted.

Methodology

To answer the audit objective, we reviewed how USAID/Iraq awarded the contract to AECOM, how the program was designed, and then gained an understanding of the successes and difficulties the program encountered during implementation through the review of monitoring reports prepared by AECOM. We also reviewed the QED Group's midterm evaluation of the program. The evaluation described a number of problems that were critical of the program's performance and provided recommendations on improvements so it could be implemented successfully.

We obtained invoices that AECOM submitted to USAID/Iraq to perform a financial review of the monthly expenditures during 2010 and 2011. The invoices enabled us to determine how much money was spent when implementation of the program was obstructed or slowed and also to identify questioned costs.

In addition, we obtained contract deliverables and reviewed program documentation to

determine which deliverables were completed. Based on the percent of deliverables completed and the amount of fixed fees billed to USAID/Iraq, we calculated how much USAID/Iraq was overbilled for deliverables that were not completed.

MANAGEMENT COMMENTS



July 12, 2012

MEMORANDUM UNCLASSIFIED

TO: Catherine Trujillo, Regional Inspector General/Cairo

FROM: Alex Dickie, USAID/Iraq Mission Director /s/

SUBJECT: Management Response to Draft Audit of USAID/Iraq's Legislative Strengthening Program (ILSP)
Audit Report No. E-267-12-00X-P

Thank you for the opportunity to comment on the referenced draft audit report. USAID/Iraq recognizes the value of audit as a management tool to further strengthen our programs, and we extend our appreciation to OIG/Iraq for the opportunity to comment on this report.

As summarized below and detailed in the technical annexes, the audit report does not provide reasonable assurance that the findings are sound and support its specific recommendations. The audit lacks constructive feedback due to several unfounded determinations and apparent misunderstandings relating to project management activities. The audit also underestimates the complex political environment that constrained project implementation. USAID/Iraq had an on-going process to monitor, review and evaluate implementer performance for ILSP, and established and maintained relationships with key Council of Representatives' (COR) stakeholders, such as the [REDACTED] and members, the [REDACTED] (both the previous and acting), individual [REDACTED].

Some of the more significant concerns are as follows:

1. The stated purpose of the audit, "to determine whether the program had improved the sustainability of democratic governance in Iraq," exceeds USAID/Iraq's highest level goal for this program. The ILSP was designed and implemented to contribute to USAID's Strategic Objective (SO) #10, *Capacity of National Government Institutions Improved* and the two Intermediate Results (IRs) under that SO: *Core Functions of National Level Institutions Improved* and *Policy, Legal, Regulatory Environment Improved*. Pursuant to Modification 8 issued in September 2010, ILSP's two main focus areas were changed to (1) Capacity of the COR Administrative Systems, Structures, and

Process to Manage and Institute Change Strengthened and (2) Core Parliamentary Functions Improved.

2. The audit report incorrectly states that in March 2011 USAID/Iraq allowed ILSP to continue based on speculative belief that COR leadership would be supportive. The decision to continue the program throughout 2011, and the decision to terminate it, was based on an ongoing analysis of the evolving situation. USAID/Iraq based its decision to proceed with the program, despite considerable obstacles, on documented assurances from the [REDACTED] of the COR to the U.S. Ambassador, from the [REDACTED] to the USAID/Iraq Mission Director and Democracy and Governance Office (DGO) Office Director, and from the [REDACTED] and other key leaders and stakeholders at the COR to both USAID/Iraq DGO staff and the contractor. The audit report itself states, “COR political leadership also gave the impression that the program had support from key individuals.” ILSP was operating in a dynamic, changing environment. Throughout ILSP’s history, there were shifting agendas at the COR which influenced the potential for the program to progress, as well as the pace of that progress. This is a risk that USAID/Iraq acknowledged and carefully managed throughout the life of the project.
3. Between April 2011 and September 2011, ILSP encountered significant political obstruction and a lack of COR commitment to a reform agenda which ultimately led USAID to terminate the program. This political obstruction and the challenges created by it are understated in the audit report and need to be reviewed in light of the broader scope of events taking place in Iraq at that time. The summer of 2011 coincided with the beginning of contentious bilateral negotiations between the United States and the GOI regarding the withdrawal of the U.S. Military. This timeframe was also the lead up to the most significant Iraqi political crisis since the fall of Saddam Hussein. [REDACTED]
4. All USAID/Iraq programs operate in a challenging environment. The hostile political environment was the overriding reason for the termination of ILSP, not just a partial reason as the audit states. The October 2011 memorandum that recommended termination of the program meticulously set forth these reasons.
5. The auditors did not interview any program beneficiaries, ILSP staff or other donors or implementing organizations working with the COR. Movements within the International Zone (IZ) by U.S. Government (USG) employees were curtailed in late 2011, but these constraints were eased after January 7, 2012. If the Mission had been informed that the auditors needed assistance, the Mission would have assisted the auditors in scheduling meetings. The Mission also would have facilitated interviews with ILSP staff, via telephone or email, if it had been requested to do so. During the timeframe of the audit, USAID/Iraq DGO staff visited the COR four times for public events and meetings with

Members of Parliament (MPs), spoke by telephone with the [REDACTED] of the COR several times regarding program closeout issues, and met with at least one member of the COR at the U.S. Embassy.

6. Many of the recommendations are not based on fully developed, evidence-based findings that the Mission acted in error or failed to act. Instead, recommendations appear to be based on summary conclusions reached without an analysis of events and how ILSP was affected by the shifting political environment in Iraq in 2011.
7. The audit report seems to ignore existing systems and procedures for monitoring, evaluation and program review.

However, the Mission agrees with the recommendations that reflect USAID/Iraq's current management policy, practices and views. These recommendations include: six (update USAID's Legislative Strengthening Handbook), seven (report AECOM's performance to the Contractor Performance Assessment Reporting System), ten (seek cost share from the Government of Iraq where practicable), eight (ensure Contractor Officer Representatives has sufficient training), and thirteen (improve risk management systems).

Technical comments and commentary on specific recommendations are attached as Annex I. A partial listing of meetings attended by USAID officials in 2011 is attached as Annex II as evidence of the monitoring of ILSP implementation, including numerous meetings with COR officials. Annex III is a list of activities carried out during the eight-month delay in the formation of the COR in 2010.

ANNEX I

Recommendation 1. *We recommend that USAID/Iraq’s Democracy and Governance Office work with implementers to supplement implementer self-reporting and develop a monitoring mechanism where program activities and deliverables are implemented timely and verified so completion dates don’t have to be extended.*

The Mission disagrees with this recommendation. There is no finding in the audit report that USAID/Iraq did not supplement the self-reporting of the contractor or that the Mission was not monitoring program activities and deliverables. USAID/Iraq was actively monitoring this program and was in regular contact with members of the COR and the staff of the COR as well as with other donors. Further, the Mission contracted for an independent evaluation in 2011.

The audit report does not present any analysis of why activities and deliverables were not completed by targeted completion dates. In a program operating in a dynamic, changing political environment where the contractor is not in control of every participant or the host-country stakeholder agendas, original completion dates are often known to change. Target dates are changed based on an analysis at the time, and changes in target dates are included in the contractor’s work plan which is a living document and/or included in a contract modification. For example, March 2011 emails from AECOM stated that two of the original deliverables would not be completed because the COR [REDACTED] had indicated to ILSP that it would do the work itself. The contracting officer’s representative documented this and engaged in a discussion with the contractor and the contracting officer.

Recommendation 2. *We recommend that USAID/Iraq determine the allowability and collect \$565,409 in fixed fee questioned costs from AECOM International Development resulting from deliverables that were not completed.*

The mission disagrees with this recommendation. An equal amount of the fixed fee is not attributable to each deliverable because the deliverables are not of the same complexity or level challenge. In accordance with the negotiated fee deliverables/chart, an associated fee is delineated for each of the specified deliverables in the task order, and the contracting officer granted approval for the payment of the fee for those deliverables that are 100% complete. The contracting officer also granted approval for payment of a proportionate fee for deliverables that were 80% complete on the basis that these would have been completed had the task order not been terminated for convenience. Based on the negotiated deliverable chart, the approved total fee payable under the task order is \$2,663,089.

Recommendation 3. *We recommend that USAID/Iraq’s Democracy and Governance Office work with implementers to better track spending for activities and deliverables that are stalled by the Government of Iraq and develop a contingency mechanism that will allow programs to cease funding on stalled activities.*

The Mission disagrees with this recommendation. There is no analysis reviewing the reasons for the continued expenditures on what can only be considered “stalled activities” with the benefit of hindsight and consequently no conclusion that the expenditures were not warranted. It is

necessary to analyze the work performed and subsequently billed. Additionally, there is no finding or conclusion in the audit report that the tracking of spending for activities and deliverables was inadequate. USAID/Iraq already has systems in place to track spending for activities and deliverables, and actions are taken as needed to adjust programs or to cease funding. For example, during the 2011 work plan development, USAID instructed the contractor to reduce its focus on donor coordination since the COR had not displayed an ability or interest in truly pursuing a donor coordination role for itself. In addition, USAID and the contractor agreed not to pursue a previous concept of Parliamentary “twinning” with more developed democratic country legislatures for a host of reasons such as logistical feasibility, linguistic challenges, and high international travel costs. Finally, the Mission demonstrated its willingness and ability to cease funding when it terminated ILSP. To suggest that the Mission was forced to do so is to ignore the fact that the [REDACTED] staff and many members of the COR continued to ask for training after the Memorandum of Understanding (MOU) was terminated in September 2011 and asserted that USAID did not need an MOU to continue to provide assistance to the [REDACTED] office and to individual MPs. Nevertheless, the Mission chose to terminate the project because it was an institutional reform project targeting the institution of the COR, not limited offices or individual political actors, a space which was already filled by another donor project.

Work Performed in 2010 and 2011: The audit report suggests that while there was a protracted government formation period from March 2010 to November 2010, which could not have been anticipated, the ILSP should have drastically ramped down its operations. In fact, there is no reason why ILSP should have ramped down during the government formation period. Much of ILSP was focused on training the permanent staff of the COR – those working for the [REDACTED] – all of whom were in place during the government formation period. In 2010 alone, ILSP trained 1,151 staff members in 79 separate training events throughout the year. Since the audit focuses on the post-election period, we have also broken down the training numbers for that period: During the post-election period, 625 people participated in 47 trainings from April 2010 through November 2010.

Training session pace ebbs and flows for any project, and there were certainly dips in fiscal year 2011, particularly during Ramadan, or when political obstacles abounded at the COR and during the month-long arrest of the AECOM Deputy Chief of Party and the effective lockdown of AECOM’s advisors on its compound. Despite this, ILSP continued to train COR staff and MPs throughout 2011. In fiscal year 2011, ILSP provided 105 training courses for 1,452 participants. These figures include 434 new, “unique” trainees – individuals who had not previously attended ILSP training events.

Parliamentary Institute, or Iraq Center for Parliamentary Development (ICPD), Spending: In the early months of fiscal year 2011, ILSP continued to work on activities that were designed to contribute to the overall objective of transferring training and professional development to the ICPD, such as development of research products and training of staff from the Directorate of Administration. The [REDACTED] had been identified as the staff that would run the future ICPD and/or take responsibility for training sustainability should ICPD not be fully established. In the early part of 2011, ILSP also held speaker’s forums on topics of interest to the COR such as “Laws and Regulations Governing Legislative Drafting,” and these fell under the overall objective of the ICPD. ILSP and USAID became aware in March 2011 that progress

on opening the ICPD was likely to be stalled while the COR [REDACTED] jockeyed for power and control within the institution. However, [REDACTED] was confident that the politics would abate in time, and progress on the ICPD would continue, especially since the COR had already invested substantial amounts in the renovation of the ICPD space. After March 2011, USAID and the contractor established a new work plan which acknowledged that ICPD was riskier than previously thought. The work plan shifted sub-activities that were formerly under ICPD to other activity areas to ensure that skills would be transferred even if the ICPD did not physically manifest.

ILSP shifted its focus on research products to the apprenticeship program and its focus on development of ICPD training programs to the more generic training and professional development. With newly elected MPs already on board and the ICPD not manifesting, a sub-activity was dropped. Another sub-activity was dropped due to USAID's reluctance to support the inevitable requests for international travel. It is important to note that \$936,150 (67%) of the \$1,393,517 billed under the line item for the ICPD from March to November 2011 were shared costs of an overhead nature – direct administrative and project management labor (chief of party, deputy chief of party and operations), associated allowances, and costs for security and life support.

Information technology (IT) systems. The audit report has a number of examples of incomplete or oversimplified information regarding IT systems. Much of the work towards IT systems that was included in the contractor's work plans and agreed upon by the COR was already completed when the COR began to refuse necessary administrative approvals. The fact that systems are not in use are a reflection of the COR's rather sudden unwillingness in mid- to late FY 2011, to utilize IT systems provided by the U.S. Government after two years of agreeing on development of these systems.

- Bill Tracking System – The prototype for the Legistar Bill Tracking system was presented to the parliamentary staff in December 2010, and the [REDACTED] stated that the system as presented was far better than anything that he had expected. COR staff was trained on the system and was prepared for it to go live, but the [REDACTED] never approved production use. The system could be in use today if the [REDACTED] would simply turn it on.
- Content Management System (CMS) –The [REDACTED] formally rejected the CMS system which was objectively selected by ILSP before substantive implementation efforts began. USAID suspended work on the CMS in the best interest of public funds.
- Networked Constituency Case Management System – A complete system was developed by ILSP and reviewed by the [REDACTED] and the [REDACTED] to favorable comments. Differing views of control of the system by COR staff ultimately led to the elimination of the [REDACTED] itself, based on conflicting political agendas within the COR, an example of the COR's shifting priorities. It was prudent of ILSP not to invest more into the NCCM system and prudent not to deploy it.

- COR Website – Neither USAID nor the COR committed ILSP to maintaining the website in English or any other language. The COR [REDACTED] maintains the COR website and understandably retains a close hold on its content since it represents the public interface of the highest legislative body in Iraq. The COR’s website is functioning and is updated nearly every day in Arabic and Kurdish, the languages of the Iraqi public. As of June 11, 2012, the most recent updates to the Arabic and Kurdish websites were dated June 8, 2012. Utilization of the website does not depend on an English translation.
- Transcription and Recording System (Hansard system) – The Hansard feature that was built into the Legistar system was fully completed and reviewed by the designated COR staff responsible for COR committee meeting minutes and plenary meeting minutes preparation. However, the Legistar system was never approved for production by the new COR [REDACTED].
- Parliamentary Archive System / Archival Database – Special efforts were applied to develop a comprehensive survey of all directorates within the COR, but the survey was never conducted by the [REDACTED] as agreed. A basic set of parliamentary archive requirements were built into the Legistar system but, as a result of the lack of follow through by the [REDACTED] and the [REDACTED] unwillingness to approve the Legistar system for production, the archive system is not in use even though it is ready for use.

Recommendation 4. *We recommend that USAID/Iraq’s Democracy and Governance Office work with implementers to reevaluate ongoing and periodic training needs assessments so that program activities that involve training courses are effective and meeting the needs of the target audience.*

The Mission disagrees with this recommendation. Ongoing and periodic assessments are met by the contract reporting requirements and submission of work plans and the bi-annual Performance Management Plan (PMP) updates. The finding in the audit report that training was not satisfactory is based on third-hand comments that there was a “general feeling” that the trainings were too basic. The audit report does not disclose if two or ten COR members conveyed this general feeling. The audit report notes that AECOM surveyed 18 trainees and concluded that training was effective. It is not possible to draw conclusions from the AECOM survey nor the third-hand comments which did not cite any specific dissatisfaction regarding specific training events. The auditors did not interview any program beneficiaries or other donors working with the COR who could have provided direct, first-hand testimony.

Recommendation 5. *We recommend that USAID/Iraq’s Democracy and Governance Office require implementers to meet contract target completion dates and hold them financially accountable when performance is not effective or delays occur or properly document why contract completion dates have to be extended.*

The Mission disagrees with the need for a recommendation. There is no analysis or finding in the audit report that explains the basis for this recommendation. As discussed above, the fixed fee is not paid for deliverables that are not completed. The contractor is therefore held financially accountable for failure to complete deliverables. ILSP was implemented in a

dynamic, changing environment, and ILSP did not control all parties involved. The COR, its members and its staff are independent of ILSP, and their actions affected completion dates. In these circumstances, it is not unusual for target dates to change. When USAID terminated ILSP in November 2011, 36 of 50 (72%) deliverables due by March 2012 were complete, and six (12%) of those uncompleted deliverables were at least 85% complete.

Recommendation 6. *We recommend that USAID/Iraq request in writing that the Center of Excellence on Democracy, Human Rights and Governance in the Bureau for Democracy, Conflict and Humanitarian Assistance conduct a world-wide evaluation of Legislative Strengthening Programs and update the USAID Handbook on Legislative Strengthening in order to determine how to better design and implement projects to ensure they are effective based on past experiences and lessons learned.*

The Mission agrees with this recommendation.

Recommendation 7. *We recommend that USAID/Iraq's Democracy and Governance Office report AECOM's performance on the Contractor Performance Assessment Reporting System so the Compliance and Oversight for Partner Performance division has an accurate and descriptive narrative of AECOM's contract termination.*

The Mission agrees with this recommendation as the Mission regularly submits reports on contractor performance in the Contractor Performance Assessment Reporting System.

Recommendation 8. *We recommend that USAID/Iraq's Democracy and Governance Office provide training to Contracting Officer's Representatives on how to conduct proper surveillance of cost contract performance by monitoring the financial resources spent on categories of tasks and deliverables outlined in a contract as required by Federal Acquisition Regulation 16.301-3(4)(ii).*

The Mission agrees with this recommendation, but the contracting officer's representatives had sufficient training. The audit report's finding is based on statements without a supporting analysis. While we believe all of our representatives are well trained, we always seek to improve knowledge through in-house and external training.

It is necessary to analyze the work performed and billed. In FY 2010, \$13.5 million was spent on labor (\$2.9 million including allowances and social costs) and other direct costs (\$10.6 million); other direct costs include approximately \$5.6 million for security/life support. These expenses do not increase and decrease automatically in relation to program progress on certain objectives. Employees and security/life support are necessary ongoing costs. See the response above at Recommendation 3 for a discussion of what work was ongoing in 2010 during the government formation and 2011 during the political obstacles the project faced, specifically regarding the finding on the ICPD. Work was ongoing even if administrative approvals were taking longer than anticipated. During the post-election period, training of the COR staff continued, and 625 people participated in 47 trainings from April 2010 through November 2010.

Recommendation 9. *We recommend that USAID/Iraq determine the allowability and collect questioned costs from the ILSP contract totaling \$1,486,609.*

Sallyport \$1.1 million. The contracting officer approved an increase in the cost of the security subcontract to \$1,525,362 in July 2010 for AECOM's relocation from a shared cost compound outside the IZ to a standalone villa and office location in the IZ. The move into the IZ enabled ILSP to increase its interaction with the COR, USAID and the donor community, as well as reduce security risks with the daily staff convoy from the compound to the ILSP primary work site in the COR. The approved budget included the purchase of generators, IT equipment and supplies for purposes of outfitting the residence and offices in the IZ. With the contract termination, Sallyport payments were covered through December 31, 2011. An additional \$185,250 was claimed for the lease of three villas paid for in advance by Sallyport, but this was denied by USAID. The amount of \$1.1 million, as part of the overall subcontract cost with Sallyport, is determined to be allowable.

War insurance \$113,000. The amount billed for war insurance is \$187,048, excluding \$912.30 for the month of February 2011. The total amount of \$187,960 is determined allowable and billable under this contract. It covers from the inception of the contract through the point AECOM was notified to cease billing war risk insurance by USAID letter dated March 15, 2011. War risk insurance incurred in performance of the services and billed under the contract is allocable, reasonable and allowable. The budgeted amount of \$186,754, together with the \$912.30 for the period of February 2011, previously disallowed, has been determined allowable since it covers the period prior to the USAID contracting officer's letter rescinding approval for war risk insurance.

Worker's compensation insurance \$47,000. When AECOM was instructed by USAID to develop a settlement budget, the final annualized amounts for DBA insurance were not available. As part of the termination settlement, AECOM has re-credited USAID the amount of \$55,003 for FY12 to reflect the variance at cancellation of the policy. AECOM only paid \$17,671 for the period up to the termination date.

Labor costs \$213,000. The amount of \$212,800, entitled to ILSP in the vouchers, is the cumulative amount (from inception of the program through voucher 38) paid out for local employee fringe benefits for sick pay, paid time off (PTO), and holiday pay. The costs are billed based on the fact that the fringe is calculated against labor days. AECOM's Negotiated Cost Rate Agreement (NICRA) with USAID direct charges actual costs incurred against leave taken by local staff. Holiday, vacation or sick leave (paid time off) is charged as a direct cost under the ILSP contract. When a local employee takes leave under the PTO policy, the days taken are tracked under a separate line of labor cost that is specific to PTO time, not worked hours.

Internet connection \$24,000. AECOM's contractual arrangements with its internet service provider required advance payment for three months. Upon receipt of the termination notice from USAID, AECOM promptly notified the internet company of the subcontract termination and requested final invoicing. It agreed to final payment for two full months of internet service at \$10,670/month for October 2011 and November 2011 and a pro-rated amount for the

remainder of December (7 days) at \$2,492, for a combined total of \$23,832. This cost is determined to be allowable.

Recommendation 10. *We recommend that USAID/Iraq reconsider all programs exempt from cost share requirements and determine how cost share commitments from the Government of Iraq can be sought.*

The Mission agrees with this recommendation. The Mission completed a thorough review of all programs in the last quarter of 2011, including an analysis of which programs are required to obtain mandatory cost share from the GOI and which programs are exempt under the 2009 Department of State Guidelines. For exempt programs, the Mission has already begun a process of determining what additional levels of optional cost share may be obtained from the GOI as permitted by the sensitivities of the individual programs. Since 2009, every newly designed program undergoes an analysis of the cost share implications for that program, with a final determination being included in the Project Appraisal Document. Additionally, the Mission includes a review of cost share requirements and progress in quarterly financial reviews as well as in semi-annual portfolio reviews for each program.

It is important to note that, although there was not a formal cost share agreement with the COR, cost share was being provided. For example, the COR provided office space to ILSP and also provided training facilities as well as facilities for all public hearings and sessions that were supported by ILSP. The COR also spent substantial amounts renovating a building for the ICPD, which even the audit report notes the GOI donated to house the ICPD.

Recommendation 11. *We recommend that USAID/Iraq develop a mechanism to establish and maintain key relationships with Government of Iraq officials that will assist implementers during critical times of program performance.*

The Mission disagrees with this recommendation. USAID/Iraq established and maintained key relationships with COR officials as is noted in the audit report. USAID/Iraq and the contractor repeatedly met with key COR stakeholders, such as the [REDACTED]

[REDACTED]. The fact that it was not possible to establish relationships with certain officials does not detract from this; neither does the fact that previously cooperative COR officials stopped cooperating in August and September 2011. There is no one solution or mechanism for managing relationships, particularly in a volatile environment like Iraq, and the Mission cannot write a procedure to require all GOI officials to meet with it. A “mechanism” will not alter the refusal of certain officials to meet with USAID, and this recommendation is not actionable for that reason.

Recommendation 12. *We recommend that USAID/Iraq prepare an official assessment or risk analysis of all programs that identifies the impact from hostile or anti-American political elements and then make a determination if financial resources from negatively affected programs could be put to better use.*

The Mission disagrees with this recommendation. USAID/Iraq has an on-going process to monitor, review and evaluate implementer performance, as is evidenced by the termination of ILSP. To issue a recommendation to do what is already being done is not helpful. The contracting officer's representative was monitoring ILSP performance on a weekly and sometimes daily basis and was meeting with the contractor almost weekly, along with members and staff of the COR. The activity manager and alternate contracting officer's representative were also attending meetings and conducting visits throughout the project's life. Problems and challenges were well known within the Mission, as is evidenced by the memorandum at the time the contract was modified in March 2011, which is noted in the audit report. The ILSP implementation problems were discussed weekly, often daily, with the DGO Office Director and during DGO weekly meetings with the Mission Director and Deputy Mission Director, ad hoc meetings and emails. Implementation status, including challenges and political analysis, was also reviewed at the semi-annual portfolio reviews and each time additional funding was obligated. The fact that the OIG disagrees with the decisions and actions taken does not detract from the fact that there was significant on-going monitoring of this program.

Recommendation 13. *We recommend that USAID/Iraq's Democracy and Governance Office evaluate implementer performance during critical periods of implementation by conducting annual or ad-hoc performance evaluations when the political environment requires an adjustment to program activities and deliverables.*

The Mission agrees with this recommendation in principle; we always work to improve existing systems and procedures. However, the audit report does not have a finding on which to base this recommendation. There were semi-annual portfolio reviews, there was an ad-hoc review in 2010 before the option year was exercised, and the Mission contracted an ad-hoc outside performance evaluation of ILSP in 2011. This process was initiated in April when the contracting officer's representative submitted a statement of work to the appropriate Mission office requesting that an evaluation be performed. During the field work in July and August 2011, the evaluators updated USAID/Iraq weekly, sometimes daily, on their findings, and at the mid-point progress review in early August 2011, the evaluators reported significant difficulties facing ILSP to a wide range of Mission and Department of State stakeholders. USAID/Iraq management was engaged at this time in regular reviews and discussions on actions to take with regard to ILSP. The contracting officer's representative and other DGO staff were meeting almost daily with ILSP personnel and with members of the COR and COR staff, particularly during June, July and August of 2011, as USAID considered a re-scoping of the project in light of the political environment and the stated priorities of the COR.

The audit report quotes the USAID memorandum discussing the March 30, 2011 contract modification comparing its statements unfavorably to the AECOM assessment in the October 2010 to March 2011 PMP update. The USAID memorandum very clearly states that "multiple political developments . . . slowed implementation." It also notes that delays in formation of the

government affected the contractor's implementation timeline and that "program activities will take into account the political fluidity." Attached to the March 30 memorandum was a February 28, 2011 memorandum to the contracting officer that also noted that political circumstances had caused delays in implementation and that the program was "hampered by uncertainty and indecision within the [REDACTED]" It is also important to note that the USAID memorandum was dated March 30, while the AECOM PMP bi-annual update quoted in the audit report was dated April 30, four weeks later, a time period when more difficulties began arising. AECOM's monthly report for March which was submitted in early April did not note the same level of challenges.

USAID/Iraq is concerned that the selective quotes from the PMP update do not give an accurate picture. Excluding the annexes, this is a 37 page document, and the selected quotations are from three widely separated parts of the PMP update. Two of the quoted paragraphs are from page 10; however, where the paragraph order was reversed, and the intervening paragraph was omitted. The intervening paragraph, which follows the second paragraph quoted in the audit, and discusses the same survey, paints a different picture:

Fortunately, it appears possible to overcome the difficulty of gathering data from MPs. Although LSP twice sought unsuccessfully to survey MPs during the reporting period, the early results of its efforts to survey MPs in April have been encouraging. In conducting the April survey, LSP first secured the approval of the [REDACTED] and then approached individual MPs and waited at each MP's side while he completed the survey.

Page 18 gives additional information, detailing that the opposition to the surveys occurred in March, but were overcome with an MP survey being approved and conducted in April. Other positive comments in the PMP update were also overlooked, such as the following statement from page 16: "The [REDACTED] was enthusiastic about reforming the COR secretariat on the basis of overseas best practices, which is at the core of the IDMI [Institutional Development Management Initiative]. He stated that the [REDACTED] was working on overcoming delays to the progress of IDMI in the COR."

Recommendation 14. *We recommend that USAID/Iraq establish a process that reviews Memoranda of Understanding when political leadership undergoes significant change and a process that will also determine if the Memorandum of Understanding should be updated and/or a program should be suspended until an official agreement has been reached with the Government of Iraq.*

The Mission disagrees with this recommendation. USAID/Iraq monitors MOUs and takes action as needed. Programs are not implemented in a vacuum; changes at GOI ministries or other GOI entities are discussed and considered during the ongoing management of programs. Contracting officer's representatives review and monitor the status of MOUs and activities thereunder as a regular part of their jobs, and this was done with ILSP. There were ongoing meetings with various members of the COR leadership in 2011, USAID/Iraq management was actively involved in ILSP issues, and up until late August 2011, there was cooperation between the COR

and ILSP. An independent evaluation of ILSP was in process and would have been used by USAID/Iraq management to determine how to proceed with ILSP.

It should also be noted that the MOU was not entered into with the old COR as stated in the audit report. The MOU was signed on March 24, 2010, two weeks after the March 7 elections, with the [REDACTED]. From March 2010 to the election of the [REDACTED] in November 2010, ILSP and USAID worked closely with [REDACTED]. The [REDACTED] was replaced in April 2011 with [REDACTED] who was supportive in person and did not, to USAID's knowledge, ever question the MOU or request that USAID revisit it.

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