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FINAL REPORT

STRATEGY FOR GUATEMALAN DEMOCRATIC INITIATIVES

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Prepared for:

USAID/Guatemala

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EXECUTIVE SUMMARY

The Mission contracted Checchi and Company to review the AID supported activities which are underway or planned for the support of the further democratization of Guatemala, to propose a strategy for the Mission's activities in this area over the next five years and to make suggestions on how the Mission might proceed to plan and implement activities to carry out that strategy. The review and suggestions were to take into account both activities funded by the Mission and those funded or supported by the regional programs of AID. The contract also called for providing the Mission with advice on the nature and magnitude of the assistance that will be required to assist Guatemala in the conduct of its general elections in 1990. The team from Checchi and Co. performed the work under the contract in Guatemala during February 1988. This report incorporates the results of the team's review and its suggestions re a Mission strategy to strengthen democratic institutions and practices in Guatemala during FY 1989-1994. The recommendations for support of the 1990 general elections are given in Appendices 2a and 2b to the report.

The major conclusions arising from the review of the activities currently underway or planned are:

1) With the partial exception of the Regional Administration of Justice Project, the Mission has not had significant involvement in either the preparation or the implementation of activities in Guatemala under the various regional projects aimed at strengthening democracy.

2) With the exception of the recently undertaken bilateral Improved Administration of Justice Project, the Mission has not performed the degree of analysis and preparation or supervision of the activities in support of strengthening democracy as is normal in other areas of AID's concern. Furthermore, topics related to the strengthening of democracy have not been included in the Mission's policy dialogue agenda. This was primarily due to the Mission's view that it must be extremely careful not to be seen as pressuring the Guatemalan entities to take measures in this field and its diffidence to the expertise of the entities who presented themselves as intermediaries for work in this area.

3) Again with the exception of the recently undertaken Improved Administration of Justice project, the Mission has provided its assistance either through grants to local institutions for support for particular activities or to provide commodities to them (i.e. to the Supreme Electoral Tribunal and to the Office of the Procurador of Human Rights) or through Cooperative Agreements in response to unsolicited proposals (i.e. with the Harvard

Law School and the Center for Democracy). These activities have had some success: the elections of 1985 and 1988 were successfully held; the Office of the Procurador of Human Rights is functioning; a program of seminars for Congressmen has been undertaken; and the Harvard Law School has initiated a series of discussions among its own representatives and high level representatives of the justice sector, provided training for judges and prosecutors, and undertaken a program of technical assistance to try various reforms in a series of model courts. However, except in the case of the Harvard program, none of the activities amounts to a program of long-term strengthening of the Guatemalan institution involved. The Harvard program may achieve that because of its potential link to the Mission's Improved Administration of Justice Project.

4) By far the most thorough preparation and most comprehensive approach to work in this area is that involved in the Improved Administration of Justice Project with the court system. That effort attempts to implement a long term, institution building approach which coordinates both Mission and regional resources.

5) The Mission's strategy for work in the area of democratic initiatives was basically one involving initial, tentative approaches; and it included activities whose impact on the strengthening of democracy were indirect at best.

6) The very sizeable Mission projects supporting training were not used consciously or directly to strengthen democratic institutions and practices in Guatemala, and there was little coordination among the training programs being conducted by the Mission, by the regional programs and by other US Government agencies (such as the Department of Justice's ICITAP programs).

7) The Mission has had difficulty in managing the activities comprising the current portfolio concerning the strengthening of democracy, but has taken several steps to improve its capacity to do so. While those steps may suffice to meet the demands of the current activities they are not likely to be sufficient to meet the demands of an expanded program.

The contract team concluded that both the expectations of the Congress and AID/W for results and the interest of the Mission in improving the management of its portfolio call for the Mission to have a more elaborated and more focused approach to work on strengthening democracy in Guatemala. Therefore, the team recommends that:

1) Work should be concentrated on political and civil rights since other Mission activities and other donors actively

are addressing the economic and social aspects of development.

2) Work should be focused on national institutions (both public and private) which are in charge of administering or protecting the political and civil rights of the populace rather than on local and grassroots organizations since the former are the ones less likely to be responsive to individuals and since their weak performance will have serious consequences for more people.

3) The Mission should build on what has been undertaken during the last three years in Guatemala; and thus it should continue its efforts with the courts, the legislature and the Supreme Electoral Tribunal; and when expanding the scope of its attention the Mission should give preference to institutions whose operations are closely linked to those institutions -- e.g., the Ministerio Público, the bar associations and the law faculties.

4) The Mission should conduct comprehensive needs assessments of any area of activities which it undertakes or continues (except for limited, experimental activities) in order to discipline itself and better assure than its undertakings are feasible, targeted, manageable and significant.

5) The Mission should give increased attention to influencing the underlying psychological and cultural attitudes which impede the consolidation of the rule of law and democratic practices.

6) Training programs should be focused more directly on supporting the institution building and attitudinal changes being addressed by the rest of the strategy.

7) The Mission should be responsible for all AID activities in Guatemala, and should insist on being part of the planning and oversight process of regionally funded activities in Guatemala in the Mission's areas of interest.

The goal of the program would be the broadly stated one of strengthening democratic institutions and practices in Guatemala. The measures of impact and progress on achieving the goal would be: (i) the holding of elections in 1990, 1992 and 1995 which are seen to be fair by the general populace; (ii) the degree to which violence has declined in the public and private life of the society; (iii) the degree to which the populace believes that the country is making progress on democratization and feels secure in the exercise of its political and civil rights.

The components of the program to carry out the proposed strategy would be the following.

a. Improvement in the quality of the justice system. This component would consist of the current Improved Administration of Justice Project and its expansion to include a comprehensive improvement program with the Ministerio Público (and in particular the prosecutorial function) and the creation of a new system to provide defense counsel to persons unable to afford their own. The component would build on the experience of the regional project of ILANUD/RAJO and the Harvard Cooperative Agreement. It would seek to achieve more coordination with the efforts of ICITAP. The purpose of the component would be to achieve improvement in the operation of the justice system. The measures of impact would be: (i) whether people think that the justice system is improving in protecting their political and civil rights and their persons and property from crime, and (ii) objective evidence that the system in fact is working more effectively. The measures of progress would be those concerning improvements in the operation of the key institutions involved -- such as the average time necessary to complete the three major phases of dealing with criminal complaints, the average length of time persons are being held in custody prior to the completion of the investigative and sentencing process, the percent of original complaints which are handled substantively rather than filed for lack of evidence, and the number of actions brought by the Ministerio Público to prosecute violations of the political, civil and human rights of persons.

b. Consolidation of the election system. This component would consist of the provision of the commodities and technical assistance needed by the Supreme Electoral Tribunal successfully to complete the 1990 elections and of a follow-on, longer-term, institution building project consisting of: (i) creating and equipping permanent departmental offices for the Tribunal, (ii) support for the creation and implementation of a system for issuing voter identity cards, (iii) support for a public education effort by the Tribunal both on the voting process and to strengthen the public's confidence in the system and (iv) support for the Tribunal to provide other organizations with advice on the conduct of representative forms of governance. The measures of progress which would be used are: (i) the increase in the percentage of voting age persons who are registered to vote, (ii) the percentage of voters who actually vote, (iii) the existence of a system within the Tribunal for investigating charges of election fraud; (iv) the extent to which other organizations use materials and technical assistance from the Tribunal.

c. Improvement in the capacity of the legislature. This component would consist of an institution building effort with the legislative branch with attention to its functions of reconciling the interests of the various political currents of the country and of providing the legislation needed for the political, economic and social development of the country. The

measures of impact would be the opinion of the public on the performance of the legislative branch and the degree to which the legislature passed timely legislation which the Mission had identified as being important. The measures of progress would be those of institutional improvement and performance. Because of the importance of improving the legislative branch and the desire to be in charge of this effort, the Mission would not wait for or rely on the proposed new regional project for working with legislatures. Rather, the component would build on the initial work under the Cooperative Agreement with the Center for Democracy.

d. Training for democracy and civic education. Technical training and the provision of public information in support of the preceding components will be provided through the projects which carry them out. This component of the strategy will consist of mechanisms for: (i) assuring the compatibility of, and for providing technical assistance to, the public information activities of the individual projects; (ii) assuring coordination and mutual reinforcement among all the training activities relevant or potentially useful to the strategy (including the use of the DT and S project for providing training to supplement the individual projects); and (iii) for supporting a civic education campaign both within the schools and with the adult public which strengthens the understanding of and support for the democratization effort. The component will be focused on, and use the material generated by, the preceding components; but it also will include other aspects of the democratization effort as necessary in order to provide a full picture of that effort. The appropriate institutional arrangements for this component have not yet been identified. It is likely to be undertaken in the latter part of the planning period.

e. Acceptance of non-violent conflict resolution. This component specifically would address the problem of the continued use of violence and the threat of violence in both private and public disputes. It would support the analytical work and institutional channel for producing materials both for the civic education campaign and for a mass media, marketing campaign designed to affect the cultural-psychological traits of the Guatemalan populace which appears to tolerate the use of violence and the threat of violence to resolve private and public conflicts. Impact would be measured by public opinion sampling. As in the case of the previous component, the appropriate institutional arrangements for this component have not yet been identified, and it is likely to be undertaken in the latter part of the planning period.

The order of importance of these components to the overall democratization effort would be: first, the expansion of the Improved Administration of Justice Project to its original scope of including comprehensive programs with the Ministerio Público, the new defense counsel system and the initiation of a public

education campaign re the justice sector; second, the strengthening of the role and performance of the legislative branch; third, the consolidation of the electoral system (listed as third priority only because the system has made such good progress already); fourth, the development of a civic education campaign supporting the democratization effort; and fifth, the effort to strengthen public rejection of the use of violence or the threat of violence in private and public disputes. The tentative schedule for the various steps which might be taken to carry out the strategy is given in Appendix 4.

In carrying out the proposed strategy the Mission will face a significantly increased workload. It should rely more on contracts and less on grants and Cooperative Agreements to carry out its work in the future. It will need to devote a degree of attention to analysis of the various components similar to that in the preparation of the project for the improved administration of justice. It should rely on project funded mechanisms rather than on its own staff as much as possible for the administration of the activities and for the preparation and conduct of the analytical work which is required. It should accept monitoring responsibility for all the AID-related activities, regardless of funding, which are active in Guatemala and are part of or directly relevant to the strategy. As a result, the Mission will need to reconsider the current level and composition of its staff devoted to the implementation of the strategy. Additional administrative support and expertise in social science research and public opinion analysis probably will be needed.

I. INTRODUCTION AND PURPOSE OF THE REPORT

A. The Setting

Since 1985 USAID/Guatemala has sponsored a number of activities which have been grouped together under the category of democratic initiatives. These activities have included ones for improving the administration of justice, strengthening the legislature, supporting the election process and the initial operation of the independent Office of the Procurador of Human Rights and financing both US and third-country training. In addition, the Office of Democratic Initiatives of the Bureau of Latin America and the Caribbean (LAC/DI) has sponsored a number of regional activities of this type as well as ones supporting the professionalism of the media and sponsoring various research and seminar activities. All of these regionally sponsored activities have been active in Guatemala. In addition, the Department of Justice operates a police training program in various countries including Guatemala. The number and size of these regional activities is increasing.

Recently the Mission transferred responsibility for the conduct of its activities to strengthen democratic institutions and practices from the Program Office to the Office of Human Resources which is also responsible for the conduct of the Mission's activities in the health and educational sectors. The latter office concluded that the number and variety of the activities under way by both LAC/DI and the Mission was so great that it would be useful to conduct a review of the operation of the activities to help the Office understand better the magnitude and nature of the portfolio of democratic initiatives. The Office it also concluded that it would be advisable for the Mission to reconsider the approach which it had been following in the design and conduct of this type of activity and in the Mission's relationship to regionally sponsored activities. The basic purpose of the review would be to enable the Office to achieve better control over the conduct and direction of the program as well as over the use of its own staff time.

The Mission concluded that the two reviews would best be taken in the context of the preparation of a strategy statement to govern the Mission's work in strengthening democracy. In order to accelerate the preparation of the strategy statement and to take advantage of an independent point of view, the Mission decided to supplement its own staff work with outside assistance.

B. The Work Order

Pursuant to the AID Indefinite Quantity Contract PDC-0085-I-00-6097-00 (Delivery Order Number 49), Checchi and Company

Consulting, Inc. was contracted to develop a Democratic Initiatives Strategy for USAID/Guatemala. The strategy was to provide the Mission with an overview of the AID activities re democratic initiatives in Guatemala, to suggest a Mission management mechanism for conducting future activities in the area, to summarize a set of objectives and indicators to govern the activities, and to recommend directions for future programming. The Scope of Work is attached as Appendix 1. It includes 13 topics to be addressed, and also calls on the contractor to provide expert advice for preparing for the 1990 national general elections in Guatemala.

The Work Order was carried out by a Management Analyst (John Oleson) who served as Chief of Party and another Management Analyst (Hunter Fitzgerald) who assisted in developing the training and civic education component of the strategy. The two analysts' work was supplemented with the work of two experts on elections --Mr. Jorge García Laguardia, a Guatemalan citizen who was the executive director of CAPEL for several years, and Mr. Edgardo Derbes, an information management specialist under contract to AID/W. (See Appendices 2a and 2b for their reports.) The contractor's preparation of the Strategy Paper was based on interviews with representatives of the US Government and the review of documentation in AID's files in Washington and Guatemala. At the direction of USAID/Guatemala, the preparation did not include interviews with host-country officials except in the case of: the experts who worked with the Supreme Electoral Tribunal, an informal session with the director of the Supreme Court's training program and an informal review of the preparations being made for automation of the administrative operations of the legislative branch.

The 13 topics contained in the Scope of Work are addressed in the course of the discussions of the various parts of this report. However, the report could not address in detail all the topics. For example, the contractor was asked "to develop a set of measurable qualitative and quantitative indicators for use in tracking the success of activities in this area." The report gives a description of the types of indicators to be used and suggests ways for obtaining the information needed. However, the exact quantities to be used will have to emerge from the analyses recommended for project design.

Tentative drafts of the parts of this report were discussed with the members of the Mission's Office of Human Resources. The full draft report was submitted to that Office on March 6, 1989. Comments received on that draft were taken into account in the preparation of this final report. The report is a first cut at a strategy statement. The final version should be the result both of more corporate discussion by the whole Mission and of discussions with the key Guatemalan institutions which would be involved with the final design and implementation of the strategy.

II. ANALYSIS OF COMPLETED AND ONGOING ACTIVITIES

A. Overview of AID Approach in Guatemala

The Mission's approach to work in the strengthening of democratic practices and institutions in Guatemala in general has been to respond to the initiatives of others and not to seek to provide close direction to the activities which it helps to support. This approach has been the result of several factors. First, the Mission strongly believes that care must be exercised to be sure that activities are in fact those which the Guatemalan entities involved want to be supported, and that the Mission and its representatives should do nothing to conflict with the sense of Guatemalan "ownership" of the activities. This has led the Mission to be very cautious in undertaking initiatives of its own and eager to be responsive to concrete requests such as those for help in preparing for specific elections. Second, the Mission has shown a cooperative attitude toward the activities being supported with regional funds, but has not seen itself as being responsible for the conduct of those activities. Since no serious, adverse reactions have occurred as the result of these activities, and since the Mission and the offices in charge of those regional activities have generally good working relations, this approach has not been questioned to date. Third, the Mission has received unsolicited proposals from US institutions (e.g. the Harvard Law School and the Center for Democracy) whose prestige and expertise have made them attractive participants for work on these topics; and seemed to make appropriate the use of Cooperative Agreements for, and limited supervision of, that work. Fourth, the Mission has not been staffed either with the type of persons or with sufficient numbers of people to permit it to take an active or particularly directive role in fostering activities in this area.

As a result of this approach the Mission has not performed the amount of pre-activity analysis nor has it consistently provided for the types of controls and monitoring which are usual with AID-financed projects. This approach also has contributed to the relative lack of specifics as to the impact to be achieved by and the targets of progress which are to govern the activities. However, the approach has had significant successes. The Mission has provided important support to the conduct of two successful, democratic elections held in 1985 and 1988. It has contributed to making Guatemala attractive to sources of technical and policy assistance which otherwise might not have been willing to become involved in Guatemalan's democratization efforts. And it has so far avoided significant Guatemalan suspicion or reluctance to have AID resources used for activities in this area.

The main exception to this approach has been the recent preparation of the Mission's Improved Administration of Justice Project. Even in this instance, the Mission responded in part to opportunities created by others -- e.g. by Harvard in its work with the court system and by the Regional Administration of Justice Project which produced a comprehensive analysis of the needs of the justice sector and a major technical assistance program with the court system. However, the Mission organized its funding of these activities with the usual AID analytical standards; and it intends to guide and supervise, not merely monitor, the implementation of the project. Furthermore, this project probably will influence the way in which the Mission conducts its other activities for the strengthening of democracy. For instance, the Mission is becoming more assertive in its relationship with the Center of Democracy and the Harvard Law School.

B. Current Strategy Documents

1. LAC/DI Strategy Statement

In early 1988 the Bureau for Latin America and the Caribbean (LAC) adopted a framework for its work in supporting democratic development in Latin America and the Caribbean. That framework was based both on the Bureau's previous experience with activities in this area and on the conclusions of a January 1988 conference of Latin America and US leaders experienced in working on problems facing democratic development. The conference concluded that the major areas of focus for the Bureau should be: (i) improving the administration of justice, (ii) supporting electoral systems, (iii) strengthening the content and administration of the legislative process, (iv) strengthening the performance of political parties, (v) supporting the role and performance of the free media, (vi) supporting and expanding leadership education, (vii) supporting local and grassroots organizations (including their relationships with similar organizations in the US), (viii) supporting the further professionalization of public bureaucracies, (ix) assisting in the development of a democratic ideology, and (x) fostering a positive relationship between the military forces and the democratization process.

The conference report emphasized that the relative weight to be placed on these various efforts would depend on the conditions and needs of the particular countries, and that action programs to carry forward the efforts should be based on needs assessments for each country. The conference report also called for the development of indicators of progress for these programs, for involving NGOs and other bilateral and multilateral assistance sources in the efforts, and for linking the action program with the regular AID development program. However, the report indicated that NGO activities should be funded through on-going

AID programs and not make a claim on the funds available for democratic initiatives. At present LAC/DI is preparing a revised strategy statement. The purpose of the revision is to achieve greater focus in the program and to clarify the relationship between regionally and bilaterally funded activities.

2. USAID/G's CDSS for FY 1990-1994

The Mission's CDSS for FY 1990-1994 was approved by AID/W in February 1989. The CDSS identified four major types of constraints on the strengthening of democratic practices in Guatemala. First are attitudinal constraints. The general population, and especially the indigenous population of the western highlands, is skeptical of the chances for sustained progress in strengthening democratic practices. Second are educational constraints. There is a lack of civic education both in the schools and for the general population. Third are institutional constraints. Both the judicial system and the legislature need strengthening in order to meet their responsibilities, and the civil service system in general needs improvement and protection from partisanship. Fourth are financial constraints. Public funds are scarce, and hard choices will have to be made on how to allocate them in support of democratization.

However, the CDSS also sees important opportunities to build on the progress which has been made since the adoption of the new constitution in 1985 and the subsequent election of a civilian government which took office in early 1986 and which has remained in office since that time. The CDSS proposes a strategy consisting of five major efforts. To carry forward the strategy the CDSS projects a gradually rising resource level from an average of $11 million in FY 1989-90 to $17 million in FY 1993-94.

The first effort is to improve the performance of the justice system through carrying out the current regional and bilateral activities with the public institutions operating in that system and through adding discrete activities with academic and private sector legal groups. The second effort is to support the electoral process through responding to requests for assistance from the Supreme Electoral Tribunal to carry out the national elections in late 1990, the municipal elections in mid-1992 and the subsequent national elections of 1995 and through making grants to the Supreme Electoral Tribunal and related public service groups to support popular understanding and acceptance of the electoral process. The third effort is to strengthen the performance of the Congress through focusing on the improvement of its committee system and on the training of members of the staff and through international exchanges of experience among legislators. The fourth effort is to continue and expand the support for training through the CAPS program in particular and the training program of the Mission in general.

The fifth effort is to encourage local empowerment through support for NGOs, the Peace Corp and the strengthening of the capacity of municipalities to take advantage of their constitutionally mandated 8% share of the central government's tax receipts.

In carrying out the proposed strategy the CDSS emphasizes that the Mission will follow the principle of Guatemalan "ownership" of all the activities and be particularly sensitive to possible Guatemalan fears of undue USG interference in its political life. The CDSS does not propose a policy agenda for this program. The CDSS leaves the setting of that agenda and targets of progress and impact to the Action Plan, and it does not identify any issues facing the accomplishment of mutually reinforcing actions by the bilateral and regional programs or by the Mission's activities supporting democratic initiatives and those in the rest of the Mission's program.

3. USAID/G's Action Plan for FY 1990-1991

The Mission's Action Plan for FYs 1990 and 1991 is now in draft. The Mission's Objective for democratic initiatives is broadly stated: "strengthen judicial, legislative, electoral and other democratic processes/institutions." The Action Plan also intends to include training for democratic leadership under the CAPS program which previously had been covered under the objective related to education.

The Action Plan does not yet include any Country Development Trends Indicators for this objective. The projected obligations, program performance indicators and the key project/program accomplishments reflect the activities described in the following sub-part C. The indicators are almost entirely outputs expected from those activities. However, they do include several institutional improvement goals generally expressed. The key policy dialogue actions and planned conditionalities contained in the Action Plan also are generally expressed. They include: (i) providing adequate resources from the national budget to support judicial, legislative, electoral and other democratic institutions in implementing their programs; (ii) providing the policy framework and support to private institutions to permit them to participate fully in the development process; (iii) carrying out needed improvements in congressional structures and processes to permit the passage of better and quicker legislation; (iv) revising the criminal codes and developing enabling laws to make the judicial system fully functioning and responsive to the needs of the Guatemalan population. The Action Plan does include two specific measures -- developing a career judiciary and civil service law for the employees of the judicial system and introducing oral proceedings into the criminal law process.

The Action Plan projects an increase in the level of resources devoted to the objective from $3.450 million in FY 1988 to $6.106 million in FY 1989. The increase reflects the incremental funding to be provided to the Improved Administration of Justice project and PD & S associated with that Project as well as additional funding for the Harvard Law School Cooperative Grant and for additional activities with the Supreme Electoral Tribunal. The level of resources projected for FY 1991 for these activities falls to $5.506 million or to $3.406 million if one does not count the PL 480 generated funds of $2.400 million planned for ASINDES, an organization of several NGOs operating in Guatemala. These levels are not as high as those in the CDSS because they have not yet been modified to include the training programs to be included under this objective or the new starts that might arise as a result of a revised strategy.

C. Description of Current Activities and Plans

1. Improvement in the Administration of Justice

a. Regional Administration of Justice Project-ILANUD

In 1985 LAC/DI undertook a major project to improve the administration of justice in the countries of Central America and the Dominican Republic. It obligated $9,591,114 to support a five year project to work in the Dominican Republic, Panama, Costa Rica, Honduras and El Salvador. In 1986 an additional $2,225,000 was added to include Guatemala fully in the project and the Andean democracies in its training activities. The primary implementing institution for the project is the Latin American Institute for the Prevention of Crime and the Treatment of the Offender (ILANUD) a United Nations related organization having its headquarters in San Jose, Costa Rica. The main channel for providing technical assistance to ILANUD under the project is Florida International University (FIU) of Miami, Florida which also was charged with conducting assessments of the operation and needs of the criminal justice systems of the participating countries. Funds are provided to ILANUD through a Grant Project Agreement and to FIU through a Cooperative Agreement. The project is supervised by LAC/DI with technical direction being provided by the Regional Administration of Justice Office (RAJO) of AID in San Jose. The costs of RAJO are financed from the project.

The regional project has several main activities. First, it seeks to strengthen ILANUD as an institution so that ILANUD will be able to continue and expand its own support for the improvement of the performance of the justice systems in its member countries. Second, the project finances an increase in the training activities of ILANUD for persons from the justice sectors (judges, court staff, prosecutors and public defenders)

of the member countries. Third, the project finances the conduct of pilot activities by ILANUD and selected participating countries on important common problems or needs such as: (i) the collection and utilization of statistics re performance of the courts; (ii) the creation of systems for the compilation and retrieval of information concerning legislation in effect, court decisions and academic writing on criminal law topics; and (iii) the improvement in case-tracking and other administrative needs of the court systems. Fourth, the project finances ILANUD's providing technical advice to member countries on topics related to improvements in the law and practices governing their justice sectors. Fifth, the project finances the creation and operation of National Justice Commissions in the participating countries to act as vehicles for achieving coordination and planning for activities aimed at improving the operation of the justice sectors and the salaries and operating expenses of persons in each country who provide liaison among the National Commissions, ILANUD and the respective AID Missions. Sixth, the project finances ILANUD's acquisition for itself and for the participating countries of legal books and publications and of a system of reference between ILANUD's data center and the participating countries. Seventh, the project finances ILANUD's organization of national workshops to discuss the findings of the sector assessments carried out by national teams under FIU's guidance. These workshops were to help stimulate AID Missions to prepare and carry out bilaterally-funded activities in support of the improvement in the operation of the justice systems and especially of the criminal justice systems.

The regional project has been active in Guatemala. It has: (i) fostered and supported the creation and operation of the National Justice Commission; (ii) paid for the Resident Coordinator and related secretarial services attached to the Mission; (iii) financed the conduct of the Sector Assessment by FIU and supported a National Workshop to discuss the content of that Assessment; (iv) provided short-term training to Guatemalans in both regional and national level training events organized by ILANUD; (v) provided a basic library in criminal law topics for the library of the Supreme Court; (vi) provided consultant services through ILANUD on such topics as preparing the manual of procedures for the justices of the peace, the organization and functioning of the system of the Constitutional Court, and training 200 participants to be selected for the Juzgados Menores Comarcales; (vii) provided long-term training for three Guatemalans at the University of Costa Rica in its post-graduate study program; and (viii) planned and initiated two pilot, technical assistance efforts with the Supreme Court -- one in the compilation of juridical documents and another in court management and statistics.

The regional project was the subject of an evaluation in the first quarter of CY 1988. The findings of that evaluation were

taken into account in preparing an amendment to the Project Paper which provides for an extension of the grants to ILANUD and to FIU through December 31, 1992 and for adding $12.623 million to the overall project. The purposes of the extension are several. First, the extension will continue the funding for the operations of RAJO. Second, the extension will support the consolidation of the institutional development of ILANUD. Third, the extension will support the continuation of ILANUD's program of regional workshops, seminars and short courses already designed under the project, and will develop new courses and training modalities including increased emphasis on civic and legal education for the public. (Country specific training will be provided only in response to bilaterally funded requests.) Fourth, the extension will support the completion of the major pilot activities and the dissemination of their results. This will include the activities in judicial statistics in the Dominican Republic, the court administration pilot project in Guatemala, and the legislative/ jurisprudential information projects in Costa Rica and Guatemala. Fifth, the extension will support ILANUD's: providing basic sets of legal materials to lower court judges outside of capital cities; providing technical assistance in the organization, purchasing and cataloguing of basic libraries; developing of training and specialized dispute resolution mechanisms in agrarian justice; preparing training materials and activities in the enforcement of environmental protection laws; and developing curriculum designs for both its own training programs and for national training institutions. Sixth, the extension will finance annual regional and national meetings to evaluate the state of the justice sectors and to address the problems identified in those meetings. Those meetings will begin with a regionwide conference to be sponsored by the Government of Spain in February 1989.

The main importance of the extended regional project for Guatemala will be in its support for the creation of an information management capability in the Supreme Court to deal with legal information as well as to control the administration of the court system. Preparations for the legal information system have been underway for some time, and the IBM equipment for the activity was ordered in November 1988. This additional activity concerning the administration of the Guatemalan court system is being financed with $400,000 from the regional project. It will cover an 18 month period. The activity will involve ILANUD's assisting in the design, financing and implementing of an automated system for 13 Juzgados de Paz, seven Juzgados de Instruccion, five Juzgados de Sentencia and three Salas Jurisdiccionales all of which are located in the central court building in Guatemala City. The focus of the system will be on "case tracking." The work will proceed by stages. The first stage will be devoted to analyzing the administrative process and problems, making recommendations to meet the problems and developing manual instruments to control the process. The second

stage will be devoted to designing an overall system including the rationalization of the paper flow, development of model procedures and planning for possible automatization. The third stage will be devoted to trying out the new manual procedures, developing specifications for computer equipment and software and extending the manual procedures outside the capital city. The fourth stage will be devoted to setting up and trying out the automatization program and providing training in automatization. The fifth stage will be devoted to trying out the full system in the selected courts in the central building and evaluating the experience. The final stage will be devoted to extending the full system throughout the courts in Guatemala City. Unfortunately, the planning between the Supreme Court and ILANUD does not appear to take into account the proposals of Harvard Law School for working with model courts. (See subpart c below.)

b. Regional Grants to Associations of Lawyers

Under the Regional Project LAC/DI has made a series of grants to three organizations of lawyers to foster their involvement in the efforts to improve the administration of justice in Latin America and the Caribbean. The activities of these associations have not involved the Mission nor have they been taken into account in any of the other regional or bilateral activities involved in the administration of justice program. They have not been evaluated.

LAC/DI made an initial grant of $116,965 to the American Bar Association in 1987 to support a series of seminars on commercial and labor arbitration in Guatemala, Honduras, El Salvador and Costa Rica. The PACD of October 30, 1988 was extended to October 31, 1989 to permit the Association to utilize the balance of $176,000 authorized in order to conduct follow-up seminars and workshops and to publish the proceedings and academic papers presented at the seminars.

The American Society of International Law received a grant of $30,000 in 1986 and one of $55,000 in 1988 for holding conferences on the administration of justice in conjunction with the yearly meetings of the Inter-American Juridical Committee of the OAS.

The Inter-American Bar Foundation received a grant of $280,000 to conduct three consecutive annual conferences of the bar associations of Central America, Panama and the Dominican Republic. The conferences led to the founding of the Federation of Bar Associations of Central America and the Caribbean which will have its seat in Guatemala and use the part time services of a Guatemalan lawyer. LAC/DI extended the period of the grant through February 28, 1990 and added $359,296 so that the Foundation could continue working with bar associations in

Central America and the Dominican Republic and extend its activities to the Andean region.

c. Harvard Law School Cooperative Agreement

In July 1987 the Regional Contracts Office signed a Cooperative Agreement with the Harvard Law School pursuant to a PIO/T from the Mission. The Cooperative Agreement covered a three year period, and was funded at a level of $1,482,800. The Cooperative Agreement was based on an unsolicited proposal which Harvard had presented to the Mission in February 1987. That proposal was based on conversations during the second half of 1986 between representatives of the Center for Criminal Justice of the Harvard Law School and: the President of the Supreme Court, the Minister of Interior and the Attorney General of Guatemala; representatives of the U.S. Government in Washington and Guatemala; and personnel of ILANUD and RAJO in Costa Rica.

The Cooperative Agreement covers a program of two major components. The first is a Consultative Component whose purposes are to analyze the technical and administrative problems and the needs of the Guatemalan criminal justice process, to deal with the issues of policy reform facing that process, and to establish a system for monitoring the work under the Cooperative Agreement. The component is to be carried out through: (i) four meetings per year in the US and in Guatemala of high level representatives of Harvard and of the Guatemalan judicial sector, (ii) having teams from Harvard do research in Guatemala and carry out consultations on the issues identified, and (iii) consultation visits to the US by high level Guatemalan members of the judicial sector. The second component is the Fellowship Program which supports specialized study and research at Harvard for up to 12 criminal law or investigative judges for up to one semester each and annual seminars in Guatemala for 20 to 40 Guatemalan investigative and sentencing judges at which the judges returning from their fellowships at Harvard can share their insights and the results of their research and at which the group can discuss developments in the Guatemalan judicial system during the previous year. Representatives of Harvard help prepare and attend the seminars.

The Cooperative Agreement calls for Harvard to present the Mission with annual implementation and financial plans by the end of each year and to submit quarterly progress reports to it. The Cooperative Agreement also calls for Harvard to participate in the mid-term and final evaluations of the activity to be organized by AID. However, the Cooperative Agreement does not contain measures or targets of progress or impact or other standards to govern the conduct of such evaluations.

The Cooperative Agreement was signed by Harvard in September 1987. The first consultative meeting was held at Harvard in

January 1988 with the President of the Supreme Court, the Minister of the Interior and the President of the Constitutional Court. (The Attorney General had planned to attend as well, but he was unable to do so.) The fellowship of the first four judges got underway in March 1988. The purpose of that fellowship program was to discuss in a broad way the major problems facing the Guatemalan criminal justice system and possible approaches to dealing with them. As part of that program the judges wrote papers analyzing various aspects of the Guatemalan justice system. One of the suggestions coming out of the discussions was to create a special prosecution unit within the Office of the Attorney General (the Ministerio Público) whose members would receive training under the project. In May 1988 two prosecutors from the Office of the Attorney General came to Harvard to work on the design of the model prosecutor's office.

The first two judicial seminars were held in Guatemala in June 1988. One was in Quetzaltenango and the other in Guatemala City. Judges and representatives of the Ministerio Público discussed the problems facing the justice system. Representatives of Harvard and experts from other countries also participated as did the President of the Supreme Court, the Minister of the Interior and the Attorney General. One of the papers presented to the group was a report of a Harvard Law School student who spent three weeks in Guatemala observing court procedures and collecting statistical data on case processing. The conclusions of the seminars were typed and issued by the Supreme Court in July.

The second high level consultative meeting was held in May 1988 in Guatemala. As in the first, it was attended by the President of the Supreme Court, the Minister of the Interior and the Attorney General. They were joined by other high ranking members of the judicial system and by the two representatives of the Ministerio Público who earlier at Harvard had discussed the possibility of creating a special prosecution office. In connection with the second consultative meeting and the first two judicial seminars, representatives of Harvard carried out independent research and consultation during May and June 1988. It consisted largely of observations of the operation of various aspects of the justice system and of conversations with the persons involved at the various levels of the system.

As a result of the discussions at the seminars Harvard representatives concluded that many of the recommendations for reform could be implemented through the establishment of several model offices within the courts and in the Ministerio Público. Their suggestion that Harvard prepare a proposal to create such model offices was agreed to informally by the President of the Supreme Court and the Attorney General as well as by representatives of the Mission and the Embassy. Harvard prepared such a proposal which covered a Supreme Court Advisory Council; model

Paz, Instruccion and Sentencia courts; a special prosecution unit of the Ministerio Público; and a model defender's office. The proposal was submitted informally to the Mission; but it has not been the subject of further discussions or analysis since the Mission stated that it could provide no additional funds beyond the $200,000 to meet the cost of establishing and staffing Harvard's Guatemala office, and that any additional costs of the model courts would have to be met either by the court system or by Harvard from its existing funding.

In July and August two Guatemalan judges who had handled major political type cases (re the attempted coup of May 1988 and the accusations against members of the Quetzaltenango police) were invited to Harvard to describe and analyze their experiences. Harvard also invited the ex-chief of the Guatemalan National Police to provide his perspective on the criminal justice system of Guatemala. In August a representative of Harvard visited Guatemala to undertake collaborative efforts to establish a model defense office.

The second fellowship program for judges began at Harvard in September 1988. The aim of the program was to develop plans for the model urban and rural Paz courts. The participants were three Jueces de Paz. Also in September 1988 and without prior consultation with the Mission, a recent graduate of the Harvard Law School came to Guatemala as Harvard's resident representative for the project. He is to assist in implementing and monitoring the model programs and to do on-site studies of the Guatemalan criminal justice system. In October Harvard informally submitted a proposal to amend the Cooperative Agreement to provide additional funds for its in-country office and representative. On December 9, 1988 the AID contract office authorized the establishment of Harvard's in-country office, and stated that additional funding would be supplied later.

The implementation of the Cooperative Agreement has been subject to several significant problems. First, Harvard relied on the Mission for most of the in-country administrative work such as arranging the travel of judges and others attending seminars and events in Harvard and was often late in requesting country clearances for travel, in providing adequate information on the purposes of the visits and in supplying reports and financial information to the Mission. This placed a considerable burden the Mission. It is not yet clear that the establishment of an in-country office by Harvard will deal effectively with this problem.

Second, Harvard asserts the right to take public positions and to conduct research on topics without having the prior agreement of the U.S. Government to those actions. The first instance of this problem arose when Harvard, without prior consultation with AID or the Embassy, in 1988 wrote letters to

several high Guatemalan and US officials objecting to the kidnapping of a judge who had been in charge of a case against certain police officers and threatening to withdraw from work in Guatemala unless the kidnappers were brought to justice and the case against the police pursued. The second problem arose in January 1989 when Harvard (with the agreement of the Mission) decided to undertake an analysis of the operation and needs of the Guatemalan police through sending two law students to perform the research and insisted on continuing the activity despite the objections raised by the Embassy and in the face of the Mission's having given its agreement on the understanding that the analysis was to have been of the relationship between the police and the other institutions in the justice sector.

Third, Harvard has proceeded on several occasions as if it were entitled to AID funding for activities which it supports but for which it had not received agreement from AID. Thus, Harvard instructed its resident representative to proceed with implementing the special prosecution unit in the Ministerio Público and with the model courts without having gotten AID's agreement to provide the financing which would be needed. However, Harvard did have the agreement of the Ambassador to proceed. This problem in part reflects Harvard's decision to move ahead on programs not included in, or at levels beyond that included in, the Mission's Improved Administration of Justice Project. (See sub-part e below). The situation raises the issue of what provides the framework for the operational activities evolving out of the research and consultative activities which originally were the focus of the Cooperative Agreement.

Fourth, Harvard has been slow in providing the quarterly reports and the annual workplans required. The first year's workplan , in fact, was prepared by the Mission; and the second year's workplan had not been received by late-February 1989.

The Mission plans to conduct a mid-term evaluation of the activity in June 1989.

d. ICITAP Training Program

The Department of Justice through ICITAP has provided significant amounts of training to the Guatemalan police and to some judges, personnel of the courts and prosecutors. Utilizing FY 1988 funds ICITAP conducted nine national level courses in Guatemala for 333 persons and one regional kidnap and extorsion course for 26 persons including Guatemalans. Furthermore, 16 regional courses in a variety of other subject areas included Guatemalan participants. In FY 1989 ICITAP plans a five-week national, general investigative techniques course for 50 Guatemalans. Two other national courses will be given in criminal investigation for the police. Over 80 Guatemalans will be invited to six regional courses in such subjects as vehicle

theft, violent personal crimes, crime scene searches and interview techniques. The Washington ICITAP staff reported that in 1989 ICITAP will provide a two week course in Guatemala giving an overview of investigative techniques for 50 judges and court personnel. However, the Supreme's Court Training Director told us that she did not have a firm commitment from ICITAP for such a course. We were unable to confirm that prosecutors would be included in the above course if it is given or if there were plans to include personnel from the Ministerio Público in other ICITAP courses.

The operation of the ICITAP program has not been evaluated and there are no current plans to do so. However, it does appear that the ICITAP, Harvard, and ILANUD programs have not always been well coordinated; and there seems to be more demand by the court system and the Ministerio Público for similar training of their personnel than ICITAP has been able to meet. Furthermore, the Embassy in Guatemala has encouraged ICITAP to broaden its focus from being merely a provider of training to being more an institution builder. In response ICITAP is working on the development of an office of professional responsibility for the police, and is involved in curricula development for the Police Academy. Furthermore, the Washington ICITAP staff has been working on a five year plan for the overall ICITAP program.

e. USAID/G's Improved Administration of Justice Project

In September 1988 the Mission authorized a $5.0 million, three year project to support improvements in the administration of justice in Guatemala. Over the life of the project the GOG is expected to provide $2.055 million of in-kind contributions for a total project cost of $7.055 million. $1.1 million of ESF was obligated in support of the project in FY 1988. The focus of the project is on a comprehensive program for improving the operation of the court system, and the Project Agreement was signed with the Supreme Court. To date $430,000 has been committed under the project -- all for the Mission's administrative costs.

The project has four major components. The first component is to provide training for the personnel of the court system and to strengthen the system's capacity to provide training for the future. The component will include the conduct of training needs assessments, the preparation of training plans, the procurement of supplies and equipment for the Supreme Court's training office and the financing of the training of some 1,945 persons per year. The component will be carried out in close consultation and with the help of the training division of ILANUD.

The second component is to support the utilization and expansion of the legal information system being created by the Supreme Court with the help of ILANUD. (See sub-part a above.)

This component will: assist in completing and publishing the indices undertaken by ILANUD; expand the indices to include general decrees and legal writings; support the inclusion of the full texts of selected laws and court cases in the system; and study the possible financing of a computer-based system for distributing the information in the database to interested persons both within and without the court system.

The third component is to support the operations of the National Justice Commission. This project will provide support as that of the regional project is phased out during FY 1989, and it will expand the support by hiring more professional staff for the Commission, providing the Commission with its own office facilities and supporting conferences and analytical work to enable the Commission to establish priorities and action plans which address the major problems of the justice sector.

The fourth and central component of the project is that of improving the operations of the court system. This component involves 12 activities:

- analysis of the structure of the court system,
- establishment of a judicial planning unit,
- financial management and budgeting,
- personnel system,
- records management,
- standardized forms,
- caseflow management,
- judicial statistics,
- court interpreters,
- court libraries and publications,
- information system, and
- pilot programs.

Several of these activities build on or depend on the activities being undertaken by ILANUD and by Harvard. (See sub-parts a and c above.) For instance, the work on caseflow management, judicial statistics and the information system will utilize the experience, training and equipment supplied by ILANUD's activities; and the component will utilize the experience from Harvard's work on model courts to plan for the system-wide

expansion of successful steps. This inter-relation of the three projects will require unprecedented levels of cooperation and mutually supportive timing of activities.

In addition to the four major components the project also will support some training for personnel of the prosecution office of the Ministerio Publico and for the law school students and professors and administrators currently involved in the operation of the defense counsel system funded by the law schools.

To carry out the activities the project will support a technical assistance team and support personnel as well as a series of short term consultancies over a 27 month period. The team will consist of a Technical Support Coordinator, who will also act as a training advisor, the equivalent of approximately three years of short term advisory services and a large amount of local, professional advisory services. The team will form a Project Implementation Unit to be headed by a Guatemalan person of distinction and experience in the justice sector who will be contracted directly by the Mission. The Project Implementation Unit will represent both the Mission and the Supreme Court in the implementation of the project and be associated with the National Justice Commission. It will do most of the procurement of locally available goods and services and of short-term technical assistance for the project, and it will be the main channel for coordinating the work in the justice sector being financed by AID (and perhaps by other USG agencies as well).

The size and scope of this project is the result of the Mission's cutting its plans to fit the level of support permitted by AID/W. The Mission's analyses and preparations had been for a five-year project of some $12 million. In addition to the activities included in the current project those plans had included: (i) a more intensive training program for judicial branch personnel and higher levels of support for several of the court's improvement activities; (ii) a higher level of support for the model courts program and for a special investigation and prosecution unit in the Ministerio Público which were proposed by Harvard; (iii) analyses and assessments of: public attitudes toward the justice system, the criminal defense system, the operation and needs of the Ministerio Público, the impact of the formal justice system on indian communities, alternatives for dispute resolution, the system of detention of criminal suspects prior to final judgement, special constraints on women in the administration of justice in Guatemala, the feasibility of the decentralization of various aspects of the justice system and the collection of baseline data needed for use in future evaluations. Most important, the Mission's plans had included a second phase for the project during which a comprehensive program for the Ministerio Público and for a reformed defense counsel system

would be carried out on a scale similar to that supported vis a vis the court system in the first phase.

While some of the analytical work originally planned may still be done with PD & S funds, those funds cannot meet all the needs originally addressed in the Mission's planning, and may not be easily made available through the project's mechanisms thereby increasing the management burden of the Mission. Then too, the restricted scope of the project is likely to reduce its potential for impact even on the operation of the court system and for achieving influence over the overall justice sector.

f. Plans for the Future

The current plans for the future are to carry out the three major projects now underway. For the Mission the main task in the immediate future is to get its bilateral project underway and integrated with the activities already undertaken by Harvard and ILANUD with AID financing. That task and the Mission's plans face several of the issues discussed in sub-part E (6) below. Over the medium term the plans of the Mission face the task of defining its programs for improving the prosecution and defense systems and for achieving better integration of all the USG support being provided to the justice sector.

2. Support for the Electoral Process

a. Regional Project with CAPEL

LAC/DI has provided support to the Electoral Institute of Latin America (CAPEL) as part of its support of the InterAmerican Institute of Human Rights (IIHR) to which CAPEL pertains. Under the regional project CAPEL organized the training of personnel of the voting commissions in Guatemala for the general elections of November 1985 and April 1988. LAC/DI provided $322,181 for the 1985 election and $228,000 for the 1988 election. CAPEL used professors and the facilities of Rafael Landivar University in Guatemala to design and give two weeks of training to primary school teachers who in turn provided training to the three member voting commissions of which there are one for each 500 voters outside the capital city. In 1985, 375 primary school teachers were used to provide training to 12,882 members of 4,294 voting commissions; while in 1988, 318 teachers were used to provide training to 10,000 members of 2,500 voting commissions. In the process CAPEL created a video of the training process and techniques.

CAPEL also has conducted seminars, workshops and international meetings to discuss topics pertaining to the conduct of elections, and it has provided technical assistance to member countries on topics related to elections. In Guatemala, CAPEL

provided technical assistance concerning the draft electoral law and advice on preparing a program for electoral identity cards.

In April 1987 CAPEL organized a workshop of electoral officials from El Salvador, Guatemala and Honduras to discuss their experiences with elections and with the assistance provided by CAPEL. The Guatemalan representatives identified their needs as being:

- restructuring of the registry process,
- updating of the computer system,
- building a microfilm and telecommunications system,
- obtaining photographic equipment, and
- establishing an on-going training and voter education campaign.

The workshop also identified the conditions necessary for the holding of valid elections as being:

- election tribunals with adequate, institutionalized funding sources;
- independent tribunals which work on all aspects of elections;
- accurate registration of voters;
- freely acting political parties;
- clear legislative bases and guidelines for elections;
- impartiality on the part of the government, the military and the tribunals; and
- secret and safe voting procedures.

b. <u>USAID/G Support for the 1985 and 1988 Elections</u>

In June 1985 the Mission entered a Limited Scope Grant Agreement with the Supreme Electoral Tribunal to provide $234,000 for purchasing specialized paper for 13,200,000 ballots for use in the elections of November 1985. The paper was purchased by the Tribunal from Portals, Inc. of Georgia under a sole source waiver from the Mission.

In August 1987, the Mission entered a second Limited Scope Grant Agreement of a year and one month to provide $600,000 to acquire equipment and technical assistance in support of the

elections scheduled for April 1988 and for the long term institutional strengthening of the Tribunal. Most of the funds were to be used to purchase a mainframe computer and software to maintain country-wide voter registration in Guatemala City and microfilming equipment to preserve the originals of the registration forms. The procurement was to be performed directly by the Mission. The computer hardware was acquired from IBM on a sole source basis in time for use in the elections. However, the software had to be borrowed from the local IBM representative; and the technical assistance contract related to the computer's installation and its future use was not entered until December 1987, and called for work to begin after the upcoming 1988 elections. The work began in late 1988. In September 1988 the PACD of the activities was extended to March 1989 to permit the acquisition of the microfilming equipment and supplies.

c. Plans for the Future

At present $56,000 remains available for commitment under the Missions's Limited Scope Grant Agreement, of which $49,000 will be used to acquire the microfilming equipment. The Mission intends to extend the PACD of that Agreement to September 1990, and add $800,000 to it to help support preparations for the 1990 elections. In that connection, in November 1988 the Tribunal requested an expansion of the AID assistance program aimed at preparing for the 1990 elections. The request was for 36 microcomputers for the use of regional offices ($100,800), supplementary equipment for the central office ($55,000) and amplification of the IBM 9370 and its software ($101,940). The technical assistance contractor reviewed the request, and submitted its recommendations to the Mission in February 1989. A summary of those recommendations is given in Appendix 2b. Their estimated cost is $506,700. In addition, there will be a need to purchase special ballot paper (estimated to cost $370,800) and again to train the members of the voting commissions which is estimated to cost $350,000. (For further details see Appendix 2a.) Thus, there is a total estimated cost of $1,227,500 vs a currently planned level of resources from the Mission of $807,000 in support of the 1990 elections.

3. Improvement in the Legislative Branch

a. Regional Support for the Center for Democracy Project

In August, 1987 LAC/DI made a grant of $451,059 to the Center for Democracy to conduct two traveling seminars for legislative leaders from Central America. In December 1987 four leaders from each country visited the United States to observe the operations of state legislatures in Minnesota and Massachusetts and of the US Congress. The second traveling seminar --which visited the Spanish and French parliaments, the

European Parliament and the Council of Europe-- became involved in discussions of the Central American peace process. The grant was completed in September 1988.

b. USAID/G Support for Legislative Seminars

The Mission supported in-country seminars for Guatemalan legislators in June 1986 and February 1987. These were opportunities for discussion among the legislators not occasions for imparting technical assistance. Their cost was $80,000.

c. USAID/G Project with Center for Democracy

In April 1987 the Center for Democracy submitted an unsolicited proposal to the Mission for a three year, $1,498,349 project to work with the Guatemalan legislature. The proposal was based on the previous experience of the Center in conducting seminars for legislators from Central America and on the observations and discussions held by representatives of the Center who visited Guatemala in March 1987. The proposal called for a continuation of the seminars begun in 1986 to discuss issues among members of the legislature and for training programs (both in Guatemala and abroad) to address the issues identified in the seminars. The project would be organized and carried out by the Center for Democracy and a Committee to be named by the President of the Guatemalan legislature. The Center would establish and staff a project office in Guatemala as well as provide backstopping and technical support from its home office in Washington. A concrete workplan for the first year of the project would be prepared after the establishment of the Guatemala office.

LAC approved the use of $1.5 million of ESF through the regional project. In July 1987 the Mission issued a PIO/T for the negotiation of a three year Cooperative Agreement which would contain an initial obligation of $465,000 to cover the first project year through July 1988. This amount was increased by $100,000 in June 1988. The Cooperative Agreement includes the substance and approach of the unsolicited proposal. It calls for an annual implementation plan to be submitted by the Center each July for review and approval of the Mission and the President of the Guatemalan Congress, and quarterly and annual progress reports from the Center to the Mission. The Cooperative Agreement sets forth a general purpose and areas in which outputs are expected, but it does not contain specified targets of progress or of expected impact nor does it contain standards to be used in conducting the mid-term and final evaluations which are to be carried out with funds from another source.

The main events of the first year of the project were: the establishment and staffing of the Guatemalan office by February 1988; providing logistic support for a seminar in June 1988 re the role of political ideology in the work of legislatures;

providing equipment and staff support from the Center's home office for the 79th Inter-Parliamentary Union Conference in Guatemala in April 1988; and the conduct of an informal, unwritten initial assessment by the resident representative of the Center of the needs of the legislature for additional support.

In response to AID/W's request that the Mission fund the second and third years of the project from its own OYB, in July 1988 the Mission authorized $200,000 in SDA funds and up to $1.0 million in ESF over two years to support the project and to add the purchase of commodities to establish a database and retrieval system for legislative actions and to support research related to the establishment of that system. In August 1988 the Cooperative Agreement was amended to add the $200,000 for the procurement of the commodities and to include a new financial plan for $1,779,550 for the three year project period. In September 1988 the project's obligation level was raised to $1,265,000.

In July 1988 the Center submitted its Workplan for 1988-1989. The major components of that plan are:

- two seminars on the budget process (October for the general presentation and February for observations and training with legislatures abroad),

- a seminar on the committee structure (in September) based on material developed in the pre-project 1987 seminar,

- three meetings (December, April, and June) among members of the legislature and businessmen and economists on strategies of economic development,

- a dialogue (November) among members of the legislature and US and Costa Rican Congressmen on the protection of natural resources,

- training for the entire staff of the legislature in the basic work of staff persons (25 one day sessions over the year for a total of 200 persons),

- training for officials and the senior staff of the legislature in parliamentary procedures through six seminars during the year,

- a seminar (August) on the relationship between public relations and journalism,

- the creation of a public information office for the Congress through the training of personnel and the preparing of basic information materials,

- a study of the information needs of the legislature,

- the preparation of materials about the legislature for use by the schools, and

- the publication of: a Journal of the Foreign Relations Committee, a Journal of the Human Rights Committee and a Congressional Directory.

In addition to the specific activities listed in the Workplan the resident representative of the Center will continue his informal work in support of the better functioning of the legislative and a more cooperative manner of working among its members. The resident representative of the Center considers this to be his most important task.

The Mission requested further information about this workplan including estimates of the costs of the various activities. That additional information was provided in February 1989. In addition, a review was conducted by the Center in November 1988 of the possible uses of computerization to improve the work of the Congress. The report by the Center's Controller, who conducted the review, was not available by late-February 1989. However a short review of the situation by the data management expert who cooperated in this report resulted in the following initiative conclusions:

i. The current administrative approaches are outdated and strictly based on typewriters. An ill equipped and ill organized office system badly taxes the efficiency and quality of the service being provided.

ii. The plan of the Center to provide microcomputers is more an expression of goodwill on the part of that office than an understanding of the operational potential of the microcomputers.

iii. The current, unsuccessful attempt to produce publications of Decrees, Congressional Resolutions and Congressional Records is heavily burdening the staff.

iv. Even a relatively modest effort in establishing a system design approach for automation would introduce word processing into office management operations and produce an enormously favorable impact on the institution and the way its business is conducted.

v. A system evaluation and computer needs analysis could produce a plan for upgrading and modernizing the institution through the use of a set of goals and objectives progressively to automate the most critical

operational areas. A two week effort by a qualified systems professional would suffice.

vi. The complete automation of the operations of the work of the legislative branch would be possible with an investment not higher than $450,000. An initial investment of $200,000 could probably set the stage. The estimated cost includes hardware, software, basic user's training and technical assistance.

The Center has not yet undertaken the preparation of the periodic reports (quarterly and annual) called for by the Cooperative Agreement, and no joint Mission-legislature review has been held of the operation of the project. However, the Mission is concerned by the apparent lack of analytic work or focus on institutional strengthening, and it plans to conduct a mid-term evaluation of the activity in June 1989.

d. Plans for the Future

The Mission has no current plans for supporting activities additional to the project with the Center for Democracy which at present is scheduled for completion in July 1990. Approximately $1.0 million remains available to support the last year and a half of the project.

LAC/DI is preparing a new project to strengthen the functional capacity of legislatures in Latin America and the Caribbean and to facilitate increased communication and collaboration among parliamentarians in Latin America and the Caribbean and the Western democracies. A PID has been prepared, and is under revision. Work on the Project Paper has begun. The approach of the project reflects proposals which LAC/DI had received from the Center for Democracy, Florida International University and the State University of New York at Albany. The project would be multi-year; have funding of between $8.6 and $12.5 million; and be focused on six countries probably starting with El Salvador and Guatemala. Training would be provided for legislators and their staffs, and education of the general public would be undertaken. Technical assistance would be provided as would financing for improvements in the "plants" of the legislatures including information management and communication equipment. Research would be supported in political history, public philosophy and current issues; and a permanent research and conference center in Latin America might be established. The relationship of this project to on-going or future bilaterally-funded activities has not been worked out. However, it is expected that all activities would require the agreement of the Missions in the respective host countries, and that one of the purposes of the project would be to create the conditions under which bilaterally funded projects could be prepared as was the case of the Regional Administration of Justice Project described

in C (1) (a) above. The potential for overlap and conflict with the current bilaterally funded activity is obvious.

4. Improvement in the Media

a. Regional Cooperative Agreement with FIU

In May 1988 LAC/DI entered a Cooperative Agreement with Florida International University (FIU) to support a program through March 1993 whose estimated cost is $9,322,849. The initial obligation was $1,107,000. That level was increased to $2,107,000 in July 1988.

The Cooperative Agreement is based on an unsolicited proposal presented to LAC/DI by the Department of Communications of FIU in August, 1987. The proposal, in turn, was based on research conducted in 1986-87 in Costa Rica, El Salvador, Guatemala, Honduras and Panama by an FIU assessment team and on the conclusions of a workshop of US and Latin American journalists organized by FIU to discuss the findings of the research. The proposal describes a seven year program divided into four phases and costing approximately $11.8 million. The proposal does not indicate the extent to which individual countries would participate in the program although it does indicate that emphasis will be placed on working with Central America. The proposal places great importance on the program's being run independently of any government.

The intention of LAC/DI is to provide approximately $5.5 million to cover Phases I and II of the program and to provide the balance to cover Phase III after an evaluation of the experience of the program in 1991. Phases I and II of the program will focus on:

- project organization and startup,
- initial training and education activities,
- development and publication of a Central American media directory,
- development and publication of a journalism review,
- facilitating the creation of a regional journalists' association, and
- facilitating the creation of an association of media owners.

Phase III will focus on:

- development of a media research library,

- production of journalism textbooks,
- support for rural radio, news exchanges,
- a mid-career Master's degree program at FIU,
- establishment of a Central American Journalism Center which eventually is to be financially self-sufficient, and
- continuation of training and professional development seminars.

During its first two Phases the project will be administered out of FIU in Miami. However, a Central American field office will be established as well. After the establishment of the Central American Journalism Center administration of the project will be shifted to that institution. The Cooperative Agreement lists a series of outputs for each of the Phases. However, it does not include indicators of progress or of impact. Furthermore, no provision is made for the collection of baseline data or for standards under which the planned evaluations will take place. The Cooperative Agreement calls for FIU to supply yearly workplans and quarterly progress reports to AID/W. It does not mention any participation by Missions in the review of such plans and reports. However, in a message to the Missions in October 1988 LAC/DI undertook to provide them with periodic written reports on the implementation of the program. None have yet been received.

The program got underway in the fourth quarter of CY 1988. Orientation/briefing visits were made to the Central American Missions by the Project Coordinator from FIU and the director of the regional project office in Costa Rica. A roundtable of Costa Rican journalists, media owners and educators was held to discuss the problems facing the improvement of journalism in that country. Similar roundtables are to be held in Honduras, Guatemala, and El Salvador. A tentative list of eleven regional seminars for 1989 was prepared. One will be held in Guatemala. However, to date the Mission does not appear to have been involved in any significant way in the preparation or in the conduct of this program.

b. Activities of the United States Information Service

USIS also has a series of activities underway which are relevant to the democratic initiatives effort. It participates in the post graduate fellowship program of LASPAU (Latin American Scholarship Program for American Universities) which is used for university faculty development. Non-teaching, post graduate

scholarships are available through USIS's Institute for International Education Program (IIE), as are the Hubert Humphrey Scholars program and some short-term research grants for historians. USIS also has a short-term training program for new diplomats. At present it is supporting two Guatemalans who are studying comparative law at Harvard and Columbia.

The USIS speakers' program has conducted an Ethics in Journalism Conference; and the USIS Training Officer was supportive of the preparation of the FIU project described above, and has made contacts for FIU with key Guatemalan journalists. The International Visitors program has been used to support instruction trips to the US by journalists, legislators and high level public administrative personnel.

At present, the Mission and USIS appear to have good, close working relationships. They are cooperating on the Development Training and Support Project which has a funding level of $8.0 million and is projected to train 1,775 participants in the United States. It is anticipated that 3,225 more Guatemalans will be trained in turn by these returned participants.

c. Plans for the Future

The regional project is just getting underway. LAC/DI has no plans to initiate other activities for the improvement of the media. The Mission has no plans of its own for bilaterally funded activities on this topic.

5. Improvement in the Observation of Human Rights

a. Regional Support through IIHR

In August 1986 LAC/DI made a grant of $1,045,003 to the Inter-American Institute of Human Rights (IIHR) to support a program by that institution for teaching, conducting research, holding conferences, and disseminating information to promote the wider observance of human rights throughout Latin America. The grant is to cover a five-year period, and eventually will be funded at the level of $2,756,108. Under the grant IIHR has trained teachers in several countries on questions of human rights; made small grants to strengthen organizations of indigenous peoples; held interdisciplinary courses on human rights with ILANUD; and conducted research on various topics.

IIHR essentially has been an academic institution rather than an activist organization. Perhaps as a consequence, there does not appear to be a strategy for its future activities. A recent evaluation of IIHR's performance under the grant observed that it does not have a clear policy or common understanding on

what constitutes human rights, and identified several institutional weaknesses which will need to be addressed during the remaining period of the grant.

The Mission has not been involved in any significant way in the activities of IIHR. Information is not available either in the Mission or in LAC/DI concerning the extent to which the IIHR program has been active in Guatemala. However, judging by the information in the evaluation report concerning 1988, it would seem that Guatemala has had only modest direct participation in the work of IIHR -- mainly by participating in joint ILANUD-IIHR courses.

b. USAID/G's Grant to the Office of the Procurador of Human Rights

In March 1988 the Mission made a grant of $100,000 to the Guatemalan Congress to provide furniture and equipment for the central and regional offices of the Procuradoria of Human Rights which had been created by a 1986 law of Congress which carried out the provisions of the Constitution of 1985. In May 1988 the grant was increased to a level of $300,000 which is the limit set in the authorization memorandum. The grant runs through March 15, 1989. Under the grant the Mission performs procurement on behalf of the grantee. The grant does not contain any program requirements or targets of performance. It does not call for an evaluation. It essentially is a "commodity drop." Currently $200,000 of the grant funds remain to be utilized.

c. Plans for the Future

Neither the regional project with IIHR nor the Mission have additional, concrete activities planned for fostering the better observance of human rights in Guatemala. There has been criticism of the operation of the Procurador of Human Rights by members of the judiciary and the press for overstepping his authority vis a vis the judiciary and for not being effective in pursuing cases of human rights abuses which have been brought to his attention. Others have objected to his diluting the focus of his program by becoming involved in topics such as electricity rate increases and the overcrowding of buses. However, a recent GAO review of the Mission's program called for greater support for the work of this organization.

6. Training for Democracy

There have been a series of regional training activities under the umbrella LAC/DI Regional Leadership Development project which were to strengthen democratic institutions. Some of these projects are underway, and the Bureau is planning another major regional training activity beginning in FY 1989 for $1.5 million with a life of project funding level of $6.0 million. The

Mission has not been involved in these training activities although they have included Guatemalans and have been active in Guatemala. Rather the Mission has focused on its own general training programs.

a. Regional Project with the OEF

One of the current regional projects is with the Overseas Education Fund (OEF). It was undertaken in 1985 at a level of $2.268 million. It runs through March 1989. LAC/DI plans to extend the life of the project to cover the period before a new regional training project is in place. Grants are provided to community groups in order to influence public policies. The OEF in Guatemala is promoting community clean-up programs in neighborhoods, and is training primary health care workers to organize communities and to participate in community leadership. The project was to be used as a vehicle for developing a civic education model. The staff of the Mission does not participate in the operation of the activity nor does in know how it is being conducted. There is no record of any evaluation of the OEF project.

b. Regional Project with the Partners of the Americas

LAC/DI also sponsored a $2.122 million project with the Partners of the Americas whose propose was to strengthen the non-US partner organizations by developing the leadership capabilities of municipal officials, civic and youth organizations and community leaders. The project was undertaken in 1985 and completed in 1988. The Mission is unaware of any impact on Guatemala coming from this project.

c. Central American Peace Scholarship Program (CAPS)

CAPS is a bilateral project to provide US training for the more disadvantaged segments of the Guatemalan population. The program is administered directly by the Mission. By the end of 1989 over 4,000 Guatemalans will have gone to the US and returned under the CAPS program. The design and purposes of the CAPS program are not focused on training for democracy as such.

d. USAID/G's Development Training and Support Project

The Mission has begun implementing an $8.0 million Development Training and Support project to train key public and private sector individuals. The program is being administered directly by the Mission. It is a mechanism for providing non-project related training. It is not focused on training directly relevant to democratic institutions.

e. Plans for the Future

LAC/DI plans to undertake a new leadership training program which builds on the current activities with OEF and the Partners. The level and exact nature of the project have not been set. LAC also is planning a new general training program on a regional basis. The Mission plans to continue the CAPS program with an additional $40 million for five additional years.

7. Local Empowerment

a. Regional Project with Cultural Survival

In July 1987 LAC/DI made a two year grant of $277,000 to Cultural Survival to conduct surveys of the status of indigenous peoples in several countries of Latin America. A survey was performed on the indian populations of Guatemala, and a report submitted.

b. USAID/G Support for NGOs

The Mission has had a sizeable and growing program with NGOs in Guatemala. It has included institutional support for ASINDES, an organization of some NGOs. Furthermore, the Mission has used NGOs to carry out various aspects of its projects -- both in their preparation and in their implementation. This support has been aimed at strengthening the participation of the private sector in development and creating a mechanism by which the Mission could get assistance to small groups without experiencing the administrative burden of dealing directly with them. The Mission does not concern itself directly with the role of these organizations in supporting democratic processes nor has it evaluated their operations from that point of view.

c. USAID/G Support for Municipal Development

The Mission has provided the equivalent of $24.0 million in ESF counterpart in FY 1986 and FY 1987 to help the GOG meet the requirement that 8% of its tax receipts be transferred to the municipalities. The funds were to be used for infrastructure projects. A recent review of the operation of the program found that the general objectives of the activity were being met although the municipalities need administrative and technical help to take better advantage of the funds. The program contained no attempt to influence the way in which municipalities are organized or to affect the democratization process.

d. Plans for the Future

At present LAC/DI does not have concrete plans to undertake projects in support of NGOs as agents of democratization. However, it is considering undertaking a program of supplying

grants to small groups to encourage their initiatives in support of democratization and to municipalities as a means for strengthening the democratic performance of the public sector from the bottom up.

Although the Mission has acknowledged the relevance of strong NGOs and municipal government to the strengthening of democracy, it has not sought to structure its support for them primarily to serve the purposes being supported through the program of democratic initiatives. Rather the Mission has seen its work with NGOs to be primarily a way of strengthening and utilizing the private sector in its overall development program and its work with the NGOs and municipalities as a way of strengthening channels for getting support more directly to the beneficiaries.

8. Research and Sponsored Discussions

Both research and sponsored discussions have been used as part of the process of mounting the various regional and bilaterally funded activities described above. In addition there have been some regional activities aimed solely at supporting research and dialogue. They do not contain standards for measuring impact nor are they aimed at stimulating or supporting bilaterally funded activities.

a. Regional Support of Study of the Role of Political Parties

In September 1986 LAC/DI made a grant of $373,408 to the American University of Washington D.C., to conduct research and to sponsor a dialogue concerning the role of political parties in Central America. The purpose is to prepare a comparative analysis of political parties which will be published as a book. The writing of the various papers was launched with a conference in Guatemala in 1988. There is to be another conference in March 1989 to discuss the draft papers. The grant will be completed by December 1989.

b. Regional Support for Improvement in the Civilian-Military Relationship

In September 1986 LAC/DI made a grant of $225,701 to American University and an Uruguayan organization to hold three conferences of civilian and military leaders of Latin America concerning their relationship and how it could be improved. The results of the conferences are to be published as a book. The first general conference was held in the United States. The first sub-regional conference will be held in Guatemala in May 1989. It will include representatives from Central America and the Caribbean. The grant will be completed by December 1989.

c. Plans for the Future

Apart from the activities previously described, neither LAC/DI nor the Mission currently have plans to support activities aimed principally at research or sponsored discussions related to democratic initiatives.

D. Analysis of Common Elements and Approaches

1. Use of Research and Pre-Project Analyses

The degree of use of research and pre-project analyses in formulating activities to strengthen democracy has varied widely. In the case of the activities to improve the administration of justice a great deal of analytic work was done. The FIU-ILANUD sector assessment was a major undertaking. Harvard Law School used its own expert personnel to review the Guatemalan justice sector, and organized its proposal around continuing studies and analyses. In preparing the bilateral Improved Administration of Justice Project, the Mission both relied on those sources of analytical work, and also devoted significant resources to producing the project analyses which the AID system normally calls for. However, even in the case of the administration of justice it was recognized that considerably more analytical work was necessary both to carry out the activities undertaken and to prepare the complementary activities tentatively planned for the future.

In the programs with the legislature and the Supreme Electoral Tribunal the Mission relied more on the general experience of the intermediary institutions (e.g. the Center for Democracy and CAPEL) than on any fresh analysis of the needs of the Guatemalan legislative and electoral systems. The Mission recognizes that an overall needs assessment would have been useful for designing the work with those entities, but such an effort has not yet been undertaken or planned.

2. Responsiveness to Local Initiatives

Activities with the Supreme Electoral Tribunal were undertaken in response to the Tribunal's clearly felt and defined need. In the other programs the initiative came from outside sources although the proposals produced usually were the result of considerable consultations with the appropriate Guatemalan organizations. The most elaborate such consultation was the justice sector assessment process conducted by FIU under the Regional Administration of Justice Project. Moreover, a considerable number of the regionally funded activities (e.g. those carried out through ILANUD and IIHR and the grants for research and seminars) were the result of AID's providing support for experimental activities or for ideas to be carried out by regional institutions. On balance, it would seem that the

activities in Guatemala have been consistent with the wishes of the interested Guatemalans, but not consistently the result of Guatemalan initiatives.

3. Role of Training

The Mission has 60 participants funded by its various bilateral projects studying in the United States and third-countries. Additionally 100 individuals are receiving in-country training under those projects. However, none of these trainees are from the key democratic institutions involved in the bilateral activities being conducted with the primary purpose of strengthening democracy.

The Mission has identified several concerns regarding its training program. These concerns are relevant to democratic initiatives training also. They are:

- a lack of coordination of the diverse training portfolio most of which is USG financed;
- regional training activities which appear to function on their own, with ICITAP being an example;
- a lack of serious training needs studies completed prior to offering courses; and
- a lack of evidence available to ascertain the impact of the programs.

4. Role of Technical Assistance

Although not as consistently nor in such magnitude as training, technical assistance has been an important element of most of the activities to strengthen democracy. In several activities the training and technical assistance elements have been integrated. For instance, Harvard's activities in Cambridge and in Guatemala recently have become focused on the preparation and carrying out of the model courts program, and the bilateral Improved Administration of Justice Project presents a program to integrate all the activities with the court system. In others, especially in the regional activities, the technical assistance has not been closely linked with other interventions such as training, and technical assistance appears to play a much less important role in the regional projects than in the bilateral activities. The exception to this is the regionally funded support for utilizing computer equipment --technically not a project but rather a resource which has been used in conjunction with both regional and bilateral projects.

5. Role of Commodity Support

Commodity support has played an important role in these activities. In some, such as the Mission's support for the elections of 1985 and 1988 and for the office of the Procurador of Human Rights, commodities were the only bilaterally funded resource supplied. In activities currently planned for the future the provision of commodities (including computer equipment) also is an important element. The basic reason is that these activities are moving the Mission's program more toward institution building (with the courts, the Congress and the Supreme Electoral Tribunal) and institution-building efforts usually require an upgrading of the facilities of the institutions as well as training and technical assistance for their personnel.

6. Role of Budget Support

The Mission and the regional projects in large have avoided the financing of on-going budget costs or the costs of increased personnel levels for the entities with which they have worked. Of course, exceptions to this do exist. For instance, the Mission has supported the operating costs of ASINDES, the association of NGOs with which it has been working. Furthermore, the Mission's involvement in budget support is likely to increase somewhat in the future as the Mission's activities become more directed toward institutional development. For instance, the bilateral Improved Administration of Justice Project includes support for contracting persons whose functions, in fact, will be continuing ones. Still, budget support continues to be a minor part of the Mission's approach to strengthening democracy.

7. Role of Policy Dialogue and Conditionality

Neither the Mission nor the regional offices have engaged in a formal policy dialogue with the GOG on matters pertaining to the strengthening of democracy, and the agreements covering their activities have not contained conditions to be met by Guatemalan government entities. The reason for this basically is the approach which the Mission took to work in this area as discussed in sub-part A above. The exception to this approach to date has been the bilateral Improved Administration of Justice Project whose agreement contains undertakings by the GOG to provide adequate budget support to accomplish the purposes of the project and to achieve the passage of laws to provide career status to the personnel of the judicial sector. Furthermore, the Mission's draft Action Plan proposes that there be additional, general undertakings as described in sub-part B above. However, the draft Action Plan does not contain an explanation of the steps to be taken to carry forward the dialogue and to reach agreement on the conditionalities.

The two processes during which the most discussion of policy has taken place have been: (i) the preparation of the FIU guided Justice Sector Assessment and the workshop organized to discuss its findings; and (ii) the conversations which Harvard has had with the President of the Supreme Court, the Attorney General and the Minister of the Interior in Guatemala concerning changes in the operation of the justice system and the nature of the Guatemalan commitment to justice which Harvard considers to be a sina qua non of its participation in the Guatemala efforts to improve that system. However, these discussions have not led to a formal or comprehensive statement of policy changes to be implemented. In part this is the result of the continued weakness of the National Justice Commission one of whose purposes is to provide a forum for discussion and a method for adopting such a statement.

Embassy personnel have had discussions with representatives of the Guatemalan organizations involved in the various AID supported activities. However, the results of those conversations have not been overtly incorporated in the reports concerning the activities.

8. Implementation Modalities

The two main modalities for obligating funds in support of the activities have been Limited Scope Grant Agreements and Cooperative Agreements. The Mission's role in the implementation of the activities has varied considerably. It has handled only minor amounts of regional funds; and, except for the Regional Administration of Justice Project, it has had no significant role in the planning, implementation or evaluation of those activities. In the case of the Harvard Cooperative Agreement, AID's accounting and other financial actions are handled by AID/W directly with Harvard, and the Mission has no formal implementation responsibility (except for reviewing workplans and approving visits to Guatemala by Harvard personnel), although it informally has supplied much of the local administrative support for the operation of Harvard's program. In the case of the Cooperative Agreement with the Center for Democracy, the Mission has had no active participation in the implementation of the activities. In the case of the activities with the Office of the Procurador of Human Rights and with the Supreme Electoral Tribunal the Mission itself procured the equipment and other commodities supplied to those entities, but it had no role in the implementation of the training program provided to the latter by CAPEL with AID regional funds. In the case of support for the infrastructure programs for the municipal governments the Mission has not been involved in the actual use of the counterpart funds, while in the case of its support to ASINDES the Mission has conducted the project similarly to other AID activities with intermediate financial institutions.

This mixed approach to implementation reflects both the way in which the particular activities were prepared, the particular conditions to which each responded, the desire not to interfere with Guatemalan "ownership" and the Mission's ambivalence as to how much staff time it could and should devote to these activities. The result has not been very satisfactory since the Mission has felt both heavily burdened by the extent to which it became involved in the implementation of the activities and anxious concerning the relative lack of control or even guidance which it was exercising over the activities.

With the preparation of the bilateral Improved Administration of Justice Project the Mission adopted a more traditional AID approach to implementation. It uses Project Agreements to obligate funds and contracts (as well as sub-grants) to implement activities.

9. Mutual Reinforcement of Activities

There has been a fair amount of mutual reinforcement between the regionally funded and the bilaterally funded activities to strengthen democracy in Guatemala. Both sources of funding were used in support of the 1985 and 1988 elections. The Center of Democracy's work with the legislature began as a regionally funded activity, and was taken over by bilateral funding. The work of the Regional Administration of Justice Project was used as the main intellectual basis for the design of the bilateral Improved Administration of Justice Project.

However, there is room for greater mutuality of support between the bilateral and regionally funded activities. Both will be working with the court system to train its personnel and improve many of its administrative operations. Although the general outline of the ways in which each program will operate in relation to the other has been discussed, important details remain to be worked out; and constant vigilance will be necessary to achieve effective reinforcement rather than duplication of conflict. Furthermore, the relationship between the on-going work with the legislature through the Center for Democracy and the new regional project being prepared for strengthening the legislative branch is not yet clear. Also, there does not seem to be an understanding of how the activities of the IIHR could be utilized vis a vis both the Mission's activities with the Procurador of Human Rights and those with the justice system.

The existence of mutual reinforcement among the various types of bilaterally funded activities in support of democracy is more theoretical than real. All are serving a very general goal, of course; and as each improves one of the main aspects of life necessary for strengthening democracy all are likely to benefit somehow. However, there would seem to be more potential for conscious reinforcement among the various types of activities

than is being realized. For instance, the operation of the Office of the Procurador of Human Rights and the court system concerning the investigation of reported human rights abuses could be clarified, and this cooperation might be assisted through the AID activities. Activities to improve the institutional performance of the Supreme Electoral Tribunal and the legislative would seem to offer the opportunity of introducing incentives for more professional and responsible actions by the political parties and the various activities with the legislative could include ones directing its sensitivity the needs of an independent judiciary and to the policy changes needed to support the other democratic initiatives. Reinforcement among the various public information campaigns might be possible. Perhaps most important, there would seem to be many opportunities for using the various training programs to support more directly each other's purposes as well as the performance of the non-training activities. Some suggestions for achieving this mutual reinforcement are made in Part V below.

10. Involvement of Other Donors

Other donors have had some participation in the efforts to strengthen democracy. The Government of Spain will help meet the costs of the first regional review of the state of the justice sector which is being organized by ILANUD under the Regional Administration of Justice Project. Other governments have assisted the police forces who are being trained by the ICITAP program, and have sent representatives to be observers of the elections in 1985 and 1988. Both the IDB and the IBRD are considering substantial projects to provide funding for local governments, NGOs and other types of grassroots organizations.

E. Problems and Issues Identified

1. Need for Evaluations

None of the bilaterally funded activities for strengthening democracy have yet been evaluated, although two interim evaluations are planned for the near future -- i.e., of the Harvard Cooperative Agreement and of the Center for Democracy Cooperative Agreement. The Improvement in the Administration of Justice Project is just getting underway, and several of the past activities were considered to be specific, support actions rather than projects as such (e.g. support for the 1985 and 1988 elections and commodity support for the Office of the Procurador of Human Rights), and thus were thought not to require evaluations.

Interim evaluations have been conducted of the larger regional projects (e.g. the Regional Administration of Justice Project, the regional support for the IIHR and the CAPS program) but not for the large, related ICITAP program. Except for the Regional Administration of Justice Project, the Mission has

neither participated in conducting nor has it used the results of those evaluations of regional activities. Furthermore, the smaller, regionally funded activities have not been evaluated.

Even more important than the relative lack of evaluation activity is the lack of preparations for evaluations. None of the activities have provided for the gathering of baseline data or identified specific targets or measures of progress to be used in carrying out the evaluations which are to be performed. This is the case for both the regionally funded and the bilaterally funded activities. The bilateral Improved Administration of Justice Project is a partial exception to the rule in that it calls for the collection of baseline data and the adoption of evaluation standards, but it leaves that work to be performed as part of the implementation of the project itself.

This weak state of preparation for evaluations reflects both the nature of the Mission's past approach to the activities in this area and to the difficulty of identifying standards in this area and of effectively planning in advance for evaluations. If the Mission moves toward a more elaborated strategy for activities to strengthen democracy it will be important to have evaluations directed not only at the implementation of the individual activities but also at the relationship among the activities and at the overall progress being made on the goals identified. This implies a substantial modification to the current Mission approach -- both to the evaluation of bilaterally funded activities and to participation in the evaluations of regionally funded activities.

2. Lack of Guatemalan Integration of Activities

No Guatemalan entity is trying to plan, coordinate or supervise the various activities in support of democratization which are being supported by AID. Basically this is due to those activities being with several independent branches of the GOG -- the judiciary, the legislature, the Supreme Electoral Tribunal -- and with private entities. Agreements with GOG entities usually also are signed either by the Ministry of Foreign Affairs or by the Ministry of Finance, but neither organization has exercised substantive influence over the activities. Furthermore, Cooperative Agreements and other grants to non-GOG entities are not even reviewed by those ministries. Thus prioritization of activities is not being done systematically, if at all, by a Guatemalan entity.

In instances in which a particular Guatemalan entity is receiving assistance both from the Mission and regional programs it could be expected to provide the coordination required. Certainly, that has happened to some extent. It appears to have worked well in the case of the Supreme Electoral Tribunal for the preparations for the elections of 1985 and 1988. However, as the

activities become more complicated, the effectiveness of this coordination appears to become less. For instance, the Supreme Court has not integrated the planning for its activities with Harvard Law School and with those of ILANUD under the regional project, and it was not of much assistance when the Mission had to coordinate its assistance planning with that of ILANUD during the preparation of the bilateral Improved Administration of Justice Project. The potential of weaker institutions (such as the legislature and the Procurador of Human Rights) to provide guidance and control for the assistance activities would seem to be even less. The result of this situation is to place a much greater responsibility on AID in general and on the Mission in particular to assure the proper coordination and, when appropriate, integration of the activities.

3. Lack of Control by the Mission of the Conduct of Activities Related to Democratic Initiatives

The Mission has not exercised close control over the conduct or direction of most of the activities concerning the strengthening of democracy in Guatemala. In part this is the result of the important role which regional projects and their support offices have had in this work in Guatemala. In part it is the result of the Mission's judgment that it was not appropriate for it to treat the institutions holding Cooperative Agreements like its agents. In part it is the result of the staffing and other factors discussed in sub-part 6 below. In part it is the result on the one hand of the exploratory and generally expressed nature of many of the activities undertaken and on the other hand of the very concrete nature of AID's participation in others (e.g. the "commodity drops" for the Supreme Electoral Tribunal and the Office of the Procurador of Human Rights.) In part it is the result of the Mission's not always having obtained in a timely way the reporting and other documentation called for by the agreements governing the various activities. In part it is the result of the direct relationships which exist between some of the institutions involved and the Ambassador. However, the net result is that the Mission is not as in control of what AID resources are doing in Guatemala to strengthen democratic institutions and practices as it is with the use of resources for other purposes. Even in the area of the improvement of the administration of justice in which the Mission has made the most concerted and elaborate efforts the other assistance institutions (mainly Harvard and ILANUD/RAJO) are well ahead in getting their activities underway, and the Mission is still in the stage of adjusting its plans to the directions adopted by those other institutions.

This somewhat modest and reactive role of the Mission may well have been appropriate for the first years of the efforts on democratization. However, as the level and complexity of the activities being assisted by Mission funds increases it would

seem to be necessary for the Mission to exercise a more directive approach. No other office in AID is in a position to do so. No Guatemalan institution is doing so.

4. Need for Planning and Focus

As discussed in sub-part A above, the Mission has placed a high degree of importance on being responsive to Guatemalan requests and to unsolicited proposals from entities with experience in working on the types of activities relevant to the strengthening of democracy. That has also been the case with LAC/DI. Furthermore, as discussed in sub-part D (1) above, there has been relatively little pre-activity research and analysis to support the undertaking of the activities funded. The major exception has been the activities to improve the administration of justice. The result of this has been less planning and focus in the program than might otherwise have been the case.

As the number of activities has increased and as the passage of time has raised expectations for results, the virtues of planning and focus are becoming more important. It is obvious that there is much more to be done in support of democratization than either the Mission or regional projects are likely to be able to address, and that the Mission will need to be selective in what it undertakes. Furthermore, pre-activity analysis is likely to result in more informed choices and in more effective implementation of the activities designed to give effect to those choices. One might say that in responding to its relative lack of expertise in this area the Mission needs to move from deferring to the proposals of others to arranging for the analyses and data collection which are necessary to provide it with the information and judgments necessary for the design of its program. Such a move need not be incompatible with remaining responsive to Guatemalan wishes or having the flexibility of responding to particularly attractive, unanticipated opportunities.

5. Need for Coordination and Interaction of Training Programs

The Mission has experienced problems in managing the diverse group of democratic initiatives training programs. This situation will be compounded as more regional and bilateral programs are added to the portfolio. Thus, the Mission has some special needs for coordinating training programs. First, the variety of bilateral and regional democratic initiative training programs being funded by AID have to be coordinated and should reinforce each other. They do not do so now. The lack of coordination and joint planning has evidenced itself in the conduct of the Regional Administration of Justice project. For example, personnel from the Ministerio Público are not receiving the

investigative training they need because of a lack of coordination, and probably jurisdictional disputes, between the participating organizations, both Guatemalan and US. Second, the on-going general training program of the Mission is complex, and offers some training opportunities which could but are not being used in support of the democratic initiatives. Third, programs such as those of ILANUD, Harvard and ICITAP should, but are not, being taken into account in the Mission's training plan.

Concerns about the current general training programs were mentioned in sub-part D (3) above. A review of all the training programs related to democratic initiatives shows a complex pattern of seemingly independent training initiatives. In many instances the Mission has no official record of persons who were trained with AID funds. For instance, ILANUD and Harvard trainees are not included in Mission records. Thus it is possible that persons could receive duplicate training from different institutions. Furthermore, there has been a pattern of many short-term, unrelated training courses developed without much analysis.

6. Management Demands on the Mission

The Mission has had difficulty in managing its portfolio of activities concerning democratic initiatives. The difficulty has not resulted in any project failures or in the creation of serious political or other problems. Indeed, the Mission has had considerable success with these activities. Its support for the elections of 1985 and 1988 and for the equipping of the Office of the Procurador of Human Rights were successful, and it has been able to undertake a complicated effort for the improvement of the administration of justice. Rather the effects of the difficulty in managing the portfolio have been the considerable stress on the staff members involved, delays in the implementation of activities and the inability to achieve a fully satisfying strategy for the Mission's approach.

The reasons for the difficulties experienced have been several. First, responsibility for the activities was assigned to the Program Office which until May 1988 only had two staff members assigned full-time to these activities. One was a Guatemalan lawyer contracted by the Mission with funds from the Regional Administration of Justice Project to be the Resident Coordinator of that project. Another was a long-term Mission Guatemalan employee who made all the administrative arrangements for the participant training program. In May 1988 another contract employee was added to the staff. She is a U.S. national living in Guatemala who has had experience with the general development activities of AID. She took on the activities with the legislature, the Supreme Electoral Tribunal and the Office of the Procurador of Human Rights. The workload of the Program Office (which also had responsibility for the operation of

several types of activities in addition to the usual analytic, budgeting and planning functions) was so great that the two USDH officers were hard pressed to give consistent, detailed attention to these activities although they attached importance to them and were personally interested and supportive of them.

Second, the task of following, much less coordinating, the operation of a variety of regionally funded activities and of the Cooperative Agreements carrying out unsolicited proposals was very great. It was difficult for the Mission to get information from the entities themselves or from the AID offices sponsoring them concerning the current operation of those activities or workplans to cover their future operations. Furthermore, the entities involved had their own agenda and modalities of operation which were difficult for the Mission to influence without very substantial involvement by the Mission's own personnel. Third, Harvard Law School did not have a resident representative during the first year of its operations, but rather relied on the Mission for much of the local administrative support necessary for the project. Fourth, the Ambassador assigned great importance to activities in support of democracy in general and to improvements in the justice system in particular. Consequently, he sought to remain personally informed about the details of the activities and to closely coordinate the plans and operations of all USG entities working on such activities. This placed additional demands on the Mission to provide information and to discuss its plans in advance and in detail with Embassy personnel. The Mission was not always successful in providing the degree of advance consultation which the Ambassador desired.

The Mission took several steps to deal with this management burden. It transferred responsibility for the participant training program (including CAPS) and for activities to strengthen democracy from the Program Office to the Office of Human Resources Development which is accustomed to preparing and implementing activities. Overall supervision of the activities will be the responsibility of the Deputy Director of the Office who is an education officer who had experience in preparing these types of activities during a previous assignment in Honduras. To enable the Office better to meet the responsibilities, the Mission increased the size of the staff dedicated to these activities. In February 1989 it contracted a retired USDH employee of AID who has had extensive experience in planning and implementing projects. He will be responsible for the day-to-day operations of all the activities except for the CAPS program. The Mission also contracted a young Guatemalan lawyer who assists the Resident Coordinator in her handling of the activities in support of the improvement in the operation of the justice system. Finally the Mission provided a support contract staff of eight persons to address the administrative demands of the CAPS program.

This net increase in the size and the experience of the staff working on activities to strengthen democracy should help the Mission meet the management problem. Whether it is a sufficient response will depend on many factors including how the new individuals relate to each other and the work assigned to them. Certainly there is no basis for complacency. Even as it is now structured, the portfolio of activities is going to result in a very substantial increase in the level of activities taking place. Furthermore, should the Mission choose to become more assertive in its monitoring and guidance for regional activities and for the Cooperative Agreements, and should it undertake the initiatives discussed in Part IV below, the level of activities and the corresponding management burden will increase further. The elimination or avoidance of peripheral activities would help the situation; but it is not likely to offset fully the increased management demands. Then too, the degree of difficulty facing the management of these activities will depend on the quality and cooperation of the staffs of the major implementing agencies (e.g. the Harvard Law School, the Center for Democracy and the contractor for the PIU of the Improved Administration of Justice Project); the extent to which those staffs can be used to carry out administrative responsibilities which otherwise would fall on the Mission's own staff; and the extent and the quality of coordination achieved with the important regional activities (e.g. RAJO and the implementing agencies of the new Legislative Improvement Project).

Some suggestions for improving the management of the activities are made in Part V below. However, it is unlikely that the Mission will be able to avoid the trial and error method of determining the structure it eventually will follow in carrying forward work in the area of strengthening democracy. This is true in all areas of AID's work, but will be more so in this area given AID's relative lack of experience with these types of activities and the lack of personnel with strong technical backgrounds in the topics to be addressed.

7. Desire for Strategy and Medium and Long-Term Targets

The Mission's strategy for its work in strengthening democracy in Guatemala is expressed in the CDSS and Action Plans as described in subpart B above. As would be expected, the strategy expresses the approach to work in this area which has been followed by the Mission, and it largely is an exposition of the activities being supported by the Mission under the category of strengthening democracy. It is quite similar to the regional strategy statement of LAC/DI.

The current de facto strategy is subject to several types of dissatisfaction among personnel of the Mission. Some assert that the strategy is not prescriptive enough, and thus does not

provide a clear enough framework for deciding what AID (both the Mission and regional activities) should or should not be doing in the future. Some assert that the strategy does not take into account the management implications for the Mission of its suggested components. Some fault the strategy for being too tied to work with central government institutions and for not incorporating plans for fostering grassroots and locally-based organizations. Others fault the strategy for incorporating by reference all kinds of activities (such as support for NGOs, cooperatives, municipalities, improvements in the civil service and all training not highly focused on purely technical matters) without in fact providing for practical synergism among them. Most agree that it would be useful to have more specifics concerning the impact to be achieved and the targets to measure progress toward that impact.

To some extent the expressions of dissatisfaction with the current strategy really are just restatements of the various problems which face the program -- the idea being that those problems are the result of the deficiencies in the strategy. Although that conclusion certainly is not correct, it does seem reasonable to expect a strategy statement to help in addressing the problems identified with current activities, to provide practical guidance for decisions about future activities, and to be of a scope and specificity that one can know what activities are necessary and sufficient to carry it out. The strategy needs to be broad enough to be significant but focused enough to be doable and its effects measurable.

III. SUGGESTED APPROACH TO EVALUATIONS

The Mission is now arranging for the evaluation of the Cooperative Agreements with the Harvard Law School and with the Center for Democracy. Those evaluations will be useful in organizing the Mission's thoughts about the use of the resources which remain available under those agreements. However, they will not provide an assessment of the scope of or the impact being achieved by the totality of AID's activities related to the strengthening of democratic institutions to date in Guatemala. Given the nature of some of the activities and the lack of agreed standards against which to judge them, conducting such a formal assessment at this time would not seem to be worthwhile.

However, once the Mission has adopted a strategy for its work in strengthening democratic institutions and practices, and once measures of progress and impact as part of that strategy are in place, the Mission should plan to conduct assessments covering the operation of its full program. The purpose of the assessments would be to reveal difficulties in accomplishing the overall strategy and to identify necessary adjustments to that strategy. Such assessments should be made at least twice during the planning period. They should include the operations of the regional and other USG agency activities within their scope. The scheduling of the program assessments should be such as to take advantage of the results of the interim and final evaluations of projects and activities.

Apart from these program assessments the Mission would conduct the usual project specific evaluations. Estimated times for these evaluations are given in Part IV C below. Even if a formal project is not prepared for a Mission funded activity (and that would be rare) the activity should contain measures of progress to be evaluated and provide funds to conduct some sort of review of its progress and impact. Similarly, any regional activity which the Mission agrees to have take place in Guatemala should contain such measures.

IV. SUGGESTED STRATEGY FOR FY 1989-1994

A. Overall Objectives and Rationale of the Approach

The overall objective or goal of the Mission's strategy will remain the broadly stated one of strengthening democratic institutions and practices. Such an "open ended" goal is appropriate since it is most unlikely that within the five year period to be covered by the strategy the Mission would be able to achieve a consolidated, fully accepted and safely democratic society in Guatemala. One can only expect to make progress toward that goal by addressing some of the tasks which confront the achievement of such a society.

The measures of progress similarly would have to identify trends rather than evidence of the achievement of a fixed state of affairs. One measure would be whether the elections planned for 1990, 1992 and 1995 are in fact held and seen by the populace to have been fair. Although this measure also is used for one of the components of the strategy, elections have such symbolic importance that they are appropriate for measuring progress toward the broader goal as well. A second measure of progress would be the degree to which the use of violence has declined since the threat of and use of violence, from whatever source, is the most fundamental evidence available that the populace has not accepted the rule of law on which democratic practices are based. Information concerning the level of violence is available although not entirely reliable. (Although violence associated with ordinary crime might be excluded, since to a significant extent it reflects the pressures of economic problems, that violence is often cited by non-democratic elements of the society as a justification for violating the rule of law, and it reflects attitudes in the culture which make the tolerance of others' opinions and the respect for law so difficult to achieve.) A third measure of progress would be the degree to which the populace <u>believes</u> that the country is making progress on democratization and feels secure in the exercise of its political and civil rights. Rough baseline data exist on this topic in the recent study of public opinion made by ASIES which shows a relatively high degree of support for the democratization effort but significantly less belief that the effort will succeed or that key institutions --such as the political parties-- are supportive of it.

For democratic institutions and practices to become consolidated in Guatemala many things will need to change. The economic and social conditions of the people will have to improve enough that they believe that the democratic process underway is giving them the material benefits which they need to improve their lives. The organs of the state will need to demonstrate both adherence to the rule of law and increased effectiveness in

providing their services so that the populace will have respect for the institutions governing them. In particular, improvements will be needed in the performance of those institutions directly involved in the political process (the political parties, the press and the Supreme Electoral Tribunal) and of those charged with protecting the safety and civil rights of the people (the police, the courts, the Ministerio Público and the Procurador of Human Rights). The acceptance by the culture of the use of violence to further one's goals (or to express one's "manhood") must be reversed. The armed resistance to the current political order must be overcome --preferably through compromise and conciliation so as not to further enshrine the supposed efficacy of violence. The incompatibility of democracy and military interference in the political life of the country must be constantly stressed. The people will need to be educated in what it means to be democratic and to have practice in applying what they learn in the conduct of their own affairs and that of the organizations (both public and private) through which they conduct the ordinary concerns of their lives.

None of the above major changes can be taken for granted. All are major pre-conditions to the further democratization of Guatemala. Still, AID can not be involved in everything which would be useful or even necessary. As so often has been said, the essence of any strategy is the making of choices. In making the choices of what to include within the scope of its strategy the Mission will need to decide what is of particular importance for making progress on the democratization effort. However, the Mission also must take into account what are the management capabilities both of the Mission as a whole and of the organization unit which is charged with implementing the strategy, the expertise likely to be available from the United States, the experience which the Mission and LAC/DI have had in the activities already underway, and the guidance from AID/W as to those lines of action which are compatible with AID's institutional interests. Furthermore, the Mission always must be sensitive to the possibility that its best intentions will be misinterpreted as being interference in the political life of the country and concerned with achieving the most results with the resources available. Finally, the Mission must avoid the dispersion of its resources among so many activities that it can not hold itself accountable for its performance or is not able to provide sufficient human and material resources to any one activity to make a difference.

Obviously, no one program (or collection of activities) is the only answer to the interplay of all these considerations. Many alternatives would be possible. In making the programmatic choices expressed in sub-part B below the following guidelines were followed:

- Work should be concentrated on political and civil rights since other Mission activities and other donors actively are addressing the economic and social aspects of development; however, the strategy will need to provide guidance to those other activities so that they will have a positive effect on the democratization effort.

- Work should be focused on national institutions (both public and private) which are in charge of administering or protecting the political and civil rights of the populace rather than on local and grassroots organizations since the national institutions are the ones less likely to be responsive to the individuals and since their weak performance will have serious consequences for more people.

- The Mission should build on what has been undertaken during the last four years in Guatemala, and thus should continue its efforts with the courts, the legislature and the Supreme Electoral Tribunal; and when expanding the scope of its attentions the Mission should give preference to institutions whose operations are closely linked to those institutions -- e.g., the Ministerio Público, the bar associations, the law faculties.

- The Mission should conduct comprehensive needs assessments of any area of activities which it undertakes or continues (except for limited experimental activities) in order to discipline itself and better assure that its undertakings are feasible, targeted, manageable and significant.

- The Mission should give increased attention to influencing the underlying psychological and cultural attitudes which impede the consolidation of the rule of law and democratic practices.

- Training programs should be focused more directly on supporting the institution building and attitudinal changes being addressed by the rest of the strategy.

- The Mission should be the office responsible for all AID activities in Guatemala, and should insist on being part of the planning and oversight process of regionally funded activities in Guatemala in its areas of interest.

As a result of the choice-making the Mission would forego or cease certain types of activities which in themselves would be useful for strengthening democracy:

- It would not become directly involved in promoting the independence and professionalism of the media since expertise in that area lies with USIS, and since the large, regionally funded project by AID will provide the resources for a flexible response to unusual opportunities which might be lost if no AID source of support were available.

- It would not continue to work with the Office of the Procurador of Human Rights after the completion of the current activity because the role of that office does not appear to be clear nor does that office have a sense of direction, and because the role and activities of this relatively new organization is still quite a sensitive topic among Guatemalans. Furthermore, to achieve such direction would require a major analytical and coordination effort that would place a heavy burden on the Mission. Furthermore, working with the Ministerio Público and the court system will provide the Mission with ample opportunity to foster the effective observance of human rights.

- It would continue not to work with the police forces. However, the relevance of the performance of the police forces to the performance of the Ministerio Público and the court system is clear, so the Mission does have an interest in how others --and especially the ICITAP program-- works with them. That interest will be pursued through the coordinating committee of the Embassy, the approaches to the mutual reinforcement of the training programs discussed below and the operation of the bilateral Improved Administration of Justice Project.

- It would not address under this strategy the myriad needs of NGOs, cooperatives, labor unions, local governments and private foundations except when they are used to carry out the activities directly involved in the program.

- It would not work directly with political parties because such activity can be too easily misconstructed as undue interference.

B. Major Components of the Strategy and Targets of Progress

The following are descriptions of the suggested components of a strategy for fostering the further democratization of Guatemala. The descriptions include an explanation of the reasons for the choice of the component, the purposes to be served, the nature of the activities which form the component and

suggested targets to be used in measuring progress and conducting evaluations of the activities. Appendix 3 is a table of goals, purposes and measures of impact and progress of the suggested strategy and its components.

1. Improvement in the Quality of the Justice System

Improving the operation of the justice system -- and especially the criminal justice system -- has been identified as central to AID's approach to strengthening democracy in Latin America and the Caribbean. Activities aimed at such improvement are further along than are any of the other elements of AID's democratic initiatives. That is true of the Mission's activities as well. Thus, both the importance of the topic and the prior investment of time and resources by LAC/DI and the Mission in preparing and undertaking activities to serve this purpose call the Mission to continue its efforts.

At least the first half of the five year planning period is likely to be dominated by the effort to carry out the activities already undertaken with the court system. The on-going activities of the Regional Administration of Justice Project in Guatemala are likely to continue well into FY 1990 before being completed; and the Cooperative Agreement with the Harvard Law School will run through FY 1990 as well. By that time the pilot efforts of those two activities with the court system should have produced the experience to be utilized in the bilateral project. That Improved Administration of Justice Project is scheduled to run through FY 1991. However, the project will not really get underway until mid-FY 1989; and thus, it is likely to last through FY 1992.

Since the current bilateral project is the result of cutting back on the larger five year effort which had been planned, the second half of the planning period is likely to be devoted to expanding the current project to accomplish that larger effort. The main elements of that larger effort would be: (i) a return to the levels of training of personnel of the court system originally planned; (ii) the expansion throughout the court system of the positive results of the pilot efforts with the model courts being assisted under the Harvard activity; (iii) the preparation and implementation of a comprehensive program to improve the operation of the prosecutorial function of the Ministerio Público throughout the country including the adoption of a new organic law to govern its operation; (iv) the preparation and implementation of a new system for providing defense counsel to persons accused of crimes who can not afford private counsel; and (v) the preparation and implementation of a public information campaign concerning the operation of the criminal justice system and of the ways in which the system can be used by the citizenry for the protection of their rights and property.

Carrying forward and expanding the scope of the bilateral project would seem to be a sufficient undertaking for the Mission for the planning period as regards improving the quality of the justice system. The one new aspect which might be added is special attention to the role of the court system and the Ministerio Público in protecting the political and civil rights of the population beyond merely observing the legal standards governing the process of criminal justice. This additional aspect would, in part, compensate for the apparent failure of the Office of the Procurador of Human Rights to find a useful role in protecting such rights. It could build on the experience to be generated under Harvard's work with the proposed special prosecution unit of the Ministerio Público.

In its original planning the Mission estimated that some $12 million would be required to carry out the full program. $5 million of that is being supplied under the current bilateral project. However, the original estimate did not include extension of the coverage of the fully improved systems throughout the whole country or undertaking a special effort to have the program actively and purposefully support the protection of civil and political rights. Thus, it would be safer to estimate a resource need of $10 million for the five-year planning period for this component in addition to the currently authorized amount.

While the current approach to this component of the strategy would not be significantly changed, there are important issues facing its implementation. One, there is a need for full integration of the efforts of Harvard, ILANUD and the Mission in carrying out the programs with the court system and the Ministerio Publico. Unless the National Justice Commission can be strengthened fast enough to supply such integration, it would seem that only the Mission will be able to do so in the near and medium future. That will require the Mission to be clear with Harvard and with ILANUD/RAJO that the Mission is to provide the leadership on the use of AID funds in support of improving the operation of the justice system in Guatemala. Two, there is a need to assure that the training in investigative work being provided to the police by ICITAP also is supportive of the AID activities with the personnel of the court system and the Ministerio Publico. Third, while the basic analytical work concerning the operation of the justice sector has been done, there is a need to organize and carry out in a timely way a series of supplementary analyses to support the expansion of the current bilateral project. This is particularly true of the operation and needs of the Ministerio Publico and of preparations for a new system for supplying defense counsel. Fourth, the project will involve entities from several independent branches of the government and from the private sector whose coordination will not be easy and, should the National Justice Commission not evolve into a strong and useful institution, may well involve the Mission in a degree of involvement that is uncomfortable for it.

The purpose of this component would be to achieve improvement in the operation of the justice system of Guatemala. The basic types of measures of impact would be two. One is subjective -- whether people think that the justice system is improving (degree unspecified) in protecting their political and civil rights and their persons and property from crime. The second is objective -- evidence that the operation of the justice system has improved. Unfortunately the nature of information available does not permit a very sophisticated approach to the collection and interpretation of such evidence, and it will be very difficult to eliminate the influence of changes in the social and economic setting from the effects of the operation of the justice system itself. However, several measures can provide rough surrogates of progress. One is the rate at which complaints of crimes are resolved including: (i) the average time necessary to complete all the requisites of the three major phases of dealing with criminal complaints (the initial investigation, the judicial process of first instance and the judicial process of pronouncing sentence), and (ii) the percent of original complaints which are handled substantively rather than filed for lack of evidence. A second surrogate of progress would be the numbers of, and average length of time which, persons are being held in custody prior to the completion of the investigative and sentencing process. A third surrogate would be the number of actions effectively brought by the Ministerio Publico to prosecute actions which violate the political, civil and human rights of persons. Some baseline data on these topics exist, but the analyses proposed in sub-part C below will have to supplement and refine that data.

In addition to measures of impact these would be measures of progress in achieving the program adopted to carry out the strategy. Beyond the project outputs those measures would be the existence of institutional changes. The following would be the major institutional conditions to be verified and measured:

- The National Justice Commission will provide a forum in which the entities active in the justice sector will discuss their problems and plans and achieve coordination of their actions.

- The court system and the Ministerio Publico both will have yearly operating plans and institutional development plans which provide effective guidance to their budget preparations and a basis for training and technical assistance activities by organizations cooperating with them.

- The court system and the Ministerio Publico will have a functioning system for collecting information on their own operations which will support the judgments

necessary to produce the workplans and budgets which will guide the systems.

- The court system will have a functioning system for providing its personnel and that of the Ministerio Publico, as well as the general public, information concerning the legal principles guiding the operation of the justice sector -- i.e., legislation in effect, court decisions, relevant academic writing and general decrees.

- The court system and the Ministerio Publico will have in place a capacity to provide or arrange for the training of their personnel in the standards and procedures governing the operation of the justice system and in techniques for improving the performance of their responsibilities within that system.

- There will be in place a system for the merit selection and promotion of the personnel of the court system and the Ministerio Publico and a level of salaries which will produce independence and stability of that personnel in their positions.

- The level of funds provided to the court system and the Ministerio Publico will be adequate to meet the on-going costs of the improved systems. The exact magnitudes needed would be identified in the course of planning and conducting the projects.

- A system of providing defense counsel will have been created so that any person accused of a serious crime who cannot afford to hire his own defense counsel will be supplied such counsel through public funding or private volunteer efforts.

2. Consolidation of the Electoral System

The Supreme Electoral Tribunal of Guatemala has a very positive reputation. It is independent of the executive branch and of the political parties in its operations, and it has received adequate funding to perform its essential responsibilities. With the assistance of AID funds from the regional project and the Mission, the Tribunal organized and ran successful democratic elections in both 1985 and 1988. The funds to be added in FY 1989 under the current bilateral activity with the Tribunal will be used to supply computer hardware and software, special ballot paper, technical assistance and financing for the training of the members of the voting commissions in order to assist the Tribunal to meet its responsibilities for carrying out the 1990 general elections. Given the good performance of the Tribunal in the past and its relatively sound and independent

basis, the prospects for the Tribunal's successful conduct of those elections is good. Indeed, in the opinion of the former Executive Director of CAPEL, the Tribunal is now capable of organizing and carrying out the required training without supervision by an external agency. (See Appendix 2a for his report.)

Despite the past success of the Tribunal it considers that it needs further strengthening. First, it wants to create permanent, departmental offices to provide: (i) closer supervision of the on-going voter registration program and of the elections themselves, and (ii) storage space for the equipment and other support items used in those processes. This also would make the Tribunal more self-reliant, and would permit it to reduce the participation of any other organization --such as the army-- whose participation even in the logistic support of the electoral process could raise questions concerning its impartiality. Second, the Tribunal wants to create and implement a system of voter identity cards to help avoid fraud both in registration and in voting. Third, the Tribunal wants to undertake activities to carry out its responsibility to educate the public on the voting process and to strengthen the confidence of the public in that system. Each of these suggestions is further described in Appendix 2a. In addition, suggestions have been made that the experience of the Tribunal might be used to assist in a more general education program concerning organizing for representative democracy and perhaps to provide advice to non-public organizations (and even political parties themselves) on the holding of fair elections for their own, internal purposes.

These steps to further strengthen the Tribunal and to use its experience more broadly seem to be sensible, and the importance of fair and efficient elections to the whole democratization effort is so fundamental that the desirability of further assistance to the Tribunal would seem to be self-evident. However, the creation of a system of voter identity cards would be expensive, and the utilization of the Tribunal in a public education campaign is an idea still without much definition. Thus, more systematic analysis of both the needs of the Tribunal over the longer term and of the possibility of using its experience and infrastructure to support the overall democratization efforts would appear to be desirable as the first step in further defining and preparing this component and in prioritizing its various, possible activities.

In the meantime, the Mission's strategy could with confidence adopt the purpose of consolidating the electoral process through the further strengthening of the Tribunal. This would involve both the support already requested by the Tribunal as described above and assistance to the Tribunal in organizing a stronger capability to respond to allegations of election fraud.

The measures of impact of that undertaking would be the holding of the scheduled elections and the opinion of the public that they were fair. The latter could be ascertained though both the impressions of independent observers and through opinion sampling. The measures of progress on the purpose would be increases in the percent of voting age persons who are registered to vote (in the general elections of 1985 the percentage was 70%) and in the percentage of registered voters who in fact vote. (In the general elections of 1985, 72% did so; in the municipal elections of 1988, 67% of those registered in the participating municipalities did so.) Another measure of progress would be the existence of a functioning system to investigate charges of fraud in either the registration or voting process. Excluding the expensive system for voter identity cards, the program to further strengthen the Tribunal would cost approximately $3 - 4 million beyond the current amounts planned. The voter identity card system would cost an additional $3.3 million.

The Mission also could support the purpose of consolidating the electoral system through the use of the Tribunal for voter education. As noted above, such a program would require more preparatory work to be defined. The measures of impact would be the same as those previously described. However, in this case the measures of progress would be the extent to which: (i) other organizations use information and advice from the Tribunal in the conduct of their own educational efforts or in the conduct of their own affairs, and (ii) the voters are aware of and understand the information supplied by the Tribunal. Because of the nature of the target audience the effort most likely would use non-formal education channels including radio campaigns. In preparing the activity the Mission would involve USIS and its experience as well. There are not yet any useful estimates available on what the cost of such an effort would be. (For further discussion of civic education see sub-part 4 below.)

3. Improvement in the Capacity of the Legislature

The legislature is the weakest branch of government at present. In part, this is because it is completely subject to rule by political parties and its staff totally subject to political patronage. In part, it is because of the relatively recent (1985) reactivation of the legislature as an operative part of the public administration and the low level of education and preparation of many of its members. In part, it is due to the difficulty of the legislature's task of reconciling the various political interests of the country without having the structured tasks and permanence of the judiciary or the long traditions and single party control of the executive. In part, it is due to the absence of assistance from development agencies which have been hesitant to become involved given the relative difficulty of working with the legislature since its members and staff are subject to frequent change and its performance depends

so much on the attitudes and performance of the volatile political parties.

A.I.D.'s work with the legislature is the least developed of its programs with the various branches of the GOG. Indeed, the activities are still in the tentative stage which places emphasis on fostering in-house discussions of the problems facing the legislature and providing members with exposure to ideas on improved administrative procedures. Given the importance to a fully functioning democracy of an effective legislative branch, the Mission's strategy should move to a more results oriented approach. However, to justify such a program a more comprehensive analytical effort would first be needed since no formal analytical work has been done on the operations and needs of the legislature. The experience of the approach used in analyzing the needs of the justice sector might be used to organize a similar effort concerning the legislative branch. The planned regional project for strengthening legislatures might be a source of support for such an analytic effort as was the Regional Administration of Justice Project in the case of the analysis of the Guatemalan justice sector. However, the timing (or even the ultimate availability) of support from that project is not known, and the need to move more forcefully on the legislative front is compelling. Furthermore, there are some $1.0 million available for the last year and a half of the current Cooperative Agreement with the Center for Democracy which might be used to have that organization, or some other working with it, organize the analytic effort. Using such bilateral funding also would help the Mission to exercise the proper degree of involvement to be sure that the results were of utility to it in the relatively short run.

While it is not possible to be certain what the proposed analysis would show to be the priority needs of the legislature, it is likely that among those needs will be remedying the obvious shortcomings already identified and partially addressed by the Center for Democracy's program which already is under way. The needs would include: (i) providing career status to at least a portion of the staff so that training them could be justified; (ii) fostering a spirit of pride in the institution and of cooperation among the members to mitigate the inevitable partisan rivalries involved in the legislative process; (iii) installing more efficient procedures for administering the work of the legislature -- including budgeting and financial controls and the process of drafting legislation; (iv) strengthening the use of committees and their trained staff to conduct the work of the legislature; (v) providing information concerning the work of the legislature to the public to create understanding and support for the legislature's role in democracy and information concerning the content of bills and legislation to those members of the public who are actively involved in the political life of the

country or are professionally dependent on that information -- e.g., lawyers and lobbyists.

The Mission's strategy would adopt the purpose of strengthening the performance of the legislature in its two major functions of reconciling the interests of the various political currents participating in the democratic life of the country and passing timely legislation needed for the political, economic and social development of the country. Choosing measures of impact of the work on those purposes is difficult. Of course, the opinions of the public concerning the performance of the legislature can be sampled. However, objective indicators of impact are hard to choose since one is concerned more with the quality than the quantity of the legislative actions taken. The Mission could choose the legislative actions which its various assistance activities have identified as being important for their accomplishment, and make their passage a surrogate of effective legislative performance. For instance, in the case of the democratization program such actions would include the passage of legislation providing career status for the personnel of the judicial branch and the adequate financing of the judicial branch and the Supreme Electoral Tribunal.

Progress on strengthening the legislature would be measured by the existence of the institutional changes responding to the priority needs identified previously. There are no existing estimates on what level of resources would be needed to accomplish the institutional goals outlined since only the most immediate needs of the administration have been identified and estimates of their cost made. This is due to the absence of the analytic work previously discussed.

4. Training for Democracy and Civic Education

One of the major problems in designing a program to provide training for democracy and civic education is arriving at an agreed upon consensus of what constitutes such training and education. Usually it has been identified somehow with work at the community level, although even then there are differences in opinion and approach. For instance, two organizations (Partners of the Americas and CODECAL) sponsored by LAC/DI to work cooperatively on a civic education program used different definitions. CODECAL defined civic education as the identification of community problems or needs and working towards their solution. Partners, which is a long time AID recipient of regional grants, defined civic education as community education which embraces any type of educational or related activity in the community. The latter organization probably will receive support for a major, regional democratic initiatives project in civic education in the near future.

Although fostering community based activities certainly can assist in creating a sense of responsibility and local empowerment which is valuable to strengthening democracy, the scope and nature of such efforts is so broad and inclusive that it is difficult to conclude that they are having a measurable impact on democratic practices. Furthermore, such programs would not be particularly supportive of the institutional focus proposed for this strategy. Therefore, it would seem that the Mission should not become involved in a broadly defined, community oriented program under the name of democracy or civic education or develop a separate democracy or civic education project to respond to a variety of democratic initiatives. Rather the Mission should adopt a program which focuses on training and civic education closely related to the other components of the strategy since training and technical assistance are requisites for most components.

Looking at each technical area (prosecution, defense, legislature, elections) it was concluded that each will require a discrete project or activity component of a multifaceted project. Each area will need deliberate and careful analyses to develop realistic and successful projects. The particular area will require comparably large amounts of training in skill and technical areas. For example the bilateral justice project has identified a large member of training needs for the Guatemalan court system. Similar technical or "know-how" type of training will be needed for each democratic initiative component. Fortunately, certain types of training have taken place already for legislative personnel, election workers, some prosecutors and a large number of court personnel. Most of this training has been content specific in the specialty of the person being provided training. This type of project related training is a normal element of AID development activities. Therefore, each component or sector of democratic initiative bilateral activity should include, at a minimum, project related and financed training using normal AID training mechanisms. In addition, as the bilateral activities take form the Mission may also try to include some elements of democratic or civic education in the individual bilateral projects. For example, the Mission could decide to include a civic education training aspect to the consolidation of the electoral process.

The overall purpose of the component will be to increase the understanding of the public concerning the operation and utility of key democratic institutions, its confidence in the efficiency and fairness of their operation and its adoption of attitudes supportive of the rule of law and democratic practices. The purpose could be addressed either through coordinating the information activities of each of the project activities for the other components or through a separate project and institution. The decision of which approach would be best taken after further analysis.

5. Acceptance of Non-Violent Conflict Resolution

The frequent resort to the use of violence and the threat of the use of violence to address problems and conflicts, both personnel and institutional, is a basic impediment to the consistent observance of the rule of law in Guatemala. This situation in part responds to the inadequacy of the justice system in solving crimes and providing justice and in part to the conscious use of violence by some political groups to intimidate opponents or to undermine the public's faith in the efficacy of the democratization process. However, the situation also is the result of a long-standing history of violence which most likely reflects important cultural traits. Thus, it is likely that the use of violence will remain a problem for the consolidation of the rule of law and the democratization of the country despite the achievement of significant improvements in the operation of the justice system and in economic and social conditions, and despite increasing confidence in the fairness of the electoral system and the efficacy of such key institutions as the legislature and the political parties in reconciling conflicts of group interests.

Addressing directly the problem of the continued use of violence would seem to be called for. The problem is deciding what to do. Since one is dealing with cultural attitudes the problem would seem to call for an educational and psychological approach. The elements of such an approach could include making the problem one of the main foci of the civic education activity and organizing a sustained and substantial publicity campaign using the mass media and involving as broad a spectrum of opinion and political groups as possible. The military should be included. Such an effort would have to be seen as impartial concerning economic and political issues. Certainly it could not be presented as a justification of the performance of the current government or just propaganda on the progress being made concerning democratization. It could not be hypocritical with institutions, such as the army, endorsing it and then acting in contradiction to it. Nor could it be a temporary effort linked only to arranging a political truce -- important and difficult as that might be in itself. It should not be seen as merely supporting the "observance of human rights" since the concern is with the behavior of private persons in their private dealings as well as with actions by political and government organizations.

The purpose of the effort would be nothing less than making violence or the threat of violence socially unacceptable -- not nominally so as it already is, but really so. One could measure the impact of the effort both through the taking of opinion samples and through the incidence of violent behavior as discussed in sub-part A above. However, it is not likely that substantial change in behavior will be achievable within the

five-year planning period. In that time what might be achieved is the organization of the effort and some increased awareness of the public as to the ways in which violence and the threat of violence corrupt the society and impede its democratization. Again, the use of public opinion sampling would be the main approach to measuring progress.

Analyzing the problem further and organizing an institutional response is likely to take up at least the first half of the planning period with the second half being devoted to carrying out the initial activities with the public. This activity will be unusually difficult because of the importance of finding ways to address the unconscious assumptions of the public and because there is no existing institution with the clear standing and competence to carry out the effort. A possibility might be the Asociacion de Investigacion y Estudios Sociales (ASIES). However, the Mission may conclude that a new organization -- perhaps a private foundation -- needs to be created and endowed with the resources to plan and implement such a program. The decision will involve a trade-off between having an organization with enough influence with government organizations to enlist their cooperation and not having one seen as being merely an instrumentality of the GOG.

Making estimations of the resources needed to carry out such a program is nearly impossible at this point. Certainly the program is likely to be expensive since it would require in-depth research on attitudes, an on-going evaluation of the effect of the effort on such attitudes, and the use of costly mass media messages. Given the highly tentative and still undefined nature of the approach to be taken, it would be better to take a step by step approach -- that is, funding the research, then the formation of an organization, then a pilot program and then a more extensive campaign. The exact nature and the costs for each phase would be estimated during the preceding one. The specific targets for progress also would be set on a phased basis.

C. Suggested Projects and Activities to Carry Out the Components

The following are descriptions of the major steps and activities to carry out the components of the strategy. The descriptions are not detailed enough to amount to an implementation plan since that would require decisions on design which are not yet possible. However, the description does make estimates of the years in which the steps and activities would be taken. The combined effect of work on the various components is present in Appendix 4.

The strategy calls for:

(i) major analytical work to be carried out during the remainder of FY 1989 and during FY 1990;

(ii) the preparation of four new projects -- one in early FY 1991 for the institutional strengthening of the legislature; one in late FY 1991 to improve the prosecution function of the Ministerio Publico and to introduce a new public defense counsel system; one in FY 1992 for further strengthening of the electoral system; and possibly, one in FY 1993 to carry out a comprehensive public education campaign concerning the role and operations of the institutions being assisted and designed to reinforce the public's rejection of the use of violence or the threat of violence in conflict resolution; and

(iii) extensive use of public opinion sampling both to guide the design of the projects and their evaluation.

The strategy recognizes the probability that follow-on activities will be needed beyond the current planning period, but does not attempt to project their nature.

There are three issues facing the approach to be followed. One is that since there are several public opinion surveys to be conducted, it may be more practical to have a centralized approach to those surveys -- perhaps through a standing contract funded by PD&S and/or by the several projects. However, that may be difficult to achieve while dealing with three independent branches of public administration. The second problem is that each component incorporates an information and civic education type of activity and that these efforts might well be combined for achieving greater impact. However, their startup timing is not likely to be identical, and each institution is likely to want to have its own public relations capability. The third problem is that the number of new projects proposed is high, and it might be more economical of staff resources to try to combine them into only one or two multifaceted projects. However, this would present problems of adjusting somewhat different times of preparation and of combining independent branches of government in the same project, and it is not likely to reduce the burden of implementation.

1. Improvement in the Quality of the Justice System

The Mission has in place the basic project to carry out its activities in this component during the next three years. That project agreement can be extended, its scope expanded and funds increased in order to carry out the full program originally planned for the court system. However, expanding the scope of the program to cover the needs of the Ministerio Publico and for supporting a system for providing public defense counsel will

most likely require a new project agreement since the Ministerio Publico is not part of the judicial branch of government and the proposed defense system may not be either. Ideally, these new activities will be under the overall guidance of a strengthened National Justice Commission, but that organization is not likely to be able to sign project agreements or itself make commitments on behalf of government organizations such as the Ministerio Publico. A reasonable target for entering these new agreements would be FY 1991.

The most immediate needs facing work on this component are: (i) to get the currently authorized project under implementation, and (ii) to begin the series of analyses which are necessary to carry out the project fully, to prepare for the expansion of the scope of the component to cover the prosecutorial and defense counsel systems, and to undertake a public education program concerning the justice system. Originally that analytical work was to have been financed and implemented as part of the Improved Administration of Justice Project. However, when the level of funding for that project was reduced, the Mission decided to use PD&S funds for the analytical work. The Mission's Action Plans for FY 1989 and FY 1990 have a planning figure of $306,000, plus $300,000 in ESF local currency generations, to support analytical work for all the activities aimed at strengthening of democracy, for the accumulation of baseline data concerning the operation of the justice system (principally the court system) and for undertaking a survey of public attitudes toward that system. This is not likely to be sufficient for all the preparatory and evaluative work proposed under this strategy. Thus it would be desirable to increase the level of obligations under the current project to fund the project-related analyses that are necessary.

An initial, but fairly detailed, implementation schedule for the current project is provided in the Project Paper. We have not attempted (nor do we have the basis) for refining or modifying that plan, and we shall not repeat it here. The following lists the major steps to be taken by year to carry forward the activities of the component as set forth above.

FY 1989

- Establish the Project Implementation Unit and refine the workplans and budgets for the life of the project;

- Complete the refined training needs-analyses and training plans;

- Undertake detailed analyses of the various aspects of the operation of the court system including baseline studies of the operation of the court system and of the public attitudes toward the justice system;

- Provide support to consolidating the role of the National Justice Commission;

- Support operation of the model courts being assisted by the Harvard Law School; and

- Evaluate the performance of the Cooperative Agreement with the Harvard Law School.

FY 1990

- Conduct a comprehensive assessment of the operation and needs of the Ministerio Publico, of alternative approaches to the provision of defense counsel, and of ways to use the justice system better to assure the observance of human rights by all institutions;

- Achieve implementation of the full scope of activities under the current project in the capitol using the results of the detailed analyses and the initial experience of Harvard and ILANUD in working with the model courts; and

- Conduct an assessment of alternative approaches to a public education campaign concerning the operation and utility of the justice system.

FY 1991

- Evaluate the performance of the current project;

- Prepare and obligate an amendment to the current project which extends it through FY 1993 in order to support national coverage of the improved systems developed and tested during 1989-1991 and a pilot effort in public education concerning the justice system;

- Prepare and obligate a new project to support improvement in the operation of the Ministerio Publico and to establish and support a public defense counsel system;

FY 1992

- Achieve nationwide coverage of the improved administration of the court system including the decentralization of many of its functions;

- Undertake implementation in Guatemala City of the improvements for the Ministerio Publico and the new defense counsel system; and

- Conduct pilot efforts in public education in both the capital and selected regions of the country.

FY 1993

- Complete the nationwide program with the court system, evaluate the experience and determine what follow-on activity may be necessary to consolidate the improved system;

- Expand coverage of the improved prosecutorial and defense counsel system beyond the capital to selected regions of the country;

- Design a comprehensive project in public, civic education; and

- Assess alternative methods of dispute resolution and the possible use of non-formal methods of decision making in the justice system.

FY 1994

- Complete and evaluate the project with the prosecutorial and defense counsel system;

- Implement the public education campaign on a national scale; and

- Prepare a justice system wide project to consolidate reforms supported during the planning period and to introduce innovations concerning alternative dispute resolutions, the use of informal justice practices of Indian communities and other topics identified in the course of implementing the currently planned activities.

2. Consolidation of the Electoral System

The most immediate task facing the Mission is to carry forward the particular procurements in support of the 1990 general elections. Those needs are the subject of Appendix 2 of this report. The current Limited Scope Grant Agreement provides a framework for the procurement. However, it should be modified or a new agreement negotiated to cover the provision of funding to assist in the training of the members of the voting commissions to be carried out by the Tribunal. (In previous elections this activity had been carried out with AID regional funding through CAPEL, but that indirect approach is no longer needed.) However, the amount of funding needed for all the requested support exceeds the level of dollar funding which currently is planned to be made available. The difference could be made up

through the use of ESF counterpart allocations if the GOG cannot supply the funds from its ordinary resources.

The strategy proposes to move toward a longer term, institutional strengthening effort with the Supreme Electoral Tribunal after the 1990 elections. For that purpose it will be necessary to prepare a new project and its supporting analyses. The main elements of the project will be: (i) assistance to the Tribunal in the construction and equipping of permanent offices in all the departments and in 306 municipalities; (ii) creation and implementation of a system for issuing voter identification cards; (iii) strengthening the Tribunal's capacity to investigate allegations of electoral fraud both as an independent agency and in cooperation with the Ministerio Publico; and (iv) the organization and implementation of a public education campaign and of the capacity in the Tribunal to provide assistance to other organizations in the running of elections or other types of consultative procedures. The design of each of these elements will require prior analysis of alternatives, costs and, especially in the case of the public education campaign, the appropriate connections to other activities under the strategy. Given the demands of preparing for the 1990 elections, it is unlikely that these institutional building activities can get underway until after those elections take place.

Thus the major activities with the Supreme Electoral Tribunal during the planning period would consist of the following:

FY 1989

- Complete the preparation for the procurement of the hardware, software and technical assistance needed for the 1990 elections;

- Modify the existing Limited Scope Grant Agreement or negotiate a new agreement to provide for support to the Tribunal for the training program for members of the voting commissions; and

- Conduct a baseline survey of the opinion of the public concerning fairness and other aspects of the electoral system.

FY 1990

- Complete the procurement of the items in support of the 1990 elections and provide financial support for the training program.

FY 1991

- Conduct public opinion surveys concerning the fairness of the 1990 general elections; and

- Undertake the initial analyses of the proposed elements of the new project and prepare a PID.

FY 1992

- Complete the preparation of the new project, obligate the initial funding, and begin implementation; and

- Prepare the plan to carry out a voter education campaign in support of the electoral process.

FY 1993

- Begin implementation of the public education campaign; and

- Create a capacity to provide technical assistance to other organizations in procedures for representative democracy.

FY 1994

- Complete all the project activities on a national scale; and

- Conduct the project evaluation including public opinion surveys.

3. Improvement in the Capacity of the Legislature

The current Cooperative Agreement with the Center for Democracy is generating experience in working with the legislature, giving some training to the members and some material support to the operation of the organization. However, the current agreement does not provide an adequate framework or a resource level adequate for the longer term, institutional strengthening purpose of the strategy. A new project will be necessary. That project might be combined with the project for the Supreme Electoral Tribunal since the final preparation and implementation of the activity would best await the new congressional leadership which will come out of the general elections of 1990, and thus its timing would coincide with the work with the Supreme Electoral Tribunal. However, it would be desirable to have the project ready for implementation by the completion of the current Limited Scope Grant Agreement with the Center of Democracy in early FY 1991; and, thus, preparation would need to be made before the conduct of the 1990 elections. Thus, on

balance, it would seem to be worth the effort to prepare two separate projects even if it is possible to combine some of the analyses such as the surveys of public opinion.

At present it would seem that the major activities with the legislative branch during the planning period will consist of the following:

FY 1989

- Utilize the current Cooperative Agreement to hold preliminary discussions concerning the nature of the analytical work which will be required to support a longer term, institutional strengthening project; and

- Evaluate performance of current Cooperative Agreement with the Center for Democracy.

FY 1990

- Organize and conduct a comprehensive analysis of the operation and needs of the legislative branch and of public opinion of its performance;

- Hold a workshop for key Guatemalan institutions to discuss the content of the analysis of the legislative branch and obtain feedback on the content of a possible project. Participants would not be limited to members of the legislative branch; and

- Prepare a PID for the new project.

FY 1991

- Conduct intensive analyses and prepare the project paper for the new project;

- Negotiate the Project Agreement and make the initial obligation; and

- Undertake the implementation of the new project probably starting with emphasis on consolidating the administrative and personnel changes started under the current Cooperative Agreement.

FY 1992

- Prepare a plan for mounting the public information campaign and creating the on-going capacity of the legislative branch to provide information on its operations.

FY 1993

- Undertake implementation of the public information campaign and get all elements of the project under full operation.

FY 1994

- Complete and evaluate the project including conducting a public opinion survey of the effectiveness of the legislative branch.

4. Training for Democracy and Civic Education

Each bilateral activity will have a training component which mainly will address technical and skills training for the members of the participating Guatemalan institutions and some effort at public information. They will be prepared and implemented as part of the projects to carry out the other components. However, there is also a need for a more directive education effort with the public to increase its understanding of what is involved in the democratization effort and to strengthen its support for that effort. That is what the strategy calls civic education. Its importance merits the consideration of preparing a discrete training for democracy and civic education project. Such a project could include information gathering or surveying on which to base the measurement of progress and impact.

The following steps would be followed in developing the civic education component:

- Conduct a professional, training needs assessment for civic education which focuses on support for the other components of the strategy (FY 1991);

- From that assessment develop training and education objectives and a series of objective and verifiable impact indicators (FY 1991); and

- Design a bilateral USAID/Guatemala civic education training strategy (FY 1992).

5. Acceptance of Non-Violent Conflict Resolution

In strengthening the capability and performance of the several key democratic institutions of the country (the justice system, the legislature and the electoral system) the Mission is strengthening ways to achieve non-violent conflict resolution. Furthermore, the training and civic education programs described above will have as one of their principal themes the incompatibility between democracy and the use of force or the threat of the use of force to resolve conflicts; and several of the

regionally funded activities may be used as vehicles for supporting the same message -- in particular, the on-going sponsored dialogue between civilian and military leaders, the research and discussions conducted by the Inter-American Institute for Human Rights and the support for increased professionalism in the media. Thus, one of the main activities to carry out this component of the strategy would be the use of the coordinating mechanisms discussed in Part V below continually to reinforce the basic message and to generate information (for instance, from the opinion surveys) which can be used to make the message more effective. This would not require a separate project.

However, for the reasons discussed in sub-part B.5 above, it is also desirable to seek to effect public opinion directly, and that may require a separate project to justify the level of resources which would be required for a full scale, sustained campaign involving all levels of society as well as the use of mass media advertising techniques. The first step would be extensive consultations with selected persons from the main groups which influence public opinion (e.g., the churches, the press, selected universities, political parties, the military, the professional associations, the labor unions and the executive branch of the GOG). The purpose of the consultations would be to obtain views on the feasibility of such an effort, on the institutional devices which might be used to carry it out, on its possible content and on the acceptability of its being supported by the USG. The consultations might be carried out in conjunction with the preparations of the civic education program proposed above. If the results of those consultations were favorable, an in-depth survey of public attitudes could be performed and a pilot activity prepared. Funds for such an effort could be taken from several sources including ESF counterpart, on-going regional activities and the Mission's PD & S. A Limited Scope Grant Agreement with a Guatemalan organization could be used to arrange the pilot effort. However, the Mission needs to be intimately involved in the design and operation of the effort so that it learns as well as observes, and so that it can help avoid the political difficulties which might arise. In designing the effort advice could be sought from organizations such as the US Advertising Council and motivational research centers of US universities. Although achieving impact would require the use of major resources, the pilot effort would be a way to test whether the relevant organizations can work together and whether the techniques selected are received well. Only thereafter should the Mission give consideration to preparing a separate project on this component.

Thus, the major activities on this component during the planning period will consist of the following:

FY 1989

- Review all on-going activities and those under preparation to assure that, to the extent consistent with their nature, they give importance to the theme of non-violent conflict resolution.

FY 1990

- Conduct consultations with various groups concerning the possibility and nature of an effort to promote non-violent conflict resolution; and

- Include public attitudes toward the use of violence and threats of the use of violence under varying situations in opinion sampling conducted under the various activities of the strategy or organize a separate opinion sampling on the topic.

FY 1992

- Design and undertake a pilot activity on strengthening public attitudes against the acceptability of the use of violence or the threat of violence in public and private affairs.

FY 1993

- Evaluate the experience of designing and undertaking the pilot activity; and

- If appropriate, prepare a major effort to influence public attitudes on the role of violence in conflict resolution.

D. Implementation Modalities

1. Choice of Grants, Cooperative Agreements and Contracts

As the Mission moves from the current initial and tentative efforts with the electoral system, the prosecutorial and public defense counsel system and the legislative branch to longer-term and more comprehensive efforts to strengthen these institutions, it is likely to follow the pattern set in the project underway with the court system. It will conduct the analyses and enter the agreements which are consistent with fully worked out AID projects, and use contracts rather than grants or cooperative agreements to assure the maximum utility of the analytical work to be produced and to carry out the implementation of the activities. The reasons for those choices are the same as in any other complicated AID undertaking -- the need for accountability and for efficiency in guiding the implementation.

This is not to say that the use of grants and cooperative agreements will never be appropriate. Obviously, particular conditions may call for them. For instance, the pilot efforts in civic education and in the campaign to influence public opinion re the resort to violence may better be handled by grants to Guatemalan institutions. Although the Mission's experience with Cooperative Agreements with the Harvard Law School and the Center for Democracy have been mixed, some of the difficulties arose from the circumstances in which the activities took place and which determined the nature of the Mission's relationships with these institutions rather than from the nature of the Cooperative Agreements themselves. Still, unless it is necessary to utilize such agreements to obtain the participation of a particularly necessary or useful institution, it would seem better to use contracts.

2. Use of Conditionality and Policy Dialogue

The degree to which the Mission uses a formal policy dialogue agenda with the participating entities in the program and conditions its assistance on the giving and performing of undertakings by these entities is subject to wide variation depending on the circumstances, and it is best determined in the context of the particular projects to be undertaken and in the light of the results of the analytical work which is to be performed to prepare for those projects or the expansion of the current activities. However, what should be clearly established is that it is the Mission which sets the policy agenda and the conditionality which is to govern activities being supported by AID, and that activities should not be considered to be inappropriate for conditionality just because they are involved in the conduct of the political and legal systems. This does not mean that the Mission will not be sensitive to the possibility of its being viewed as too intrusive if it misjudges what it is possible to obtain or that it would not want to have the views of the persons and institutions which are working on the activities with AID funds. However, it does not seem wise to have more than one action and policy agenda for an activity since that easily can lead to conflict, confusion on the part of the Guatemalan institutions as to what is expected and dissipation of the leverage provided by the activities. For this reason the policy agenda and conditionality to govern every activity should be in written form and clearly accepted and followed by all entities involved in the activity. Furthermore, as a general rule it should be the Mission's representatives rather than representatives of the participating entities who conduct the discussions of policy and conditionality with the Guatemalan institutions. If those discussions are not held by Mission representatives, the persons who do conduct them should have consulted with the Mission officials and obtained their understanding and agreement before the discussions take place.

3. Approach to Procurement

To the extent possible the Mission should move away from handling procurement (and other administrative matters) itself. In the past the Mission has performed most of the procurement of commodities and services which were not provided under Cooperative Agreements. This has placed a heavy burden on the staff. As the program expands in response to this strategy that burden easily could become impossible to meet or take time badly needed for project design, monitoring and other implementation activities. Thus, whenever it plans a project the Mission should use either host country procurement or finance the creation of a capability under the project to do most of the administrative work involved in procurement. The decision should be made in conjunction with the participating Guatemalan institutions during the preparation of the project. This is the pattern which was originally adopted in the Improved Administration of Justice Project.

The strategy involves the conduct of a substantial amount of analytical work and public opinion surveying both before projects are designed and during their implementation. The procurement of this work after a project is operating can be handled as any other project funded activity. However, the work to be performed before a project gets underway presents the Mission with a significant administrative burden. The implications of that for staffing are discussed in Part V.A. below.

V. MANAGEMENT OF THE PROGRAM

A. Mission Staffing and Supervision

Staffing

The current staffing of the Mission in office in charge of activities to strengthen democratic initiatives was described in Part II E (6) above. The Mission has no current plans to modify the size or composition of that staff. That position will need to be reconsidered since there are several factors which are likely to cause a significant increase in the level and changes in the nature of the responsibilities to be met by the staff.

One factor is that the overall level of resources and the complexity of the activities will increase substantially under the strategy being proposed. The increased effort involved in a comprehensive program with the Ministerio Público and the new defense counsel system, and in expanding the scope of the improved court system nationwide will be much greater than the reduction in effort accompanying the completion of the Harvard and ILANUD activities in FY 1990. Similarly, the increased effort involved in long term, institution building programs with the legislative branch and with the Supreme Electoral Tribunal will be much greater than the reductions in effort which would result from the completion of the current activities with the Center for Democracy and the Office of the Procurador of Human Rights.

A second factor is that the strategy calls for greater attention by the Mission staff to guiding and supervising the implementation of the activities and to achieving better coordination and synergism among them. Suggestions for carrying out that purpose are made below. However, even with success in carrying out those suggestions the Mission will have to spend more time on these tasks than it is doing at present.

A third factor is that the Mission will face an intense workload during the next two years as it gets the complicated Improved Administration of Justice project underway while overseeing all the analytical work necessary to support the proposed undertakings with the Ministerio Público, the defense counsel system and the legislature. The problem is aggravated by the late startup of the Improved Administration of Justice project and the fact that there are various additional analyses required for its full implementation. Of course, the analytical work for the new programs might be delayed, but then there would be a sizeable gap between the preparatory activities now underway and the longer-term, institution building activities which are to follow and build on them.

A fourth factor is that the strategy calls for skills and disciplines of greater variety than is now the case. One example is the increased attention to public information and civic education called for by the strategy. Another is the use of public opinion surveys and motivational techniques.

A fifth factor is that in the present planning for the implementation of the Improved Administration of Justice Project the Mission drastically has reduced the level of staffing planned for the Project Implementation Unit (PIU), while the scope of the substantive responsibilities of the PIU has not been narrowed. Those plans now call for only one full-time advisor with experience in the substance of the activities being supported. The situation might be ameliorated by reducing the scope of the project (for instance, by eliminating the training for the Ministerio Público and the members of the existing defense counsel system until the expansion of the component in FY 1991), by not using the PIU to prepare scopes for the analytical work and by relying more on the home office staff of the contractor to provide support to the PIU. Even then it is not certain that the PIU would be able to meet the responsibilities assigned to it. Furthermore, there have been two major changes in the scope of the PIU's responsibilities that could well complicate rather than simplify the work of both the PIU and the Mission. One would place responsibility for carrying out off-shore procurement with a firm apart from the PIU (while leaving the responsibility for preparing the specifications with the PIU) thereby making the program which the PIU is trying to implement dependent on the actions of an entity not under its direction. The other step would have the Mission contract directly for the analytical work necessary to carry out the full project and for preparing the collateral and other activities forming part of the strategy while leaving with the PIU responsibility for preparing the related scopes of work. This step also makes the PIU dependent on the actions of entities not under its direction for the timely production of the analyses necessary to carry out the project, and it involves the Mission's staff in a very substantial number of separate procurements of professional services.

The net effect of this approach to the implementation of the project is likely to be the placing of greater responsibility on the Mission for accomplishing the administrative steps and seeing that the various implementation actions are properly coordinated as to time and compatible in their terms and results. Of course, it may be that the current approach is the result only of the drastic reduction in short term funding for this project, and is not to be a precedent for the implementation of other activities to be undertaken to carry out the strategy. Still, the approach to the implementation of the Improved Administration of Justice Project will be a serious aggravating factor over at least the next two years.

In the face of these factors the Mission will need to give serious consideration to increasing its own staff. It will certainly need an additional secretary and administrative assistant since the current professional staff of the Mission working in this area spends a large share of its time on administrative matters. It probably will need a full-time social scientist with experience in a wide variety of analytical techniques (including public opinion sampling) to oversee the analytical work which the Mission will be responsible for arranging and accomplishing, and it should be prepared to devote the equivalent of at least six months per year of Mission administrative and contract personnel to the program. If these changes in staff are not possible the Mission probably should not undertake the strategy suggested in this paper, but rather limit itself to: addressing the current scope of the Improved Administration of Justice Project, providing better guidance to the existing Cooperative Agreements with Harvard and the Center for Democracy, completing the procurements planned for the Office of the Procurador of Human Rights and the Supreme Electoral Tribunal and letting the regional projects address the broader needs of a program to strengthen democratic institutions.

Supervision

In supervising the activities comprising the portfolio the Mission's staff will be placing more importance on timely compliance in reporting by the intermediaries and on providing feedback to them. The Office of Human Resources already has begun a series of biweekly meetings with the resident representatives of Harvard and the Center for Democracy. Under the Improved Administration of Justice Project the Mission will be looking to the PIU to assure that it is kept informed concerning the operation and problems facing the implementation of the project. The use of contracts rather than grants and cooperative agreements to carry out the activities in the future should be of assistance if the scopes of work are thoroughly prepared and followed. The experience of the personal services contractor recently added to the staff of the Office will be important to following through on this aspect of implementation.

Perhaps the main problem facing the supervisory responsibilities of the Mission (apart from the sheer magnitude of the effort) will be gaining an effective relationship with the home offices of the entities having Cooperative Agreements and with the policy level officials of the Guatemalan entities involved in the activities. These persons usually are of considerable stature and accustomed to dealing with the Ambassador himself. The Mission's management will have to reinforce the role of the Mission's key staff members responsible for these activities through personal contact on their behalf and through supporting a higher profile for their involvement -- for instance, by their

visiting the home offices of the intermediaries and through having review meetings regularly scheduled in Guatemala and chaired by the key personnel. Of course, this is not to say the Mission's management would not be consulted on important policy questions. However, unless the staff of the Mission in charge of implementing these activities is seen by the participating entities as able to speak for AID on matters of importance, it is unlikely that the staff will be able to achieve the degree of supervision and guidance which is necessary for the successful conduct of the strategy.

B. Coordination Among the Components and with Other Mission Activities

Under the proposed strategy all the activities comprising the Mission's portfolio in support of strengthening democratic institutions and practices will be handled by the Office of Human Resources. That should greatly facilitate the achievement of coordination among the components. The most likely interconnections among the various activities comprising the strategy are:

(i) The experience of Harvard and ILANUD in working on the pilot efforts with the court system and with the Ministerio Público will be used in carrying out and expanding the Improved Administration of Justice project;

(ii) The work with the legislature will include discussions and other techniques aimed at gaining the legislature's support for measures of interest to activities with the administration of justice and the electoral process;

(iii) Support for the National Justice Commission will strengthen the Guatemalan capability of coordinating activities in the justice sector;

(iv) The organization of the civic education effort will draw on both the National Justice Commission and the various component projects for ideas, experience and support; and

(v) The conduct of the public opinion surveys under the several components may be jointly contracted.

Achieving conscious interaction and support among the components and other Mission activities is more difficult. In part this is a problem of management since many of the more relevant activities are administered by units within the Mission other than the Office of Human Resources, and they have different basic purposes guiding their work. However, the difficulty also

is the result of the lack of conceptualization of how in a practical way those other activities and the democratization efforts of the Mission could serve each other. The main way in which the activities included within this strategy and other Mission activities could be mutually supportive are:

(i) The general training programs, and especially that under the DT and S project, will provide support to the components by using their resources to support training that may be needed to supplement the technical training to be included in the projects and by providing a mechanism for handling training financed by those other projects if necessary;

(ii) The materials on civic education and the assistance of the Supreme Electoral Tribunal will be available to other organizations seeking to improve their own representative procedures;

(iii) The public opinion surveys to be conducted can be used by other activities to help guide their own efforts;

(iv) The work with the legislature can be used to sensitize the legislature to the needs of the development activities being assisted by the rest of the Mission's program;

(v) The activities with the NGOs and local governments can give importance to their potential as spokesmen for the interests of their beneficiaries, not just as channels to provide resources to those beneficiaries; and

(vi) The policy agenda formulated for the ESF program can include items of importance to the strategy.

To assist in achieving more reinforcement among these activities the Mission's management might have the Office of Human Resources make a presentation of the strategy (as well as provide copies of it) to a meeting of representatives of all the Mission offices, and then request those offices to prepare short statements of how their programs will be able to support and utilize the activities proposed in the strategy. The responses could be circulated, and the management then might meet again with representatives of all the Mission offices to discuss the ideas contained in them. Thereafter, reviews of the operation of the Mission's programs in conjunction with the preparation of the yearly Action Plan could include an assessment of what progress had been made on carrying forward the ideas for mutual support.

C. Coordination with Other USG Agencies

At present the only other US Government Agency with a program closely linked to the AID activities to strengthen democracy is the Department of Justice whose ICITAP training program is financed by funds appropriated to AID but made available to the Department of Justice through the Department of State. As described in Part II C (d) above, that program focuses on training members of the police forces. As a practical matter, it operates independently of AID --both in Washington and in the field-- and it takes its guidance from the Department of State and the Ambassadors in the countries in which the program is active. The other USG agencies whose activities could have relevance to the strategy proposed are USIS and the National Endowment for Democracy. The Embassy's Political Section, of course, has an overall interest in the content of the activities and the ways in which they are carried out.

A coordinating committee for the improvement of the justice system already exists under the Ambassador's direction. It consists of representatives of the Office of Human Resources of A.I.D., the Regional Security Office, the resident DEA office and the Embassy's Political Section. It meets approximately every six weeks. Its principal function is to provide a forum for the exchange of information on activities underway and planned and for the Ambassador to provide guidance on matters which concern him. (Apart form the meetings of the committee the member organizations also are expected to keep the Ambassador informed of important developments and to consult him on significant decisions being taken in the conduct of the programs.) The committee has not been used to conduct joint planning or actually to coordinate activities. For instance, it has not sought to avoid the unplanned overlapping of training courses from the various programs. This is the result of two factors. One, the committee is not a working group, but rather one for helping to keep the Ambassador informed. Two, the representatives of several of the major programs active in Guatemala (e.g. ICITAP, RAJO/ILANUD and LAC/DI) do not attend the meetings unless by chance they happen to be visiting the Embassy on the day of the meeting.

Looking to the future, it would seem that the main coordination issue facing the strategy will arise in the planning and utilization of the resources for training available to the Mission, ICITAP and USIS. Since USIS has a representative in-country the channel for such coordination is available, and that representative seems receptive to working on the task. Thus, better meshing of the plans for training should not be difficult to achieve. The main problems for the Mission are to enlist the assistance of USIS in conceptualizing and designing the activities in civic education and for influencing public attitudes, and in monitoring and guiding the activities in

Guatemala of the regional project with the media. This is because those efforts are beyond the usual operations of the USIS information program.

The prospects for increased coordination with ICITAP are less sanguine. That program has no local representative, and in the past ICITAP did not seem to see the utility of a closer meshing of its plans with those of the Mission. To change this situation will require both a change in attitude on the part of ICITAP and some relaxing of the Mission's fear of being too closely associated with a program whose principal focus is on working with the police. The Ambassador could be helpful with this problem should he, together with the Department of State, strongly encourage ICITAP to work directly with the Mission in preparing its plans so that the overall training program for the strategy could be designed to take advantage of ICITAP's resources and so that implementation problems -- such as the unconscious scheduling of courses by various organizations at the same time -- could be avoided. Of course, the Embassy would continue to provide guidance to ICITAP as well as the Mission, but the main need is to achieve more useful relations between ICITAP and the Mission at the working level.

D. Coordination with Regional Activities

As described in Part II C above, the relationships between the Mission and the regionally funded programs have varied. On occasion they have been close and mutually supportive; on other occasions they have been nearly non-existent. In general, the Mission has had a welcoming attitude toward the operation of regional activities in Guatemala, and its relations with the offices which manage those regional activities is good. However, the Mission has not sought to influence the design or the implementation of those regional activities in any significant way.

The strategy proposes that the Mission take a more active role vis a vis the current and future regional activities. This is so for several reasons. First, the strategy would involve the Mission very substantially in several areas of action on democratization -- the administration of justice, improvement in the legislative branch, consolidation of the electoral system and the conduct of a public information, civic education program. The Mission must assure that the actions of others in those areas do not cause conflict with its own programs and, ideally, that all the activities reinforce each other. For example, for the Improved Administration of Justice Project to be successful will require the meshing of its activities with that of ILANUD. Second, although no major problems have resulted from the regional activities to date in Guatemala, if such problems should arise it is nearly inevitable that the Mission will be called upon to assist in dealing with them, and it might find that its

own programs had been damaged by the problem. Active involvement by the Mission might avoid the occurrence of such problems. Third, if the Mission is to have a chance of achieving real coordination with the programs of other USG agencies it must be able to show that it has done so with AID's own regional programs. Fourth, the Mission knows more about Guatemala than any other part of AID, and it would seem only natural that the regional activities and the institutions carrying them out should seek the Mission's guidance on the conduct of those activities in Guatemala.

Desirable as it may be for the Mission to be actively involved in all of AID's regionally funded activities in Guatemala, to do so would require a considerable amount of the time of the Mission's staff. This would be particularly so should the involvement include close monitoring of implementation or the assumption of responsibility for the results to be obtained. Thus the Mission faces a dilemma. It might be solved by the Mission's simply objecting to any regional project in which it did not have the time or the interest to become fully engaged. That position, undoubtedly, would lead to considerable conflict with the regional offices; and it could deprive the Mission of opportunities it does not want to miss. Thus, as usual, some sort of compromise is necessary.

The principles which might be followed in such a compromise are:

- No major A.I.D. related activity is to be undertaken in Guatemala unless the Mission or some other USG agency in Guatemala will be involved in its planning and in overseeing its implementation. An example of this situation would be the new regional project in supporting the professionalization of the media. The project would not become active in Guatemala in any significant way unless USIS accepts responsibility for it.

- No activity under an A.I.D. regional project is to be undertaken in Guatemala unless the Mission has been informed about it during its planning and before commitments are made to Guatemalans of the intention to conduct it, and the Mission has agreed to it. Normally the Mission should have been consulted during the preparation of the planning of the overall project of which the activity is a part, not just of the planning of the particular activity itself.

- The Mission should not agree to the operation of any regional activity in Guatemala unless the Mission has

satisfied itself that the planning for the activity is reasonable, and that the Mission is likely to be kept well informed during its conduct and of its results.

- Only in rare cases should the Mission accept responsibility for the administrative aspects of regionally funded activities in Guatemala, and in those cases the planning for the activities should begin well in advance of the event.

Obviously, those principles are not self-executing, and there is no magic way to see that they are observed by the offices managing the regional activities. However, the Mission could formally communicate its expectations to those offices, and request that they and their cooperating institutions make their very best efforts to abide by them. Once the Mission undertakes such significant work in strengthening democracy as is proposed in this strategy, it surely is entitled to take measures to assist itself to focus its scarce human resources on accomplishing the components of that strategy.

APPENDICES

SCOPE OF WORK

Appendix 2 b
February 14, 1989

TRIBUNAL SUPREMO DE ELECCIONES (SET)
INFORMATION SYSTEM COMPONENT
REPORT OF EDGARDO DERBES

Under the Election Support Project (520-0378) USAID/ Guatemala has assisted the Supreme Electoral Tribunal (SET) in upgrading its computer hardware and provided technical assistance and training in the use of the hardware and in planning for a Management Information System. This report sets forth recommendations for further assistance to SET in two main areas: (i) the completion of a voter registration and record storage system (VRRS), and (ii) the upgrading of its automated data processing systems. The assistance is relevant both to the preparation for the 1990 elections and for the longer term strengthening of SET.

A. Voter Registration and Record Storage System (VRRS)

This system is to be based upon a microfilm recording and storage procedure interfaced with a computer image retrieval procedure. This retrieval operation would be connected with all the magnetic files contained in the SET's National Electoral Registry. The VRRS will constitute SET's legal back-up on every individual voter's registration in the National Electoral Registry. It will be the Registry's source of validation.

Under the project several recommendations have been made to establish the VRRS. The following list summarizes the estimated equipment, software and technical assistance deemed necessary. (See the final Report on Voter Registration Record Storage System, Informatica International, 1988.)

		$
1.	Three IBM 9370 Monochrome stations.....CIF..	2,300
2.	Microfilm Roll processor..... CIF..	5,000
3.	Conversion of paper-based data to Microfilm media (microfilm rolls). Three million registration forms should be microfilmed, Estimated cost of contract.....	150,000
4.	Technical assistance to organize the system, supervise microfilming processes, training, and quality control operations.....	50,000
	Total estimated cost of the activity.....	$207,300

B. Upgrading of Automatic Data Processing Systems

This area of assistance would consist of three major activities:

1. Institutional support for SET

The activity would support:

- descentralization of administrative applications and institutional organization,
- personnel and users' training,
- preparation of executive, operational manuals,
- completion of SET's Electoral Registry, Second Phase, and
- training in the data communication environment.

These activities will require 280 person/days of technical assistance at an estimated cost of $ 80,000.

2. Electoral Balloting System and Upgrading of Central Computer Facilities

The balloting system hardware and software needs are:

a. Minicomputer with:
   1MB Main Memory
   One Disk Unit 400 MB
   Eight Terminals
   Two 250 cps printers
   Tape unit 1600-6250 bpi
   Software: DB/DC, WP, COBOL

Estimated cost.....$ 50,000

b. Central computer facility:
   Eight IBM/3191 Terminals
   One IBM/3174 Remote Controller
   One IBM/4234 Printer
   Four IBM/5812 Modems
   One IBM/9375 Comm Processor
   One IBM/9375 Comm Adapter
   One IBM/3299 Multiplexer

Estimated cost.....$ 45,000

Total estimated cost for this activity.....$ 95,000

3. <u>Automation of SET's Municipal and Departmental Boards of Elections</u>

This activity will require the procurement and installation of the following hardware and software:

a. Thirty-six microcomputers with the following features:

80286 Processor
Main Memory 640Kb-1Mb
Diskettes Drives 720Kb-1.44Mb
Graphic Display
Communication Adapter
Modem 2400 Bauds

Estimated cost.....$ 86,400

b. Twenty-six NLQ Matrix Printers Epson 1100 or equivalent

Estimated cost.....$ 20,000

c. Thirty-six uninterrupted power supply units

0.5 KVA

Estimated cost.....$ 18,000

d. Software:

Operating System	DOS
Programming Language	COBOL
Communications Software	

- The cost of this software is included in the cost of the microcomputers above.

Total estimated cost of this activity is $124,400

The total estimated cost of the program would be 506,700

Appendix 3

TABLE OF GOALS, PURPOSES AND MEASURES OF IMPACT AND PROGRESS

I. Program Goal -- To strengthen democratic institutions and Practices

A. Measures of Impact and Progress

1) Successful, fair elections held as scheduled in 1990, 1992 and 1995.

2) Decline in the incidence of violence as measured both by police and court records and by objective human rights watch committees.

3) Positive public opinion concerning progress on democratization and on the security of persons, property and civil rights.

II. Purpose 1 -- To improve the operation of the justice system

A. Measures of Impact

1) More positive public opinion concerning the performance of the system.

2) Reduction in the average time necessary to complete properly the three major phases of dealing with criminal complaints.

3) Reduction in the average length of time persons are held in custody prior to the completion of the investigative and sentencing process.

4) Increase in the percent of criminal complaints which are handled substantively rather than filed for lack of evidence.

5) Increase in the number of actions brought by the Ministerio Público to prosecute violations of political, civil and human rights.

B. Measures of Progress

1) National Justice Commission holds discussions on sector-wide topics and provides guidance to the planning of its members.

2) Court system and the Ministerio Público have yearly operating plans and multiyear, institutional development plans to guide their budgeting and the assistance agencies working with them.

3) Court system has functioning legal information system available to its members, the Ministerio Público and interested members of the public.

4) Court system and Ministerio Público have training capacities in place and are meeting training targets.

5) Court system has a system for the merit selection and promotion of its professional personnel and salary levels adequate to produce independence and stability of that personnel in their positions.

6) System exists for providing publicly financed defense counsel to any person accused of a serious crime who can not afford to hire his own defense counsel.

7) The level of funds provided to the court system and the Ministerio Público is adequate to meet the on-going costs of the improved systems.

III. Purpose 2 -- To consolidate the electoral process through the strengthening of the Supreme Electoral Tribunal

A. Measures of Impact

1) Holding successful elections as scheduled in 1990, 1992 and 1995.

2) Public opinion convinced that the elections were fair.

B. Measures of Progress

1) Increase in the percent of voting age persons who are registered to vote.

2) Increase in the percentage of registered voters who in fact vote.

3) Existence of system within the Tribunal to investigate charges of election fraud.

4) Extent to which organizations use education materials and advice of the Tribunal in improving their own democratic practices.

5) Extent to which voters are aware of the information being provided by the Tribunal to the public.

IV. Purpose 3 -- To strengthen the performance of the legislature in reconciling the interests of the various political currents and in passing timely legislation needed for the political, economic and social development of the country

A. Measures of Impact

1) More positive public opinion concerning the performance of the legislature.

2) Legislation important to activities being supported by the Mission's program is passed in a timely way. These include:

a) a law providing career status to the personnel of the judicial branch; and

b) adequate funding for the operations of the judicial branch, the *Ministerio Público* and the Supreme Electoral Tribunal.

B. Measures of Progress

These would be changes in the operation of the institution which would be identified during the needs assessment called for by the strategy.

V. Purpose 4 -- To create a system for providing civic education to the public

A. Measures of Impact

1) Increase in understanding by the public of the roles of organizations of the justice sector, the

legislature and the Supreme Electoral Tribunal in the democratization process and of how to use those organizations to solve its problems;

2) Increase in confidence of public in the durability of the democratization process.

B. Measures of Progress

1) Existence of civic education curriculum for use in the school system.

2) Existence of a mechanism for coordinating the public information efforts of the key public institutions involved in the democratization effort.

3) Existence of an institutional arrangement to carry out a public information and motivation campaign on selected aspects of the democratization effort through several channels including mass media and the degree to which the campaign has been planned and undertaken.

VI. Purpose 5 -- To make the use of violence or the threat of violence to resolve disputes in public or private life unacceptable to all segments of the population

A. Measures of Impact

1) Increase in public opposition to the use of violence or the threat of use of violence as an acceptable option under varying social and political circumstances.

2) Decline in the incidence of violence as measured both by police and court records and by objective international watch committees.

B. Measures of Progress

These measures would depend on the nature of the institutional arrangements adopted to carry forward the purpose.

Appendix 4

TABLE OF THE MAJOR STEPS IN CARRYING OUT THE PROPOSED STRATEGY

FY 1989

- Establish the Project Implementation Unit under the Improved Administration of Justice Project and refine the implementation plan and budget for the life of the project;

- Undertake detailed analyses of the various aspects of the operation of the court system, including baseline studies of its operation and of public attitudes toward the justice system;

- Provide support to consolidating the role of the National Justice Commission;

- Support operation of the pilot courts being assisted by Harvard;

- Complete preparations for the procurement of the hardware, software and technical assistance needed for the 1990 elections;

- Modify the existing Limited Scope Grant Agreement or enter a new agreement to provide support to the Supreme Electoral Tribunal for the training for members of the voting commissions for the 1990 elections;

- Conduct a baseline survey of the opinion of the public concerning the fairness and other aspects of the electoral system;

- Hold preliminary discussions concerning the nature of the analytical work which will be required to support a long term, institutional strengthening project with the legislature;

- Review all on-going activities and those under preparation to assure that, to the extent consistent with their nature, they give importance to the theme of non-violent conflict resolution; and

- Conduct evaluations of the operation of the Cooperative Agreements with Harvard Law School and with the Center for Democracy.

FY 1990

- Conduct a comprehensive assessment of the operation and needs of the Ministerio Público, of alternative approaches to the

provision of defense counsel and of ways to use the justice system better to assure the observance of human rights by all institutions;

- Conduct an assessment of alternative approaches to a public education campaign concerning the operation and utility of the justice system;

- Use the detailed analyses of the court system and the experience of Harvard and ILANUD in working with the pilot courts to expand coverage of all aspects of the Improved Administration of Justice Project throughout Guatemala City;

- Complete the procurement of the items in support of the 1990 general elections and provide financial support for the training program for those elections;

- Organize and conduct a comprehensive analysis of the operation and needs of the legislative branch and of public opinion of its performance;

- Hold a workshop for key Guatemalan institutions to discuss the results of the analysis of the legislative branch and to obtain feedback on the content of a possible project to strengthen the legislative branch;

- Prepare a PID for a long term, institutional strengthening project with the legislature;

- Conduct consultations with various groups concerning the possibility and nature of an effort to strengthen public attitudes in favor of non-violent conflict resolution;

- Conduct a survey of public opinion on the use of violence or the threat of violence to resolve conflicts in various situations.

FY 1991

- Evaluate the operation of the Improved Administration of Justice Project;

- Amend the Improved Administration of Justice Project in order to support national coverage of the improved systems developed and undertake a pilot effort in public education concerning the justice system;

- Prepare and obligate a new project to support improvement in the operations of the Ministerio Público and to establish and support a new public defense counsel system;

- Conduct public opinion surveys concerning the fairness of the 1990 elections;

- Prepare the analyses and PID for a project to further strengthen the electoral system;

- Prepare, obligate and undertake implementation of a new project to strengthen the legislative branch;

- Organize mechanisms for coordination of the public information efforts of all the actual and planned projects; and

- Design and undertake a pilot activity for strengthening public attitudes against the acceptability of the use of violence or the threat of violence in public and private affairs.

FY 1992

- Achieve nationwide coverage of all aspects of the Improved Administration of Justice Project;

- Implement the improvements in the Ministerio Público and the new defense counsel system in Guatemala City;

- Prepare, obligate and begin implementation of a new project for the further strengthening of the electoral system;

- Prepare the plan to carry out a voter education campaign in support of the electoral process;

- Prepare a plan for mounting the public information campaign concerning the role and the work of the legislative branch;

- Design and conduct pilot efforts in public information and civic education in both the capital and selected regions for the country; and

- Evaluate the experience of the pilot activity in strengthening public attitudes against the use of violence or the threat of violence.

FY 1993

- Complete and evaluate the Improved Administration of Justice Project;

- Expand coverage of the improved prosecutorial and defense counsel systems beyond Guatemala City to selected regions of the country;

- Assess alternative methods of dispute resolution and the possible use of non-formal methods of decision making in the justice system;

- Create a capacity in the Supreme Electoral Tribunal to provide technical assistance to other organizations in establishing and following procedures for representative democracy;

- Undertake the public information campaigns for the Supreme Electoral Tribunal and the legislative branch; and

- Design a comprehensive project for public information and civic education combining the preparations and experiences of all the components of the strategy.

FY 1994

- Complete and evaluate the project to improve the prosecutorial and public defense counsel systems;

- Complete and evaluate the project to strengthen the electoral system;

- Complete and evaluate the project to strengthen the legislative branch;

- Conduct opinion surveys concerning the conduct of the justice, electoral and legislative systems;

- Implement the public and civic education and the public attitudes programs on a national scale; and

- Prepare a project covering all democratic initiatives to consolidate the reforms supported during the current planning period.

BACKGROUND

The U.S. Agency for International Development has initiated a large number of activities in Guatemala that are loosely grouped together under the title Democratic Initiatives'. These activities, which cover such varied areas as justice (including the ICITAP Program), strengthening the judiciary and legislature, human rights, journalism, election process and U.S. participant training have proliferated rapidly and spontaneously, without a clear sense of direction or priorities. For the most part they are bilateral activities, however, also included are regional initiatives which require Mission support.

ARTICLE I - TITLE

Program Development and Support - PSEE: 520-0000.4

ARTICLE II - STATEMENT OF WORK

Purpose:

The purpose of this work order is to provide the mission with a global overview of the evaluation and development of programming in the democratic initiatives area, to suggest a unified mission management mechanism, to summarize a succinct set of objectives and indicators, and to recommend directions for future programming.

Statement of Work:

The contractor shall prepare a Strategy Paper based on interviews and the review of documentation in Washington and Guatemala, covering the following elements of Guatemalan Democracy Initiatives:

1. Review key project documents and propose a systematic evaluation plan of all the individual projects falling under the democracy program.

2. Analyze the desirability of gradually integrating and consolidating activities to eventually constitute a unified "sector" for future programming, as opposed to continuation of a flexible ad-hoc approach of developing and implementing activities.

3. Review overall objectives articulated in project documents and by USAID/Guatemala and AID/Washington project officers in order to develop a succinct statement of overall objectives and purposes.

4. Recommend long-term programming priorities and project design priorities to promote an orderly approach to building a portfolio of activities over the next ten years.

5. Develop a set of measurable qualitative and quantitative indicators for use in tracking the success of activities in this area.

6. Provide a succinct history and overview of activities in the Democratic Initiatives area in Guatemala.

7. Identify and assess how relevant activities and priorities of other significant donors and of the Government of Guatemala might affect the successful implementation of the proposed strategy.8.
8. Develop a summary inventory of all relevant democracy activities in terms of the completeness of USAID/Guatemala files, including the status of project documentation, funding levels and requirements, contracting documentation, etc.

9. Identification of common substantive elements and components of the various bilateral and regional activities, such as:

   a) management information services and systems
   b) personnel management
   c) public administration improvement of administrative procedures and office environment
   d) criminal justice
   e) political crimes and human rights
   f) financial management and budgeting

10. Identification of common activities and implementation approaches among the various bilateral and regional activities, including:

   a) in-country training
   b) U.S. and third country training
   c) feasibility and pilot studies
   e) policy analysis and dialogue
   f) technical assistance
   g) legal information/networking

12. Based on points 1 and 2, above, the contractor will analyze points of possible conflict or duplication of effort and provide specific programmatic recommendations for avoiding duplication of effort and/or working at cross for avoiding duplication of effort and/or working at cross purposes. The contractor will also suggest specific administrative actions to be taken by A.I.D. in order to assure that the various bilateral and regional project activities use their resources in complementary, mutually reinforcing ways and that the overall USG effort be a well-coordinated and internally-consistent as possible. Such actions could include specific amendments to project agreements or contracts, project implementation letters or formal correspondence modifying scopes of work and/or letters and memoranda of understanding clarifying working relationships among entities and activities.

12. Analyze individual projects in terms of USAID/Guatemala management responsibilities and develop a unified management plan so that it can effectively backstop and monitor the overall democracy program, including recommendations concerning:

   (a) direct hire and personal service contractor staff required to manage the portfolio;

   (b) clerical staff and in-house office space needed;

(c) mechanisms such as steering committees for promoting coordination of activities and sharing of resources among the individual activities;

(d) recommendations concerning communication and coordination between USAID/Guatemala and A.I.D. regionally funded activities;

(e) assessment of the adequacy of coordination among related A.I.D. and non-AID/USG (DEA, USIS, Department of Justice, etc.) activities.

A polished draft of the Strategy Paper is to be submitted to USAID/Guatemala: HRD, Richard Martin prior to the departure of the Management Analyst, John Oleson. This Strategy Paper will be approximately between 60 to 100 pages in length. An Executive Summary of approximately 5 to 6 pages shall also be in addition to the Strategy Paper. The Mission shall return the draft Strategy Paper with the Mission's comments to the Contractor no later than 15 days after receiving the draft Strategy Paper. The Contractor shall submit the final strategy report to the Mission no later than 30 days after receiving the "draft Strategy Paper with Mission Comments"

The contractor will also perform a related technical consultation in the area of electoral support. USAID/Guatemala provided commodity support (provision of ballot paper) and training assistance (training of election officials) for the previous election, and has tentatively agreed to provide additional support for the 1990 election; however, areas of need and proposed funding requirements must be identified. Therefore, the contractor will provide an expert in this area to perform initial consultation with USAID/Guatemala and, if appropriate, with the GOG Supreme Electoral Tribunal (SET) to identify and recommend levels and modes of USAID/Guatemala support for the 1990 national General election in Guatemala.

This 3 to 4 day consultation will result in a report which will include the following information:

1) a brief summary of the kinds of USG support for national elections in Guatemala and other countries that have been successful and unsuccessful

2) a list of possible areas for of USG election support for the 1990 Guatemalan elections;

3) preliminary estimates of costs for different possible kinds of support;

4) recommendations concerning most efficient contracting or procurement modes and lead times required;

5) recommendations on how A.I.D. may promote greater sustainability by Guatemalan institutions, reducing the need for donor assistance in subsequent elections.

ARTICLE III - REPORTS

The contractor shall submit the required documentation as described in Article II, Statement of Work.

ARTICLE IV - RELATIONSHIPS AND RESPONSIBILITIES

Technical Direction during the performance of this delivery order shall be provided by R. Martin, HRD, USAID/Guatemala.

ARTICLE V - PERFORMANCE PERIOD

A. The period of performance will start on or about December 15 1988, and be completed by April 30, 1989. The effective date of this delivery order is the date shown in Block 11c on the Cover Page.

B. Subject to the ceiling price established in this delivery order and with prior written approval of the Project Manager (See Block No. 5 on the Cover Page), Contractor is authorized to extend the estimated completion date, provided that such extension does not cause the elapse time for completion of the work, including the furnishing of all deliverables, to extend beyond 30 calendar days from the original estimated completion date. The Contractor shall attach a copy of the Project Manger's approval for any extension of the term of this delivery order to the final voucher submitted for payment.

C. It is the Contractor's responsibility to ensure that the Project Manager approved adjustments to the original estimated completion date do not result in cost incurred which exceed the ceiling price of this delivery order. Under no circumstances shall such adjustment authorized the contractor to be paid any sum in excess of the delivery order.

D. Adjustments which will cause the elapsed time for completion of the work to exceed the original estimated completion date by more than 30 calendar days must be approved in advance by the Contracting Officer.

REPORT OF TECHNICAL CONSULTATION
FOR SUPPORT OF THE SUPREME ELECTORAL TRIBUNAL

REPORT OF MR. JORGE GARCIA LAGUARDIA

Appendix 2a
February 17, 1989

TRIBUNAL SUPREMO ELECTORAL (SET)
REPORT OF MR. JORGE GARCIA LAGUARDIA

I. Marco Institucional De Las Autoridades Electorales

La Asamblea Nacional Constituyente que fué electa en el año de 1984, tuvo entre sus atribuciones, ademas de elaborar el nuevo texto constitucional, aprobar una nueva Ley Electoral y de Partidos Politicos. Cumplió su cometido al dictar el Decreto 1-85 que entró en vigor el 14 de enero de 1986. Así, el marco legal de los procesos electorales está contenido en la Constitución de la República y la citada ley.

En la Constitución, las normas que se refieren al proceso electoral y a los partidos políticos, están incluídas en el Título II que se refiere a los Derechos Humanos, en el Título III que se refiere a los Deberes y Derechos Cívicos y Políticos y en el Título V que se refiere al Régimen Político Electoral. En este último, en un solo artículo, el 223, se autoriza la libre formación y funcionamiento de las organizaciones políticas y se indica que todo lo relativo al sufragio, derechos políticos, organizaciones políticas, autoridades, órganos electorales y proceso electoral, será regulado por la Ley Electoral.

En la Ley Electoral, se define al Tribunal Supremo Electoral como la máxima autoridad en materia electoral. Es un Tribunal independiente y por consiguiente no está supeditado a organismo alguno del estado. Se le otorga independencia expresamente, con lo que se avanza con respecto a la ley anterior que sólamente consideraba autonomía en sus funciones. Está integrado además en una forma muy peculiar para garantizar su independencia. Los diez magistrados, cinco titulares y cinco suplentes son electos por el Congreso de la República por una mayoría calificada de diputados de una nómina de candidatos elaborada por una Comisión de Postulación que se integra por el Rector de la Universidad Nacional quien la preside; un representante de las universidades privadas; un representante del Colegio de Abogados electo en Asamblea General; el Decano de la Facultad de Ciencias Jurídicas y Sociales de la Universidad de San Carlos y un representante de todos los decanos de las Facultades de Ciencias Jurídicas y Sociales de las Universidades privadas. Es un Tribunal permanente electo para un período de seis años. Es el garante de la libertad de sufragio del proceso electoral y de la libre organización de los partidos políticos y asociaciones afines.

Es importante señalar, que a diferencia de otros países, en Guatemala, únicamente el organismo electoral interviene y

organiza el proceso electoral, y no está permitida ninguna interferencia de ninguna naturaleza de autoridades de gobierno, ejército, o partidos políticos, aunque estos ultimos tiene el derecho de fiscalizar el proceso electoral en todas sus fases a traves de representantes debidamente acreditados.

Se insiste en lo anterior, porque el Tribunal Supremo Electoral de Guatemala, está autorizado para realizar cualquier tipo de convenio de cooperación con absoluta libertad sin consulta alguna, y en los términos que considere convenientes.

II. Apoyo que AID ha proporcionado al Tribunal Supremo Electoral en anteriores procesos

De acuerdo con convenios celebrados con el Tribunal Supremo Electoral, en las elecciones anteriores la AID ha colaborado en los siguientes rubros:

A. Donación de papel de seguridad.

Se donó al Tribunal el papel de seguridad destinado a la elaboración de las papeletas electorales. En las elecciones generales, celebradas en 1985, el requerimiento de papel se estimó en la siguiente forma: papel de seguridad de 70 gramos de peso por metro cuadrado, marca de agua con logotipo del Tribunal Supremo Electoral, con pliegos de 34 por 26 pulgadas.

La cantidad a utilizar se estimó en la siguiente forma: 825 resmas de color blanco para la elección de Presidente y Vice-Presidente; 423 resmas de color amarillo para la elección de Municipalidades y 413 resmas de color azul para elección de Diputados, lo que hizo un total de 1651 resmas.

En el Tribunal no consta el costo porque fué donado directamente por AID, pero se estima que el precio de las 1,651 resmas, fué de $227,000.00, lo que equivale a $137.49 cada resma.

En las elecciones generales de 1985, se utilizaron 1,501 resmas. Y en las elecciones municipales realizadas en 1988, se utilizaron 202.5 resmas.

B. Proyecto de capacitación electoral a funcionarios de mesas receptoras de votos.

Para las elecciones generales celebradas en noviembre de 1985 y para las elecciones de autoridades municipales, celebradas en abril de 1988, se llevó a cabo un curso de capacitación electoral para preparar a todas las personas que integrarían las Juntas Receptoras de votos. Brevemente expuesto, el programa consistió en concentrar en la capital 350 instructores, previamente seleccionados, para prepararlos por un período de quince días, y posteriormente enviarlos a los municipios del

interior de la republica, para en la semana anterior a las elecciones impartir instrucción a los funcionarios designados por el Tribunal Supremo Electoral como delegados a las mesas receptoras de votos y permanecer en el lugar de la votación hasta el día de las elecciones prestando asesoría a los funcionarios. La parte académica del programa fué cubierta por la Universidad Rafael Landívar, para lo cual el Tribunal Supremo Electoral celebró un convenio con la misma.

El costo del programa fue cubierto por AID, a traves de una Donación para el Instituto Interamericano de Derechos Humanos, con sede en San José de Costa Rica, el que a traves del Centro de Asesoría y Promoción Electoral (CAPEL) supervisó el programa y contrató una auditoría externa con la firma Price Waterhouse en Guatemala.

El costo del programa fue de alrededor de $300,000.00. Se calcula que se cubrió una población de cerca de 50,000 personas y que en un eventual nuevo programa, por el aumento del padrón y número de mesas receptoras, la población cubierta aumentara.

C. Equipo de Computación

Se donó un equipo nuevo IBM, que permite al Tribunal Supremo Electoral llevar completamente mecanizado el control de empadronados y depuración del Padrón Electoral por homónimos con la implementación de rutinas de búsquedas de parecidos, asi como los controles de Organizaciones Politicas, Presupuesto, Nominas y todas aquellas aplicaciones que ya se llevaban en el equipo obsoleto que se desplazo.

Según la información del Jefe del Departamento de Procesamiento Electrónico de Datos, al haberse duplicado la capacidad de almacenamiento en discos magnéticos se podrán ir implementando todas aquellas aplicaciones de tipo administrativo que aun se encuentran bajo procesos manuales tal el caso de Contabilidad General, Control de Inventarios y otras.

Además se calcula que con el equipo nuevo donado, podría iniciarse cualquier proceso que tienda a incluir dentro de las atribuciones del Tribunal Supremo Electoral el control de los Registros Civiles y la implementación del Carnet Unico de Identificación. Se podrá iniciar en un futuro tambien los sistemas de Teleproceso, es decir, la consulta y actualizacion de archivos desde puntos lejanos como podrían ser las cabeceras departamentales y algunos municipios del interior de la República. Para este objeto, habría de ampliarse el equipo actual así como invertir en el entrenamiento del personal que se hará cargo de las comunicaciones remotas del Tribunal.

III. Programas en los que se puede concretar un plan de cooperación conel Tribunal Supremo Electoral.

El Tribunal ha considerado la posibilidad de varios programas a realizar en el futuro, con vistas a las elecciones generales de 1990 y en una perspectiva de largo plazo, orientados a la consolidación del proceso de transición democrática y mejora de los procesos electorales, que podríamos identificar en la siguiente forma:

A. Programa de infraestructura.

El sistema electoral guatemalteco tiene una red en toda la república. El Tribunal estableció delegaciones departamentales y sub-delegaciones municipales del Registro de Ciudadanos en todas las cabeceras departamentales y municipales de la República. Actualmente cuenta con 21 delegaciones en las cabeceras departamentales y 310 sub-delegaciones en cabeceras municipales. No cuenta con locales propios en ninguna parte, y se utilizan locales alquilados que no llenan los requerimientos de seguridad y funcionalidad, lo que implica negativa ausencia de consolidación administrativa. El Tribunal estima que una buena y amplia organización bien estructurada, constituiría una magnifica defensa del sistema democrático y fortalecimiento del Tribunal.

Se ha previsto construir con recursos propios del Tribunal, su propio edificio en la Capital, y dotar con edificios adecuados las delegaciones y sub-delegaciones en el interior del país.

El costo que se ha estimado, por funcionarios especializados del Tribunal, es de Tres millones de dolares, sin incluir el edificio central y los edificios de las 22 cabeceras departamentales, los que se costearan con recursos propios del Tribunal. Los miembros del Tribunal han considerado la posibilidad de solicitar ayuda externa para la construcción de dichos edificios, y han iniciado un programa para obtener la donación de los terrenos por las municipalidades en cada uno de ellos, para no gravar los fondos de la ayuda externa en ese renglon. Los tres millones de dólares se utilizarán, según el Tribunal, para financiar la construcción de los edificios. El terreno sera donado por las municipalidades.

Serían 306 sub-delegaciones, en las que se instalarían las oficinas administrativas; se tendría una bodega con proyección para almacenar materiales hasta el año 2100, lo que permitiría el cuidado adecuado del mobiliario electoral que actualmente debe trasladarse a bodegas centralizadas, causando mucho gasto de mantenimiento y reposición que se ahorraría. Y además, en los proyectos de construcción, se prevee la posibilidad de incorporar en un futuro los Registros Civiles bajo control del Tribunal.

Se piensa en un plazo de tres años para construir todos los edificios y que se necesitará de una donación de tres millones de dólares, a razón de un millón por cada año. Estima el Tribunal que la entidad donante, tendría una presencia permanente y un prestigio extraordinario como colaboradora del proceso democrático y considera que sería adecuado que AID fuera esta entidad.

B. Papel de Seguridad.

En una proyeccion para las elecciones de 1990, se estima que los requerimientos de papel de seguridad, tomando en cuenta que las dimensiones de la boleta electoral para las votaciones será de igual medida que la utilizada para las elecciones anteriores, son los siguientes:

1. Características del papel: "de seguridad", de 70 gramos de peso por metro cuadrado, marca de agua con logotipo del Tribunal Supremo Electoral, pliegos de 34 por 26 pulgadas.

2. La cantidad estima así:

Color blanco para elección de Presidente y Vice-Presidente, dos vueltas.	1000 resmas
Color amarillo para elección de Municipalidades	500 resmas
Color azul para elección de Diputados	500 resmas
TOTAL:	2000 resmas

El aumento previsto con respecto a las elecciones anteriores, se explica porque el número de ciudadanos inscritos en el Padron Electoral para las Elecciones Generales de 1990 se preveé de 3,100,000, según estimaciones formuladas por el Centro de Procesamiento de Datos, con base en el comportamiento que se ha observado en la inscripción de ciudadanos a partir de las elecciones generales de 1985, en las que el número de ciudadanos inscritos fue de 2,754,601. Dicha estimación es hecha para el dia 31 de julio de 1990, fecha probable del cierre del padron.

3. Costo. El Tribunal ha solicitado cotizaciones y estima que el costo del papel seria de $370,800.

C. Proyecto de capacitación de funcionarios permanentes y delegados a las mesas receptoras de votos.

El Tribunal está especialmente satisfecho de la realización de los dos programas anteriores, de capacitación de los funcionarios de mesas receptoras de votos. En la evaluación que

se hizo de dichos programas, se consideró que era necesario realizarlos en cada eleccion.

Causas para repetir dicho programa, son las siguientes: que la educación cìvica impartida a través del mismo, despertó inquietudes de participación en los ciudadanos que en el participaron, ya que muchos de ellos posteriormente fueron candidatos a cargos de elección popular y otros se incorporaron como personal del Tribunal Electoral; que su realización permitió que la papelería electoral fuera hecha con mas pureza y tecnica, lo que hizo que se redujera la cantidad de impugnaciones y el proceso fuera mas legitimo y aceptado por la ciudadanía como correcto; que en cada eleccion se cambia el personal que participa en esas funciones, y necesita entrenamiento.

El programa anterior se dirigió a instruir a los miembros de las Juntas Receptoras de Votos, pero en el Seminario de Evaluación del mismo se llegó a la conclusion de que dicho programa debe ampliarse para capacitar con el mismo tambien a los miembros de las Juntas Electorales Departamentales y Municipales.

Tomando en cuenta el presupuesto del programa anterior y las previsiones de inflación, el Magistrado Manuel Aldana quién fué el Coordinador del programa anterior, estima el costo actual en $350,000. (Se adjunta presupuesto formulado y folleto informativo del programa de 1988). El programa puede ser realizado directamente por el Tribunal Supremo Electoral. Podría tener supervisión de CAPEL u otra institución según el convenio, aunque no es indispensable. Debe realizarse tres meses antes de las elecciones.

D. Proyecto de Educación Cívica

Se piensa en la redacción de un Manual del Ciudadano, un folleto que contenga la explicacion adecuada sobre los derechos y deberes políticos, organización política y proceso electoral. Dado el alto índice de analfabetismo este folleto sería presentado en forma sencilla y pedagógica, en forma atractiva que facilite la comprension de un alto número de ciudadanos de escasa preparacion cultural. Se piensa tambien incluir en el mismo, datos geográficos e histórico-políticos del país, que permita utilizarlo durante las elecciones y posteriormente como material de consulta en los niveles educativos.

El Tribunal se encargaría de divulgarlo adecuadamente, posiblemente en convenio con autoridades del Ministerio de Educación. Utilizando los distintos medios de difusion, especialmente, la radio dadas las características de la poblacion.

El costo se divide en dos rubros: 1. la elaboración del Manual, que se estima en $12,000, y 2. la impresión del folleto,

cuyo costo variaría de acuerdo con el tiraje, que naturalmente debería ser lo más elevado posible.

E. Equipo de computación para el interior del país.

Se proyecta una mejora del sistema de computación, colocando equipo periférico con terminales en cabeceras departamentales, lo que permitiría depurar el padrón electoral en forma permanente y desconcentrada; permitiria proporcionar información inmediata a ciudadanos; mejorar sistema de inscripción en el padrón; y proporcionar adecuado apoyo en la campana electoral y el día de las elecciones. Asímismo, se preveé la microfilmación de las boletas de inscripción. Existe un estudio técnico sobre estos aspectos, al que nos remitimos.

F. Nueva Cédula de Identidad Electoral.

Este programa lo contempla el Tribunal Supremo Electoral, como un proyecto a largo plazo. Estima que el tiempo para realizarlo es de dos años como mínimo, por lo que sería imposible realizarlo antes de las elecciones de 1990. Y porque iniciarlo en este periodo pre-electoral provocaría mucha controversia inconveniente.

Se considera la posibilidad de emitir un documento que sustituya a la actual Cédula de Vecindad para efectos electorales, con la finalidad de asegurar mayores garantías en la pureza del sufragio. La actual cedula es un documento que ha sido objeto de falsificaciones, duplicidad, falta de control en su emisión, ausencia en algunos lugares de identificación fotográfica, y muchas otras deficiencias.

El Tribunal Supremo Electoral ha hecho estudios preliminares e incluso integró una Comisión que formuló un estudio general sobre la conveniencia de crear lo que denominó "Cédula de Identidad Electoral", para sustituir, en principio para asuntos electorales, a la actual Cedula de Vecindad, con la posibilidad de que en el futuro, esta sea sustituida por la primera en todos los actos de la vida civil del ciudadano. Este estudio concluye que la actual Cédula, no ofrece las garantías suficientes para los procesos electorales y que es necesario elaborar un nuevo documento que mejore la identificación del ciudadano, bajo el control del Tribunal Supremo Electoral.

En el estudio se preveé que la nueva Cédula Electoral, debe tener las mismas caracteristicas de una tarjeta de crédito internacional, esto es, elaborada con material plástico de mucha resistencia, con troquelado de alta calidad, con caracteres en relieve y con un "holograma" en tercera dimension que podría consistir en un escudo de la República de Guatemala, y que para mayor seguridad puede llevar en el reverso una franja magnética y la fotografía del titular. La tarjeta deberá contener los datos

fundamentales de identificación personal: nombre, sexo, fecha de nacimiento, estado civil, número de empadronamiento, etc.

En el Tribunal se nos ha informado que la empresa "Carnets de Guatemala, S.A." (CARNETGUA), tomando en cuenta las ideas sobre el documento, presentó una propuesta en la que hace un detalle de las especificaciones de la tarjeta que podria proporcionar. El costo de cada tarjeta sería de setenta y tres centavos de dólar cada una ($ USA 0.73). Estimando que el volumen de tarjetas seria de 4,500,00, el costo total sería de $ USA 3,285,000. En el precio, la empresa incluye: el equipo de mantenimiento, el equipo básico para la reposición de tarjetas, entrenamiento y supervisión del personal y los materiales a utilizarse. El equipo básico, según esta oferta, sería entregado al Tribunal en propiedad. Esta es una oferta preliminar, dando cabida a propuestas internacionales y adecuaciones pertinentes.

IV. Conclusiones

De la exposición resumida que antecede, podemos concluir en lo siguiente:

A. El marco institucional del Tribunal Supremo Electoral de Guatemala, a diferencia de otros países de America Latina, permite con facilidad realizar convenios de cooperación. El Tribunal está integrado en forma muy homogenea, y existe consenso entre los señores Magistrados para convenir en programas bilaterales de ayuda con AID. La coyuntura de la próxima elección general en el país, que tiene una gran importancia dentro del proceso de transición a la democracia que se vive en el país, es otro elemento que facilita concretar acuerdos entre las dos instituciones. De acuerdo con nuestra opinión, el Tribunal Supremo Electoral funciona en forma especialmente eficaz. No necesita del apoyo del ejército para organizar el proceso electoral en todos sus fines. La experiencia de las tres elecciones anteriores así lo demuestra, y los señores magistrados del Tribunal estan conscientes de esta situación que subrayan especialmente.

B. Dentro del plan de actividades proyectado por el Tribunal, es factible proporcionar ayuda de gran importancia. Programas que pueden concretarse fácilmente, de acuerdo con nuestra opinión, son la donación del papel de seguridad, la ampliación del equipo de computación, el programa de capacitación de los funcionarios electorales y delegados a mesas receptoras de votos, y el programa de formación cívica.

C. En los programas a largo plazo, se tiene tiempo para analizarlos y estudiarlos con funcionarios de las dos entidades, a efecto de formular un plan de cooperación si se toma la decisión de apoyarlos.

TRIBUNAL SUPREMO ELECTORAL
PROGRAMA DE CAPACITACION ELECTORAL
ELECCIONES GENERALES DE 1990

GRUPO Y RENGLONES	T I T U L O D E L R E N G L O N	ASIGNACION
0	Servicios Personales	Q. 510,200.00
079	Contratación de 336 Instructores Electorales por dos meses	403,200.00
079	20 Instructores Suplentes	24,000.00
079	44 Supervisores Departamentales	61,600.00
079	1 Asistente de Contabilidad	1,000.00
079	2 Secretarias	2,800.00
079	1 Diseñador Gráfico	1,600.00
079	1 Director del Programa	7,000.00
079	Contratacion con la Universidad	Q. 50,600.00
	600 Evaluaciones	9,000.00
	16 Catedráticos	38,400.00
	1 Coordinador Académico	3,200.00
079	Servicios Proporcionados por la Universidad	Q. 12,000.00
063	Gastos de Viático	Q. 135,000.00
1	Servicios no Personales	Q. 159,500.00
121	Publicidad y Propaganda	7,500.00
122	Impresión y encuadernación	30,000.00
151	Arrendamiento de edificios y locales	4,000.00
156	Arrendamiento de vehículos	105,000.00
181	Mantenimiento de edificios (Acond.local) Diversos servicios	900.00
2	Materiales y Suministros	Q. 40,500.00
211	Alimentos para personas	3,000.00
241	Papel de escritorio	1,500.00
243	Productos de papel o carton	300.00
262	Combustibles y lubricantes	25,050.00
291	Utiles de oficina	1,500.00
299	Otros productos varios y útiles	9,000.00
9	Asignaciones Globales	Q. 36,000.00
	Promociones	36,000.00

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GRUPO Y RENGLONES	T I T U L O D E L R E N G L O N	ASIGNACION
	Resumen del Presupuesto	
0	Servicios Personales	Q. 707,800.00
1	Servicios no personales	Q. 159,500.00
2	Materiales y Suministros	Q. 40,500.00
9	Asignaciones Globales	Q. 36,000.00
	TOTAL.....	Q. 943,800.00 US$350,000.00

Guatemala, 6 de febrero de 1989

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