

PD-ARW-607
115307



AGENCY FOR INTERNATIONAL DEVELOPMENT
UNITED STATES OF AMERICA A.I.D.
MISSION TO EL SALVADOR
C/O AMERICAN EMBASSY
SAN SALVADOR, EL SALVADOR, C.A.

ACTION MEMORANDUM FOR THE MISSION DIRECTOR

FROM: Todd Sorenson, Democracy and Governance (DG) Office Director, and Donald Harrison, SDO Director

SUBJECT: Activity Amendment for the Democratic Consolidation and Governance Activity, No. 519-0436, Citizen Participation and Governance (CP&G) Component

ACTION REQUESTED: Your approval is requested to:

- (1) Amend the Democratic Consolidation and Governance Activity, No. 519-0436, to reflect the interim activities of the Citizen Participation and Governance Component described herein;
- (2) increase the Life-Of-Activity (LOA) funding by \$1,931,200 to a new total of \$28,053,035;
- (3) extend the Activity Completion Date (ACD) from September 30, 2004 to June 30, 2005; and
- (4) establish the Component Completion Dates (CCD) for the Increased Participation in Strengthened Local Government and the CP&G components of January 31, 2005 and March 30, 2005, respectively.

BACKGROUND: The Democratic Consolidation and Governance Activity was authorized on September 29, 1997 at an original funding level of \$12,330,000 for an expected duration of five years (from FY 1997 through FY 2002). A Strategic Objective Grant Agreement (SOAG) with the Government of El Salvador (GOES) was also signed on September 29, 1997 for \$12,000,000 and a Grant was signed with the *Fundación Centroamericana para el Desarrollo Humano Sostenible* (FUCAD) on September 30, 1997 involving the amount of \$121,835 from this Activity. LOA funding increases were authorized on May 24 and June 27, 2000, July 27, 2001, and February 4, 2002, bringing the current Activity total to \$26,121,835.

The Democratic Consolidation and Governance Activity objective is to contribute to more inclusive and effective democratic processes. The purpose of this Activity is to improve access to and the responsiveness of the Salvadoran legal system, local government and public institutions to the concerns of the Salvadoran poor and other marginalized groups. Efforts focus on enhancing citizen involvement in the definition and implementation of reforms and technical

assistance to improve the response capabilities of targeted institutions/services.

The New Activity Document (NAD) for the "Democratic Consolidation and Governance Activity, No. 519-0436" approved on September 29, 1997, included only two Results Packages (RPs): "More Effective Legal/Judicial Protection" and "Citizen Participation and Governance." On June 27, 2000, the Mission Director authorized an amendment of this Activity to add the RP "Increased Participation in Strengthened Local Government."

The SOAG divides Activity No. 519-0436 into three components: a) legal/judicial protection; b) citizen participation and governance; and c) decentralization and strengthened local governance. This memo only deals with the second component "Citizen Participation and Governance (CP&G)."

The Mission's current Strategic Plan originally covered the period from 1997 to 2002. Due to the need to devote full time and attention to addressing the reconstruction needs of the Salvadoran people following the devastating earthquakes of early 2001, the Mission decided to request a two-year extension of the current Strategic Plan in its FY 2003 R4. The LAC bureau approved this request, allowing the Mission to continue its current Strategy through FY 2004.

In connection with the extension of the Strategic Plan, the issue was raised as to the appropriate End Date for each of the Strategic Objectives (SO). Since no End Date for the Democracy SO (519-002) was specified in the original Strategic Plan, subsequent Annual Reports submitted to the LAC Bureau, which formed the basis for the Management Contracts or the request to extend the current Strategic Plan, in accordance with ADS Section 201.3.4.8, the effective End Date for the Democracy SO is the date twelve months after the end of the Strategic Plan Period which, in this case, would be September 30, 2005. However, the Mission Director requested that, for internal purposes, each technical office determine an earlier End Date or Dates that would enable the office to complete the activities to achieve its SO and request approval for such End Date or Dates. The DG proposes to establish an End Date for this Activity (referred to herein as the "Activity Completion Date") and for each of the three results packages/components being implemented under it (referred to herein as the "Component Completion Date".) The proposed Activity Completion Date (ACD) is June 30, 2005 and the Component Completion Dates (CCD) are more fully described in Section entitled "Implementation and Management Plan". If approved, the SOAG would include the Activity Completion Date only and each other implementing instrument would include a date on or before the Completion Date for the relevant Component.

DEVELOPMENT CHALLENGE: Despite significant Salvadoran efforts to consolidate its incipient democracy, numerous challenges remain in the process of democratic consolidation and governance. Some of the main challenges include: increasing the level of citizen participation (changes in the nature of state-society relationships); increasing the effectiveness and credibility of key democratic institutions; reducing citizen dissatisfaction with the perceived lack of integrity of public decision-makers; and increasing the responsiveness of elected leaders to citizens' concerns.

Most Civil Society Organizations (CSOs) do not maintain active relationships with their potential constituents, and lack the skills needed to effectively participate in the decision-making process at all levels. On the other hand, most governmental institutions do not have mechanisms that allow for citizen participation during the decision-making process. The challenge is to insure that CSOs actually represent citizens effectively and that the State (through municipalities, the Legislative Assembly, or the variety of national government agencies) actually provides substantive responses to citizens' interests.

In response to some of these constraints, the CP&G component of the Democracy Strategic Objective (SO) "More Inclusive and Effective Democratic Processes" supports efforts to strengthen mechanisms and channels for citizen participation in democratic decision-making, and to improve the effectiveness of CSOs to participate in the formulation, implementation, and oversight of public policy at the local and national level.

In order to play a more active role in citizen participation, CSOs need to acquire basic skills, knowledge and resources. This should be complemented by efforts to strengthen democratic institutions, such as the Legislature and other State actors to open up their processes, thus allowing them to be more responsive to citizens' demands and concerns.

RESULTS TO BE ACHIEVED: It is foreseen that this component will continue to pursue the Intermediate Result (IR) "More Politically Active Advocacy Organizations" as well as its lower level results (LLRs) identified as:

- Improved advocacy skills of target coalitions,
- Increased opportunities for coalitions to influence the legislature and other GOES decision-makers, and
- Increased number of advocacy coalitions.

The Citizen Participation and Governance Component also includes activities contributing to the IR "More Effective Electoral Administration," which is primarily pursued under the Democratic and Electoral Processes Project, No. 519-0391 and its Project Grant Agreement. After the completion date of the Electoral Project on March 31, 2003, no more electoral interventions are being considered.

Descriptions of all the expected results and their corresponding indicators for the civil society and governance program are further developed in the Mission Performance Monitoring Plan (PMP). These indicators would remain the same and targets for the performance indicators would be projected out through FY 2005. Therefore, the results framework will continue to be valid for the proposed citizen participation and governance activities described below. The DG Results Framework, presented as Attachment 1 of this memorandum, shows the IRs and indicators currently included in the PMP and the SOAG, respectively.

This program is also consistent with the "General Rules for the Modernization of the Executive Branch" developed by the Modernization Unit of the Technical Secretariat of the Presidency in 1999. This document contemplates citizen participation in all executive offices, to provide feedback and input into the services that they provide. Moreover, in

early 1999, prior to his election, President Francisco Flores and his advisors conducted a round of citizen consultations in all departments to hear first hand the problems and challenges facing the nation. With this input, his technical team developed the new government's plan, entitled the "New Alliance" for 1999-2004. The operating premises were to create an effective, efficient, transparent and participatory government. Thus, the continuation of activities under this component is fully consistent with, and supports, GOES policies.

Two of the LLRs "Improved advocacy skills of target coalitions" and "Increased number of advocacy coalitions" are being accomplished through technical assistance, training, building of institutional capacity and financial support to CSOs. Since September 1998, about 200 leaders of CSOs from different sectors of Salvadoran society have received training in advocacy, management and financial skills. Ten grants have been awarded, seven of them are still under implementation, for advocacy on various public policy issues.

The LLR "Increased opportunities for coalitions to influence legislature and other GOES decision-makers" is being achieved by supporting: the Legislative Assembly to establish sustainable mechanisms for citizen input and oversight; the Supreme Electoral Tribunal (TSE) in its modernization process and the drafting of electoral reforms with CSO input; and other public institutions, such as the National Registry of Natural Persons (RNPN) and the National Council for Sustainable Development (CNDS), promoting greater transparency in the electoral process and of public ethics, respectively.

All the described results at the different levels of the DG Office's results framework for the citizen participation and governance component are mutually supportive and linked to one another.

ILLUSTRATIVE INTERVENTIONS: Some proposed interventions to assist in achieving the above mentioned results are described in the different programmatic areas identified below.

A. Modernization of the Legislative Assembly

Efforts under this programmatic area are aimed at supporting the Legislative Assembly to provide greater openness and access to citizens in their decision-making processes. This will be accomplished mainly through the implementation of constituent-legislator communication mechanisms. The following activities will assist in achieving the desired results:

1. **The Consolidation of current mechanisms** for citizen input into the legislative decision-making process will continue. Illustrative interventions include:

- Several Assembly committees now regularly hold public hearings, forums, and seminars, but these public events need to be enhanced to further and more effectively involve citizen input into policy deliberations.
- Constituent outreach offices outside San Salvador will continue to be strengthened. With the 2003 legislative and municipal

elections, new deputies may represent the departments where these offices are located. Training and technical assistance for newly elected deputies may be required in order to assure that these offices remain an effective channel of communication between legislators and local citizens. Also, two new constituent outreach offices are expected to be opened, in addition to the three that have already been put into place. This initiative would assist in training the relevant deputies and staff as well as promoting greater community outreach and public information campaigns.

- The internship program with the academic community needs to be expanded. This activity was designed to provide legislative research by outstanding students of selected universities in response to Assembly committee requests. This has been successful, but limited in its scope, with only four universities providing interns. Several other universities are requesting that the Assembly allow them to participate in this program. On-going support and training is needed before this activity can be fully passed on to the Assembly.
 - Finally, the newest channel of communication, the Legislative Assembly Hotline program, will not be fully developed by September 30, 2002. Its purpose will be to provide Salvadoran constituents a direct link with the Assembly and for the Assembly to respond quickly and effectively to their requests for information and assistance. It is expected that more technical assistance and training will be needed to make the hotline an effective constituent outreach tool.
2. An "Orientation Seminar" for all newly elected deputies in 2003 will take place. This is a post election seminar carried out only once every three years for all deputies elected. It is an opportunity to bring all the deputies together to discuss institutional issues, identify broad topics for the Assembly's agenda, and acquaint them with the status of the modernization process, as well as with current efforts of USAID's program. USAID has provided organizational and logistic assistance to these events during the past several elections; it will assist the Assembly to fully take over this event in the future.
 3. After the 2003 legislative and municipal elections are over, the political situation of the country, as a whole, and the Legislative Assembly, in particular, will be assessed by the Mission to determine if the strengthening of the Assembly Press Unit is desirable or feasible. The Front Office will review with DG Office whether any assistance to this unit will be provided. The legislators need to learn how to work more closely with the media, particularly in terms of public relations, civic education and coalition building.

Successful donor coordination will be crucial to assist in helping to consolidate the Assembly as a democratic institution. Duplication of efforts should be avoided and complementarity will be sought. The Inter-American Development Bank (IDB) has started its program to strengthen the Assembly. It is a three-year \$4.0 million program (2002-2004). The DG

Office anticipates continuing its close coordination with the IDB during the extension period.

The same indicators currently included in the DG PMP will continue to be used to measure the impact of these activities, which are "Number of congressional sponsored constituent service offices established by department," and "Legislative committees holding at least one public hearing per year." Performance targets will be adjusted for the extension period.

B. Strengthening Civil Society Organizations

The purpose of this programmatic area is to improve the effectiveness of efforts by CSOs to have a voice in national public policy discussions in El Salvador through advocacy, coalition-building, policy formulation and the strengthening of CSOs themselves. The proposed focus of this assistance will be narrowed during this interim period to include only those CSOs working in the area of democracy and governance. This is a change from the current approach that has allowed grants to CSOs working in other areas of Mission interest. It is hoped that greater impact can be achieved by focusing on democracy issues, making the most of DG's limited resources.

As mentioned above, the transformation of CSOs from service providers to advocates for policy change requires adequate skills, knowledge and resources. Strengthening CSOs will continue to be addressed by two different and inter-related means: a) technical assistance and training, and b) a grants program.

1. **Technical assistance and training** will be provided to CSOs, including past, current, and future grant recipients, to strengthen their institutional capacity to advocate for democratic governance reforms. Examples include:

- Advocacy training seminars and workshops for CSO leaders to: identify policy issues; select objectives; build alliances; negotiate effectively; lobby; and understand the public decision-making process.
- Technical assistance would also be provided to enhance CSOs' management and financial capacities. In addition, grantees and other CSOs involved in such activities will be encouraged to develop networks to share lessons learned and, when possible, assist each other.
- Finally, with the upcoming elections in 2003, as requested, technical assistance and training could be provided to local organizations (including NGOs, professional associations, local development committees, business associations, and others) on different formats and options for holding public debates. The debates themselves would not be eligible for USAID financing.

2. **The grants program** will continue to support relevant and eligible advocacy proposals (up to \$100,000), but the focus will shift to only those in the democracy and governance area. Activities under these

grants will preferably not involve the Legislative Assembly or the proposal of new legislation due the intense electoral activities during the bridge period. However, the program will support CSOs whose proposals are related to the monitoring and oversight of public policy or specific legislation that has already been enacted. The grants proposals will be vetted through the Embassy Democracy Team.

The same indicator currently included in the DG PMP will continue to be used to measure the impact of these activities, which is "Significant submissions by CSO coalitions or CSOs to legislature and other GOES authorities." Performance targets will be adjusted for the extension period.

C. Transparency and Probity Program

Transparency is a programmatic area focused on assisting both CSOs and public entities in the design and implementation of a series of activities aimed at increasing awareness on transparency issues and the implementation of activities to increase transparency in public administration. This area will acquire even more relevance due to two significant recent events. First, negotiations for a possible Central America Free Trade Agreement (CAFTA) between the United States and the Central American countries should soon be initiated. Second, President Bush has announced a new initiative, the Millennium Challenge Account (MCA), to increase development assistance by \$5 billion starting in FY 2004. A prerequisite to disbursing these funds is that countries must demonstrate a strong commitment towards good governance, including rooting out corruption, upholding human rights, and adherence to the rule of law. Specific activities proposed under this area are:

1. **Grants program for transparency.** This activity would be a sub-component of the overall grants program described earlier. It would target innovative civil society projects focused on promoting transparency and probity that would help put these issues on the public agenda.

Some examples of transparency interventions are:

- Public awareness campaigns on the costs of corruption to society;
- The role of the media in reporting on corruption;
- Public forums or workshops on this issue;
- Surveys and public opinion polls, which should provide information on public perceptions of corruption;
- Support to organizations seeking to play a "watchdog" function on government management of resources through education and training; and
- Public education on ethical practices and the culture of lawfulness.

2. **Government access to information.** It is proposed to work with at least one national government entity on improving their policy for access to information. Technical assistance and training could be provided to develop mechanisms that facilitate access to information. The DG Office will evaluate requests from possible candidates for this assistance.

3. **Good governance initiatives.** Assuming the GOES decides to establish the Ethics Office and implement the Code of Ethics for the Executive Branch, training and technical assistance for the implementation of the Code would be necessary. Also, with the possible advent of the CAFTA and the implementation of the new MCA initiative, the GOES should be even more interested in good governance including the reduction of corruption. USAID will provide assistance as opportunities arise.

The current transparency program at the municipal level being implemented jointly by Creative Associates International, Inc. (CREA) and Research Triangle Institute, which includes "Social Auditing" and improving access to information at the local level, will be implemented during the extension period solely by the contractor to be selected under this Activity's Strengthened Local Governance Component.

The DG has not yet selected a specific indicator for the transparency area to measure the impact of these activities. One or more will be developed for the extension period.

SUPPORTING ANALYSIS AND CONSULTATION PROCESS: The following are some of the analysis that have contributed to developing the interim activities: the GOES' "New Alliance," approved by President Flores in 1999 to create an effective, efficient, transparent and participatory government; "The General Rules for the Modernization of the Executive Branch," developed by the Modernization Unit of the Technical Secretariat of the Presidency in 1999, the Salvadoran *Plan de Nación*; the "Modernization Plan of the Legislative Assembly" approved in 1998; the recent Civil Society Strategy Assessment in Bolivia and El Salvador carried out by Harry Blair of the G/DG Center; the Democracy Audit - 1999 prepared by Mitch Seligson of the University of Pittsburgh; the Transparency Assessment carried out by Creative Associate Inc. (CREA) in November 2000; and various reports by Mission contractors, particularly those of CREA, World Learning Inc., SUNY, and the University of Texas.

Additional input was provided by local partners and stakeholders through a series of workshops that were held in November and December 2000 in anticipation of developing a new Strategic Plan. Their input helped USAID to validate the activities currently under development and to add some others that were not originally contemplated in the overall CP&G strategy. These consultations resulted in a draft parameters setting paper that originally would have fed into the development of a new Mission Strategic Plan. Although that planning process has been delayed due to the extension of the current Strategy, these inputs have been useful in defining the scope of this interim activity.

IMPLEMENTATION AND MANAGEMENT PLAN: It is expected that during this two and a half-year extension period, selected civil society organizations, the Legislative Assembly, the RNP, the TSE and other relevant GOES institutions will remain as our partners to implement the Citizen Participation and Governance Component.

The Democracy SOAG will continue to be the obligating instrument. A SOAG Amendment to increase the total LOA, extend the ACD and amend Annex 1, Program Description, will be negotiated and signed with the GOES by July/August 2002, and as soon as the FY 2002 budget allowance is received.

The DG Office may not need to modify the activity description of the CP&G component in the SOAG, since all the activities described herein fit within the overall scope of the current component description.

DG proposes to continue the implementation of this component through the Cooperative Agreement with CREA and its sub-contractor, the University of Texas. The current completion date of this Agreement is September 30, 2002. A justification for exception to competition to amend the Cooperative Agreement with CREA to support continuation of activities in this area was presented to and approved by the Regional Contracting and Grants Office, subject to your approval of this Action Memorandum (Attachment 8). It is expected that the amendment to the Cooperative Agreement with CREA will be negotiated after the approval of this NAD Amendment, leaving no "down" time in project implementation. The proposed extension period of the grant will be for 30 months (October 2002 to March 2005).

The DG Office's management requirements remain the same. This activity will continue to be managed by the DG Office's citizen participation and governance advisor, who is a FSN direct hire employee, with the halftime support of a project management assistant, an FSN Personal Service Contractor, to be budgeted under the Activity.

Component Completion Dates: In addition to the proposed Activity Completion Date of June 30, 2005, the DG Office proposes to establishing a Completion Date for each of three results packages/components being implemented under the Democratic Consolidation and Governance Activity. The proposed Component Completion Dates, by which activities for each component must be completed, are as follows:

- Increased Participation in Strengthened Local Government component: January 31, 2005.
- Citizen Participation and Governance component: March 30, 2005.

The focus for the extension period and the Component Completion Date for the Legal Judicial Protection - ROL - component will be addressed in a separate Action Memorandum.

PERFORMANCE MONITORING PLAN: As mentioned above, the same selected indicators for the CP&G program that are already described in the Mission PMP and in the Democracy SOAG, would be used to track and report on performance. In August 2002 the DG Office plans to update the Democracy SO PMP and adjust the targets for FY 2003 to FY 2005. Specific output indicator(s) for the transparency area may also be established.

FINANCIAL REQUIREMENTS: The current approved LOA for this component is \$6,201,000 (please refer to Attachment 2) and its total obligations, including FY 2002 obligation, would be \$5,982,200. Additional planned obligations for the two and a half year extension would be approximately \$2,150,000 (FY 2003 and FY 2004 obligations of \$1,075,000 each) of Development Assistance (DA) funds, subject to the availability of funds. Therefore, the new total LOA for this Component and the new total LOA for the Activity will be \$8,132,200 and \$28,053,035, respectively, as also shown in Attachment 2.

Under this component, of the total amount obligated (\$5,982,200), the total amount spent for citizen participation and governance activities as of September 2002 will be \$4,624,782 (Attachment 3). This amount includes \$658,082 through various small contracts/grants, \$3,491,700 through CREA, and \$475,000 through the Inter Agency Agreement with Public Affairs Office (PAO). As a result, by September 30, 2002, there would be an unspent balance of approximately \$1,357,418 for CP&G activities.

This unspent balance and the expected FY 2003 and FY 2004 obligations of \$2,150,000 will make a total amount of \$3,507,418 (Attachment 4) available to support the activities described herein during the extension period. These funds will be used to support interventions under the CREA Agreement and are expected to be distributed as follows: legislative strengthening activities \$1,000,000, strengthening CSOs \$1,500,000, and transparency initiatives \$1,007,418. The DG Office does not plan to allocate additional funds to the existing Inter Agency Agreement with the Public Affairs Office for CP&G activities.

With regard to the proposed incremental funding to the Democracy SOAG, it is expected that the GOES will provide a minimum of 25% counterpart contribution funds, most of which will be provided in-kind. Cost-sharing contributions will also be provided under the CREA Cooperative Agreement.

In summary, Attachment 2 shows the consolidated financial information for the whole Activity No. 519-0436. Attachment 3 illustrates the financial information for the citizen participation and governance program only, and Attachment 4 shows the financial information under CREA Cooperative Agreement.

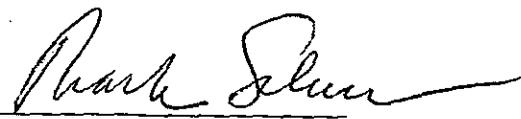
CHECKLISTS: The FY 2002 country checklist for USAID/El Salvador was approved on February 27, 2002. The assistance checklist, which should be completed before the first obligation of FY 2002 for each activity/project, has been cleared and is included as Attachment 5. Accordingly, prior to the obligation of FY 2003 and FY 2004 funds, the DG Office will insure that the country checklist has been approved in USAID/W and that the assistance checklist has been completed ensuring that no such activities are contrary to any of the statutory requirements governing those funds.

INITIAL ENVIRONMENTAL EXAMINATION (IEE): Attachment 6 shows the Initial Environmental Examination Amendment prepared on February 2, 2002 for the Democratic Consolidation and Governance Activity. The IEE will again be amended to reflect the LOA increases of both the CP&G and Rule of Law Components. The draft IEE amendment, which reflects the total LOA for the whole Activity, is shown in Attachment 7. You will be asked to approve this draft IEE Amendment along with the ROL Component NAD Amendment through a separate Memorandum. No funds will be obligated under this Activity Amendment until the amended IEE has been submitted to and approved by an Environmental Officer for the LAC Bureau.

CONGRESSIONAL NOTIFICATION: The FY 2003 Congressional Budget Justification (CBJ), which expired without objection on April 1, 2002, notified the FY 2002 obligation and the extension of the Strategic funding period to FY 2004.

AUTHORITY: Under ADS Section 103.3.14.2a, Mission Directors in the LAC Bureau were delegated the strategic planning authority pursuant to ADS Section 103.3.8.1, subject to the limitations on re-delegation set forth in ADS Section 103.3.8.1b. The foregoing limitations provide that Mission Directors may not approve strategic plans or substantive amendments thereto; exceptions to the strategic planning procedures; or substantive terms and conditions of management contracts or amendments thereto. The authorization of interim activities under the Citizen Participation and Governance Component and the approval of the proposed increase in the Life-of-Activity funding, the extension Activity Completion Date and the establishment of Component Completion Dates are all consistent with the approval for extension of the existing USAID/El Salvador Strategy provided by the Senior Deputy Assistant Administrator for the LAC Bureau (SDAA/LAC) under Memorandum dated August 30, 2001 and, accordingly, will not require an amendment to the USAID/El Salvador's strategic plan or the current management contract between USAID/El Salvador and the Assistant Administrator for the LAC Bureau. Therefore, you have the authority to approve the actions requested in this Memorandum.

RECOMMENDATION: That you approve: (1) an amendment of the Democratic Consolidation and Governance Activity, No. 519-0436, to reflect the extension of activities of the Citizen Participation and Governance Component, (2) an increase in the LOA by \$1,931,200 to a new total of \$28,053,035; (3) an extension of the Activity Completion Date from September 30, 2004 to June 30, 2005; and (4) the Component Completion Dates for the Increased Participation in Strengthened Local Government and the CP&G components of January 31, 2005 and March 30, 2005, respectively. If you agree with these changes, please sign this Action Memorandum.

APPROVED: 

DISAPPROVED: _____

DATE: 7/11/02

Attachments:

- 1: DG Results Framework
- 2: Consolidated Financial Plan
- 3: Financial Plan by obligating instrument (CP&G Component)
- 4: CREA Cooperative Agreement Financial Plan
- 5: Assistance Checklist
- 6: Current approved IEE
- 7: Draft IEE Amendment
- 8: Justification for Exception to Competition

Drafted by: MHerrera, DG

Reviewed by: SKeyvanshad, DG (in draft) Date 5/9/02

NMata, SDO (in draft) Date 5/9/02

Cleared by: BPaige, RCO (in draft) Date 5/20/02

FBreen, CONT (in draft) Date 5/16/02

BMyers, RLA (in draft) Date 6/18/02 w/comments

amendments thereto; exceptions to the strategic planning procedures; or substantive terms and conditions of management contracts or amendments thereto. As noted above, the proposed increase in the Life-of-Activity funding and the two-year extension for the Democratic Consolidation and Governance Activity is consistent with the approval for extension of the existing USAID/El Salvador Strategy provided by the Senior Deputy Assistant Administrator for the LAC Bureau (SDAA/LAC) under Memorandum dated August 30, 2001. Therefore, you have the authority to approve the actions requested in this Memorandum.

RECOMMENDATION: That you approve: (1) an amendment of the Democratic Consolidation and Governance Activity, No. 519-0436, to reflect the extension of activities of the Citizen Participation and Governance Component, (2) an increase in the LOA by \$1,931,200 to a new total of \$28,053,035; and (3) an extension of the Activity Completion Date (ACD) from September 30, 2002 to March 31, 2005. If you agree with these changes, please sign this Action Memorandum.

APPROVED: _____

DISAPPROVED: _____

DATE: _____

Attachments:

- 1: DG Results Framework
- 2. Consolidated Financial Plan
- 3: Financial Plan by obligating instrument (CP&G Component)
- 4: Assistance Checklist
- 5: Current approved IEE
- 6: Draft IEE Amendment

Drafted by:	MHerrera, DG	<i>MHerrera</i>	
Reviewed by:	SKeyvanshad, DG	<i>SKeyvanshad</i>	Date <u>5/9/02</u>
	NMata, SDO	<i>NMata</i>	Date <u>5/9/02</u>
Cleared by:	BPaige, RCO	<i>BPaige</i>	Date <u>3/20/02</u>
	FBreen, CONT	<i>FBreen</i>	Date <u>5/16/02</u>
	BMyers, RLA	<i>BMyers</i>	Date <u>6/13/02 w/ comments</u>
	RGoughnour, DDIR		Date _____

P:\Democracypub\democpub\cp&g\TWO-YEAR EXTENSION CP7G FINAL (May 9, 2002)

Office of the Controller

REVIEWED

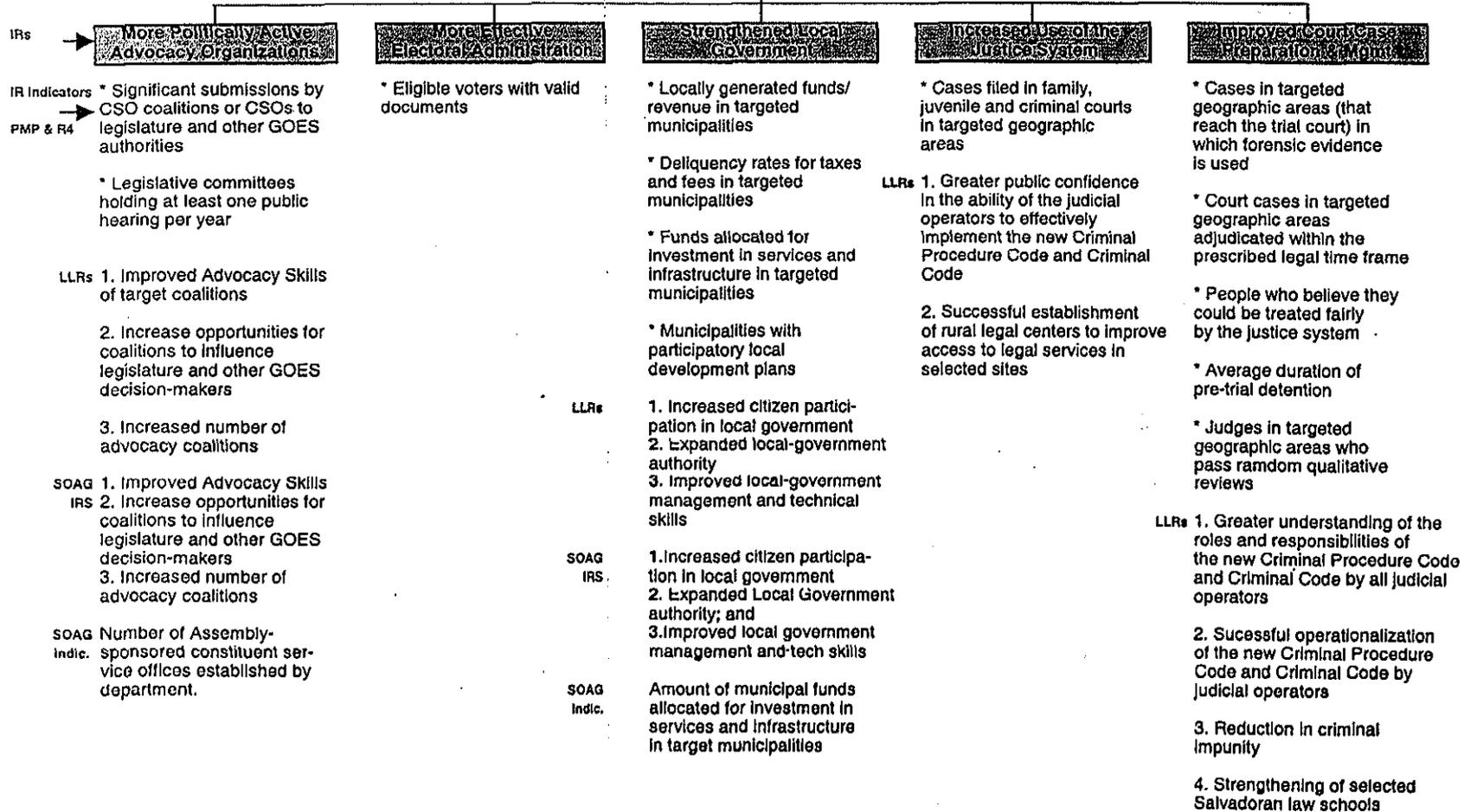
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DG RESULTS FRAMEWORK

More Inclusive and Effective Democratic Processes

Indicators:

1. Cases adjudicated in family, juvenile and criminal codes in targeted geographic areas
2. *Habeas Corpus* cases adjudicated by Supreme Court
3. People who believe the justice system treats them fairly
4. Number of Congressional sponsored Constituent Service Offices established by Department
5. Households in target municipalities receiving selected municipal services (garbage and final disposition).



ATTACHMENT 2

**DEMOCRATIC CONSOLIDATION AND GOVERNANCE ACTIVITY No. 519-0436
CONSOLIDATED FINANCIAL PLAN (IN US\$)
CITIZEN PARTICIPANTION AND GOVERNANCE COMPONENT**

COMPONENT	CURRENT TOTAL				HISTORICAL INCREASE	REVISED TOTAL			
	SOAG	PAO	OTHER	TOTAL		SOAG	PAO	OTHER	TOTAL
Legal Judicial:									
JUSTICE SECTOR	6,814,000	245,000		7,059,000		6,814,000	245,000		7,059,000
PDDH	850,000	50,000		900,000		850,000	50,000		900,000
ICITAP	3,000,000	-		3,000,000		3,000,000	-		3,000,000
SUB-TOTAL	10,664,000	295,000		10,959,000		10,664,000	295,000		10,959,000
CP&G									
LEGISLATIVE ASS.	2,025,000	-		2,025,000	181,200	2,956,200	-		2,956,200
CP & PROBITY	900,000	475,000		1,375,000	500,000	1,400,000	475,000		1,875,000
STRENGTH. GROUPS	2,801,000	-		2,801,000	500,000	3,301,000	-		3,301,000
SUB-TOTAL	5,726,000	475,000		6,201,000	1,181,200	7,657,200	475,000		8,132,200
Local Governance:									
LOCAL GOVERNMENTS	6,430,000	-	-	6,430,000		6,430,000	-	-	6,430,000
COMURES	-	-	1,200,000	1,200,000		-	-	1,200,000	1,200,000
SUB-TOTAL	6,430,000	-	1,200,000	7,630,000		6,430,000	-	1,200,000	7,630,000
USAID/M&E:									
USAID MANAGEMENT	521,000	-		521,000		521,000	-		521,000
AUDIT & M&E	689,000	-		689,000		689,000	-		689,000
SUB-TOTAL	1,210,000	-		1,210,000		1,210,000	-		1,210,000
TOTAL	24,030,000	770,000	1,200,000	26,000,000	1,181,200	25,961,200	770,000	1,200,000	27,931,200
FUCAD GRANT	-	-	121,835	121,835		-	-	121,835	121,835
GRAND TOTAL	24,030,000	770,000	1,321,835	26,121,835	1,181,200	25,961,200	770,000	1,321,835	28,053,035

PAO: Public Affairs Office

0436\CITIZEN\cp&g.exten

**ATTACHMENT 3
DEMOCRATIC CONSOLIDATION AND GOVERNANCE ACTIVITY No. 519-0436**

CITIZEN PARTICIPATION AND GOVERNANCE COMPONENT

**FINANCIAL PLAN BY OBLIGATING INSTRUMENT AND IMPLEMENTING MECHANISMS
IN (US\$) - DEVELOPMENT ASSISTANCE (DA) FUNDS**

OBLIGATING INSTRUMENTS AND IMPLEMENTING MECHANISMS	EXPENDITURES TOTAL FY 1997-FY 2002	FY 2003 Planned Expenditures	FY 2004 Planned Expenditures	FY 2005 Planned Expenditures - March 2005	TOTAL
SOAG:					
Varios contracts	658,082	-	-	-	658,082
Cooperative Agreement [Original TOTAL \$4,775,600]	3,491,700	-	-	-	3,491,700
Cooperative Agreement Follow-On	-	1,500,000	1,500,000	507,418	3,507,418
SUB-TOTAL	4,149,782	1,500,000	1,500,000	507,418	7,657,200
PAO:	475,000	-	-	-	475,000
GRAND TOTAL	4,624,782	1,500,000	1,500,000	507,418	8,132,200

PAO: Public Affairs Office

Note: As of Sep/02 total obligations are \$5,982,200 (\$5,507,200 under the SOAG and \$475,000 under PAO/IAA) less exp \$4,624,782; thus a remaining balance of \$1,357,418 plus FY03 & 04 obligations of \$2,150,000= total \$3,507,418

ATTACHMENT 4

CITIZEN PARTICIPATION AND GOVERNANCE COMPONENT

**CREATIVE ASSOCIATES COOPERATIVE AGREEMENT
FINANCIAL PLAN**

	1	2	3	4	5	6	7
CREATIVE ASSOCIATES COOP AGREEMENT	CURRENT CREA Authorized Amount (AA)	Expenditures September 2002	Funds available under SOAG Sep/02	Planned Obligations FY 03 and 04	Total Available for Extension	New Total AA	Required Increase in Total AA
					(3+4)	(2+5)	(6 - 1)
Project Electoral Processes 519-0391	875,000	875,000	-	-	-	875,000	-
Activity Democratic Consolidation 519-0436	4,775,600	3,491,700	1,357,418	2,150,000	3,507,418	6,999,118	2,223,518
TOTAL	5,650,600	4,366,700	1,357,418	2,150,000	3,507,418	7,874,118	2,223,518

PAO: Public Affairs Office

Note: As of Sep/02 total obligations are \$5,982,200 (\$5,507,200 under the SOAG and \$475,000 under PAO/IAA) less exp \$4,624,782;
thus a remaining balance of \$1,357,418 plus FY03 & 04 obligations of \$2,150,000= total \$3,507,418

ATTACHMENT 5 – NAD Amendment

**Strategic Objective Grant Agreement
 “More Inclusive and Effective Democratic Processes”
 Activity No. 519-0436 “Democratic Consolidation and Governance”
 May 2002**

III. ASSISTANCE CHECKLIST

This checklist is to help managers and teams ensure that activities are consistent with applicable law. Since different provisions apply at different stages of the process, this Checklist is divided into the following parts: **(A) Planning; (B) Congressional Notifications; and (C) Obligating Documents.**

In addition to completing this Checklist, managers and teams should check with the Desk Officer to make sure that the Country Checklist has been completed and nothing has occurred since completion of the Country Checklist which would affect USAID's ability to provide assistance.

For the most part, no distinction between Development Assistance and Economic Support Fund funds is made in this Assistance Checklist because the FAA provides that, to the maximum extent feasible, ESF assistance should be provided consistent with the policy directions, purposes and programs of Development Assistance.

PART A. PLANNING (in alphabetical order)

1. AGRICULTURAL ACTIVITIES (BUMPERS AMENDMENT) (FY 2002 Act Sec. 513(b), as interpreted by the conference report for the original enactment). No funds may be used for agricultural development activities (specifically, any testing or breeding feasibility study, variety improvement or introduction, consultancy, publication, conference, or training) that would compete with a similar commodity grown or produced in the United States unless such activities

- (a) Are designed to increase food security in developing countries and where such activities will not have a significant impact in the export of agricultural commodities of the United States; or
- (b) Are research activities intended primarily to benefit American producers.

Is this restriction applicable? Please comment.

This restriction does not apply.

2. COMMUNIST ASSISTANCE (FAA Sec. 620(h)). Arrangements should be made to insure that United States foreign aid is not used in a manner which, contrary to the best interests of the United States, promotes or assists the foreign aid projects or activities of the Communist-bloc countries.

Please comment.

This provision does not apply.

3. ADVERSE ECONOMIC IMPACT UPON THE UNITED STATES.

- (a) **Productive enterprises competing with U.S. enterprises (FAA Sec. 620(d)).** No funds may be used for any productive enterprise that will compete with U.S. enterprises, unless

- (1) There is an agreement by the recipient country to prevent export for use or consumption in the U.S. of more than 20 percent of the enterprise's annual production during the life of the loan, or
- (2) If in the absence of such an agreement, the President has established import controls to effectuate that agreement.

This may also be waived by the President due to national security interest.

Is this restriction applicable? Please comment.

This restriction does not apply.

(b) Impact on U.S. Jobs: Relocation; Export Zones; Violation of Workers' Rights (FY 2002 Act, Sec. 533, see PD 20). Assistance may not be provided:

- (1) To a business located in the U.S. for the purpose of inducing that business to relocate outside the U.S. in a manner that would likely reduce the number of U.S. employees of that business; or
- (2) For the purpose of establishing or developing an export processing zone or designated area in which the country's tax, tariff, labor, environment, and safety laws do not apply, unless the President has determined and certified that such assistance is not likely to cause a loss of jobs within the U.S. **[Note: this subsection not in FY 2002 but still in PD 20];**
- (3) For a project or activity that contributes to the violation of internationally recognized workers rights of workers in the recipient country; except that assistance may be provided for such a country for the informal sector, micro or small-scale enterprise, or small-holder agriculture.

Please comment.

Provisions (a) and (b) do not apply.

The Activity does not contribute to the violation of internationally recognized workers rights of workers in the recipient country. We are not aware of any complaint or notification of violation under this Activity.

(c) Production of Surplus Commodities (FY 2002 Act Sec. 513(a). Assistance may not be provided to establish or expand production of any commodity for export if the commodity is likely to be in surplus on world markets and substantial injury will be caused to U.S. producers of the same, similar, or competing commodities.

Is this restriction applicable? Please comment.

This restriction does not apply.

4. ENVIRONMENT

(a) Environmental Assessment (FAA Sec. 117; USAID Regulation 16, 22 CFR Part 216, see ADS 204). USAID Regulation 16 requires that an Initial Environmental Examination, unless the proposed assistance falls within certain exceptions and other actions.

Please comment.

The Agreement and the Activity are operating under approved Initial Environmental Examination (IEE) and Environmental Assessments. The IEE for this Activity recommended a Threshold Decision as categorical exclusion. An IEE Amendment for this Activity was approved on February 8, 2002.

(b) CITES - Convention on International trade in Endangered Species of Flora and Fauna. (FY 2002 Act, "Development Assistance" heading under Title II). No funds may be used in support of activities which contravene CITES.

Is this applicable? Please comment.

This provision does not apply.

(c) Debt-for-Nature Exchange (FAA Sec. 463). Assistance that will finance a debt-for-nature exchange must

- (1) Support protection of the world's oceans and atmosphere, animal and plant species, or parks and reserves; or
- (2) Promote natural resource management, local conservation programs, conservation training programs, public commitment to conservation, land and ecosystem management, or regenerative approaches in farming, forestry, fishing, and watershed management.

Is this applicable? Please comment.

This provision does not apply.

(d) Tropical Forest Degradation (FAA Sec. 118). Funds may not be used for

- (1) The procurement or use of logging equipment, unless an environmental assessment indicates that all timber harvesting operations involved will be conducted in an environmentally sound manner and that the proposed activity will produce positive economic benefits and sustainable forest management systems;
- (2) Actions that will significantly degrade national parks or similar protected areas that contain tropical forests, or introduce exotic plants or animals into such areas;
- (3) Activities that would result in the conversion of forest lands to the rearing of livestock;
- (4) The construction, upgrading, or maintenance of roads (including temporary haul roads for logging or other extractive industries) that pass through relatively undergraded forest lands;
- (5) The colonization of forest lands; or
- (6) The construction of dams or other water control structures that flood relatively undergraded forest lands.

However, funds may be used for activities in (3) through (6) above if an environmental assessment indicates that the proposed activity will contribute significantly and directly to improving the livelihood of the rural poor and will be conducted in an environmentally sound manner that supports sustainable development.

Is this applicable? Please comment.

This provision does not apply.

5. EXPROPRIATION AND LAND REFORM (FAA Sec. 620(g)). Assistance may not be used to finance compensation to owners for expropriated or nationalized property, except to compensate foreign nationals in accordance with a land reform program certified by the President.

Is this applicable? Please comment.

This provision does not apply.

6. FAMILY PLANNING.

(a). Abortions and Involuntary Sterilizations Prohibited (FAA Sec. 104(f); FY 2002 Act Sec. 518 and, "Development Assistance" heading under Title II). Funds may not be used:

- (1) To perform abortions as a method of family planning or to motivate or coerce any person to practice abortions. (Note that the term "motivate" does not include the provision, consistent with local law, of information or counseling about all pregnancy options.)
- (2) To pay for the performance of involuntary sterilization as a method of family planning or to coerce or provide any financial incentive to any person to undergo sterilizations.
- (3) To pay for any biomedical research that relates, in whole or in part, to methods of, or the performance of, abortions or involuntary sterilization as a means of family planning.
- (4) For any country or organization if the President certifies that the use of these funds by such country or organization would violate the three provisions above.
- (5) To lobby for or against abortion.
- (6) To any organization or program that supports or participates in the management of a program of coercive abortion or involuntary sterilization.

Is this applicable? Please comment.

This provision does not apply.

(b) Voluntary Family Planning Support (FY 2002 Act, Title II, under heading "Development Assistance"): Funds may be made available only to voluntary family planning projects that

- (1) Offer, either directly or through referral to, or provide information about access to, a broad range of family planning methods and services. (As a legal matter, Development Assistance only.)
- (2) Meet the following requirements:
 - (a) Service providers do not implement or are not subject to quotas, or targets, of numbers of births, family planning acceptors, or acceptors of a

particular form of family planning (quantitative estimates or indicators for planning and budgeting purposes is acceptable);

- (b) No payments of incentives, bribes, gratuities, or financial rewards for becoming a family planning acceptor or achieving numerical target or quota;
 - (c) Do not deny any right or benefit, including right of access to any program of general welfare or right of access to health care, as a consequence of any decision not to accept family planning services;
 - (d) Provide comprehensible information of the health benefits and risks of method chosen; and
 - (e) Ensure that experimental drugs and services are provided only in the context of scientific study in which participants are advised of potential risks and benefits.
- (3) No applicant should be discriminated against because of such applicant's religious or conscientious commitment to offer only natural family planning. (As a legal matter, Development Assistance only.)

Is this applicable? Please comment.

This provision does not apply.

c) Certifications for Foreign Organizations (FY 2000 Act Sec. 599D). [NOTE: NOT Applicable To FY 2002 funds because it was not included in the FY 2002 Act but it still applies to FY 2000 Act funds]. Notwithstanding any other provision of law, population assistance may be made available for any foreign private, non-governmental, or multilateral organization until the organization certifies that it will not, during the availability of these funds --

- (1) Perform abortions in any foreign country, except where the life of the mother would be endangered, or in cases of rape or incest, or
- (2) Violate the laws of any foreign country concerning the circumstances under which abortion is permitted, regulated, or prohibited, or engage in activities or efforts to alter the laws or governmental policies of any foreign country concerning the circumstances under which abortion is permitted, regulated, or prohibited.

The President may waive (1) and (2), but if he does so, the amount of funding for population assistance is reduced by \$12.5 million. That amount is to be transferred to the Child Survival and Disease Programs fund for assistance for infant and child health programs that have a direct, measurable, and high impact on reducing the incidence of illness and death among children. The waiver authority is limited to allow the provision of \$15 million to organizations that do not certify.

Is this applicable? Please comment.

This provision does not apply

7. INTERNATIONAL CONFERENCES (FY 2002 Act Sec. 542, see Guidance on Funding Foreign Government Delegations to International Conferences, Mandatory Reference to ADS 302, 303, 306, 308, 350, and 522). Development Assistance funds may not be used to pay the

costs for participation of another country's delegation at international conferences held under the auspices of multilateral or international organizations.

Is this applicable? Please comment.

DA funds under this Agreement will not be used to pay for the participation of a delegation of the recipient country to international conferences sponsored by multilateral or international organizations.

8. LEGISLATIVE ACTION (FAA Sec. 611(a)(2)). If the obligation is more than \$500,000 and requires legislative action within the recipient country, there must be a basis for a reasonable expectation that such action will be completed in time to permit orderly accomplishment of the purpose of the assistance.

Is this applicable? Please comment.

The obligation will require ratification by the Legislative Assembly, as the Life of Activity funding will be increased. This action will not delay accomplishment of the purpose of the assistance.

9. LOANS (FAA Section 122(b)). In making loans, USAID must consider the following:

- (a) Information and conclusion on capacity of the country to repay the loan at a reasonable rate of interest.
- (b) Does the activity give reasonable promise of assisting long-range plans and programs designed to develop economic resources and increase productive capacities?
- (c) If repayable in dollars, the interest rate must be at least percent per annum during a grace period which is not to exceed 10 years, and at least 3 percent per annum thereafter, but no higher than the applicable legal rate of interest of the country in which the loan is being made.

Is this applicable? Please comment.

This provision does not apply.

10. MILITARY PURPOSES (FAA Sec. 531(e)). Congress has explicitly provided that funds may not be used for military or paramilitary purposes.

Is this restriction applicable? Please comment.

This restriction does not apply.

11. NUCLEAR RESOURCES – EXPORT OF (FY 2002 Act Sec. 506). Assistance may not be used to finance, except for purposes of nuclear safety, the export of nuclear equipment, fuel, or technology.

Is this restriction applicable? Please comment.

This restriction does not apply.

12. POLICE AND PRISONS (FAA Sec. 660). Assistance may not be used to provide training, advice, or any financial support for police, prisons, or other law enforcement forces (see exceptions in Sections 660 (including a customs exception added to section 660 by section 574 of the FY 2002 Act), 119 and 534 of the FAA and Sec. 536 of FY2002 Act).

Is this restriction applicable? Please comment.

This restriction applies. USAID/EI Salvador was authorized to use up to \$650,000 of ESF funds for police training over a five-year period under the Democracy Strategic Objective (see cable SECSTATE No. 15666 dated January 2000.) This delegation was modified to accelerate the use of ESF funds for joint training programs and use \$300,000 unexpended ESF in the rule of law component of the bilateral agreement with the Government of EI Salvador, and fulfilling in FY 2002 the original authority for this activity of up to \$650,000.

USAID/EI Salvador also proposes to use up to \$200,000 FY 2002 for certain police assistance. In that regard, USAID/EI Salvador will seek authority for providing such assistance under Section 534 (b) (3) of the Foreign Assistance Act of 1961, as amended. Once USAID/EI Salvador receives authority to provide and additional \$200,2000 for police assistance, a CN will be submitted to the Congressional Committees. These funds will not be obligated until the required time period has expired and any hold released.

13. PUBLICITY, PROPAGANDA, AND LOBBYING (FY 2002 Act Sec. 540; Anti-Lobbying Act, 18 U.S.C. § 1913). Assistance may not be used to support or defeat legislation pending before Congress, to influence in any way the outcome of a political election in the United States, or for any publicity or propaganda purposes not authorized by Congress.

Is this applicable? Please comment.

This provision does not apply.

14. PVOs -- Funding Sources for U.S. PVOs (FY 2002 Act Sec. 501) If assistance is to be made to a United States PVO (other than a cooperative development organization), it must obtain at least 20 percent of its total annual funding for international activities from sources other than the United States Government. This may be waived in certain circumstances. Check with the Bureau for Humanitarian Response, Office of Private and Voluntary Cooperation (BHR/PVC) to see if the U.S. PVO has met the requirement.

Is this applicable? Please comment.

This provision applies. USAID/EI Salvador has consulted the 1999 BHR/PVC Portfolio and web page and the U.S. PVO that assists with activity implementation is in the list of U.S. PVOs registered with USAID, and is therefore assumed to have met the 20% requirement for income from outside sources.

PART B. CONGRESSIONAL NOTIFICATIONS.

1. GENERAL NOTIFICATION (FY 2002 Act Sec. 515; FAA Sec. 634A). Obligations must be notified to Congress. This is usually accomplished through the Administrator's annual Congressional Presentation. It may be subject of a Special Notification, as below. Additionally, a new Congressional Notification must be made 15 days in advance of the obligation if the amount of the obligation has increased from that previously notified.

Is this applicable? Please comment.

This provision applies. USAID/EI Salvador proposes to use up to \$200,000 for certain police assistance, once USAID/EI Salvador receives authority to provide an additional \$200,000 for police assistance, a CN will be submitted to the Congress. This additional amount will not be obligated until the required time period has expired and any hold release (see "12" above.)

2. SPECIAL NOTIFICATION (FY 2002 Act, "Burma" and Title II headings and Secs. 517, 520 and 526). Special Notifications, 15 days in advance of obligation, are required for the following:

(a) **COUNTRIES** – Burma, Colombia, Democratic Republic of Congo, Haiti, Iraq (ESF) Liberia, Newly Independent States (NIS) countries, Pakistan, Serbia, Sudan, Zimbabwe, and fostering democracy in the People's Republic of China.

(b) **OTHER**

(1) Account transfer, i.e., obligations under an appropriations account to which the funds were not originally appropriated (FY 2002 Act Sec. 509). Notification is to be made to the House and Senate Appropriations Committees.

(2) *Cash transfers or non-project sector assistance (notification should include a discussion of how funds will be used, U.S. interests served and economic policy reforms to be promoted)*(FY 2002 Act Sec. 529).

(3) Construction of productive enterprise, if aggregate value of assistance to be furnished by the U.S. exceeds \$100 million (except for productive enterprises in Egypt that were described in the Congressional Presentation)(FAA Sec. 620(k)).(Express approval of Congress required.)

(4) Use of "notwithstanding" authorities for assistance through non-governmental organizations (FY 2002 Act Sec. 537).

(5) Transition initiatives (FY 2002 Act "Transition Initiatives" heading under Title II. An advance notice of five days is required.

(6) If an amount in excess of \$50 million is provided to the Global Fund for AIDS, malaria and tuberculosis, as authorized in title II of the conference report,

(7) Assistance to support democracy, human rights, press freedom, women's development, and the rule of law in countries with significant Muslim populations (FY 2002 Sec. 526)

(8) Plans to wind up activities of an Enterprise Fund must be submitted pursuant to the regular notification procedures,

(9) Assistance to the Central Government of Cambodia for basic education and to support the Government's Ministry of Women and Veteran's Affairs to combat trafficking,

Please comment.

This provision does not apply.

3. DEOBLIGATION/REOBLIGATION (FY 2002 Act Sec. 510). If deobligation/reobligation authority is being used, the funds being obligated must be for the same general purpose and for countries within the same region as originally obligated, and the House and Senate Appropriations Committees must be properly notified. (Note: Compare to no-year authority under section 511.)

Is this applicable? Please comment.

This provision does not apply.

4. ENTERPRISE FUNDS – DISTRIBUTION OF ASSETS (FY 2002 Act Sec. 562). Before the distribution of any assets resulting from the liquidation, dissolution, or winding up of an Enterprise Fund, a plan regarding the distribution of those assets must be sent to Committees on Appropriations.

Is this applicable? Please comment.

This provision does not apply.

PART C. OBLIGATING DOCUMENTS

1. SOURCE, ORIGIN AND NATIONALITY (See ADS 310).

(a) General (FAA Sec. 604(a)): All procurement must be from the U.S., the recipient country, or developing countries except as otherwise determined in accordance with Agency rules. If planning procurement elsewhere, a waiver must be obtained.

Please comment.

The Activity and the Agreement provide procurement from the United States (Geographic Code 000) and, in accordance with the local procurement policy, from El Salvador. No procurement is planned elsewhere. Should procurement from elsewhere become necessary, a waiver will be obtained.

(b) Automobiles – buy only U.S. made motor vehicles (FAA Sec. 636(i)). Assistance may not be used to finance the purchase, sale, long-term lease, exchange, or guaranty of the sale of motor vehicles manufactured outside U.S., unless a waiver is obtained.

Please comment.

All motor vehicles are and will be bought U.S. made.

(c) Agricultural Procurement (FAA Sec. 604(e)). Agricultural commodities and products thereof must be procured within the U.S. unless the commodity or product could not be reasonably produced in the U.S. in fulfillment of the particular assistance program. Waivers are available in some circumstances.

Please comment.

This provision does not apply.

(d) Construction or Engineering Services (FAA Sec. 604(g)): No engineering or construction services may be procured from advanced developing countries eligible under Code 941 that have attained competitive capability in international markets, *unless*

- (i) The advanced developing country is receiving direct economic assistance under the FAA and
- (ii) Its own assistance program would permit U.S. firms to compete for similar services.

Please comment.

This provision does not apply.

2. CASH TRANSFERS -- REQUIREMENT FOR SEPARATE ACCOUNT (FY 2002 Act Sec. 529(b)). If assistance is in the form of a cash transfer or nonproject sector assistance, all such cash payments must be maintained by the country in a separate account and not commingled with any other funds (unless such requirements are waived by Congressional notice for nonproject sector assistance).

Please comment.

This provision does not apply.

3. CAPITAL ASSISTANCE

(a) Mission Director Certification/Assistant Administrator Determination (FAA Sec. 611(e)). When capital assistance is proposed (e.g., construction), and total U.S. assistance for it will exceed \$1 million, the Mission Director must certify and the Regional Assistant Administrator must take into consideration the country's capability to maintain and utilize the assistance effectively.

Please comment.

This provision does not apply.

(b) Developmentally sound projects (Jobs Through Export Act of 1992, Sections 303 and 306(b)), P.L. 102-549, 22 U.S.C. 2421b and 2421d(b). If assistance is being provided for a capital activity, the activity must be developmentally sound and measurably alleviate the worst manifestations of poverty or directly promote environmental safety and sustainability at the community level.

Please comment.

This provision does not apply.

(c) U.S. Engineering Services (FAA Sec. 601(d)). If using capital (e.g., construction) assistance, U.S. engineering and professional services must be used to the maximum extent, consistent with U.S. interests.

Please comment.

This provision does not apply.

4. ASSISTANCE GENERATING LOCAL CURRENCY (FY 2002 Act Sec. 529). If assistance is furnished to a foreign government under arrangements that result in the generation of local currencies

(a) USAID must

- (1) Require that local currencies be deposited in a separate account established by the recipient government,
- (2) Enter into an agreement with that government providing the amount of local currencies to be generated and the terms and conditions under which the currencies so deposited may be utilized, and
- (3) Establish by agreement the responsibilities of USAID and the host government to monitor and account for deposits into and disbursements from the separate account.

- (b) Local currencies, or an equivalent amount of local currencies, can be used only to carry out the purposes of the Development Assistance or Economic Support Fund chapters of the FAA (depending on which chapter is the source of the assistance) or for the administrative requirements of the United States Government.
- (c) USAID should take all necessary steps to ensure that the equivalent of local currencies disbursed from the separate account is used for the agreed purposes.
- (d) If assistance is terminated to a country, unencumbered balances of funds remaining in a separate account should be disposed of for purposes agreed to by the recipient government and the United States Government.

Please comment.

This provision does not apply.

5. PRINTING COSTS. The Bureau for Legislative and Public Affairs (LPA) must approve printing costs of a report of study (except feasibility, design, or evaluation reports or studies) more than \$25,000. [Note: While the requirement for this review is not in the FY 2002 Act, the USAID guidance still applies.]

Please comment.

All reports in excess of \$25,000 will be sent to LPA for approval of printing costs before they are sent to the printing house. However, it is not expected that a report or study under this Agreement will be in excess of \$25,000.

6. ALCOHOLIC BEVERAGES AND CERTAIN ENTERTAINMENT EXPENSES (FY 2002 Act Sec. 550). Development Assistance or Economic Support Funds may not be used for alcoholic beverages or entertainment expenses that are substantially of a recreational nature.

Please comment.

This provision does not apply.

7. STATE DEPARTMENT NOTIFICATION OF BILATERAL AGREEMENTS WITH AN OBLIGATION OF \$25 MILLION OR MORE (ADS 350.5.5; Case-Zablocki Act, 1 U.S.C. Sec. 112b, 22 C.F.R. Part 181, see ADS 350). The date of signing and the amount involved must be cabled to State Office of Assistant Legal Adviser for Treaty Affairs (L/T) immediately upon signing and the full text of the agreement should be pouched to State/L/T within 20 days of signing.

Please comment.

The obligation under this Agreement is less than \$25,000,000. The cumulative obligation is also under \$25,000,000.

8. ENGINEERING AND FINANCIAL PLANS (FAA Sec. 611). Before an obligation of more than \$500,000, there must be

- (1) Engineering, financial, or other plans necessary to carry out the assistance; and

(2) A reasonably firm estimate of the cost to the U.S. of the assistance.

And, if the plan relates to a water or water-related land resource construction, the plan should include a computation of benefits and costs. This figure must be computed to the extent practicable in accordance with the principles, standards, and procedures established pursuant to the Water Resources Planning Act (42 U.S.C. 1962, et seq.).

Please comment.

Engineering, financial or other plans, as well as estimates of the costs were developed as part of the design of the activity and are still current.

Prepared: NMata, SDO MMW Date 5/9/02
Cleared: TSorenson, DG J Date 5/13/02
BMyers, RLA(in draft) Date (with comments)

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U.S. AGENCY FOR
INTERNATIONAL
DEVELOPMENT

LAC-IEE-02-10

CATEGORICAL EXCLUSION

Activity Location : El Salvador

Activity Title : Democratic Consolidation and Governance

Activity Number : 519-0436

Funding : \$26,121,835 (Life-of-Activity)

Life of Project : FY 1997 – FY 2004

IEE Prepared by : William Patterson, MEO; Elizabeth de Gonzalez, Environment Officer

Recommended Threshold Decision : Categorical Exclusion

Bureau Threshold Decision : Concur with Recommendation

Comments: This Activity qualifies for Categorical Exclusion of Initial Environment Examination under Section 216.2(c)(2)(i), "Educational, technical assistance or training programs. . . ." and (iii) "Analyses, studies, academic or research workshops and meetings," since all actions contemplated under it will not have an effect upon the natural or physical environment.

for Mon Israel Date 2/8/02
 Jeffrey J. Brokaw
 Bureau Environment Officer
 Bureau for Latin America and the Caribbean

Copy to : Mark Silverman, Director USAID/El Salvador

Copy to : William Patterson, MEO, USAID/El Salvador

Copy to : Elizabeth de Gonzalez, USAID/El Salvador

Copy to : Michael Kerst, LAC/CEN

Copy to : IEE File



USAID / EL SALVADOR

FAX FORM

Fax Numbers: (503) 298-0885, (503) 279-3833
Telephone Number: (503) 298-1666
Water & Environment Fax (503) 298-1899

DATE: February 5, 2002

Total number of pages (including this cover sheet): 4

To: Jeff Brokaw
Morris Israel
USAID/Washington

Office: Fax No.: 202-216-3262
Tel No.: 202-712-5682

From: William Patterson, USAID/El Salvador *x WJP*

SUBJECT: Democratic Consolidation and Governance

MESSAGE:

Please find attached for your approval the IEE for Democratic Consolidation and Governance.

Thank you.



Agency for International Development
United States of America A.I.D
c/o American Embassy
San Salvador, El Salvador, C.A.

Water and Environment Office

**AMENDMENT OF INITIAL ENVIRONMENTAL EXAMINATION,
LAC-IEE -98-16**

Activity Location: El Salvador

Activity Title: Democratic Consolidation and
Governance

Project Number: 519-0436

Funding: \$26,121,835 (Life-Of-Activity Funding - LOA)

Strategic Objective Grant
Agreement Signed: September 29, 1997

PACD: September 30, 2004
William Patterson

IEE Prepared by: William Patterson and Elizabeth de Gonzalez
Environmental Officers
USAID/El Salvador

Recommended Threshold Decision: Categorical Exclusion

Mission Threshold Decision: Concur with Recommendation

Date Prepared: December 11, 2001


Mark Silverman
Mission Director

2/4/02

Date

CATEGORICAL EXCLUSION OF INITIAL ENVIRONMENTAL EXAMINATION

Democratic Consolidation and Governance (No. 519-0436)

I. Activity Description

The Democratic Consolidation and Governance Activity (No. 519-0436), is conceived as an umbrella activity under which all Democracy Strategic Objective activities with the Government of El Salvador and civil society will be obligated. The Activity was authorized in FY 1997, with an initial Life-Of-Activity Funding (LOA) of \$12,000,000, which was amended several times to reach currently an LOA of \$26,121,835. This Activity includes funding for three Results Packages: Citizen Participation and Governance, More Effective Legal/Judicial Protection for all Citizens, and Increased Participation in Strengthened Local Government. Activities currently authorized under the Democratic Consolidation and Governance Activity are continuations of initiatives begun under Activities 519-0391, 519-0376, and 518-0388, and will consist of the following:

RP#1: Citizen Participation and Governance

- Activities to promote more effective citizen advocacy, such as training and other support for civil society groups to participate in national and sub-regional policy making processes and the electoral process;
- Activities which promote increased opportunities for political participation, including support to establish a new civil registry and a single identification/voter registration card, technical assistance to promote reforms to the electoral process which would permit broader citizen participation (such as multi-party representation on town councils, residential voting) and technical assistance to improve the legislative process; and
- Activities to strengthen the transparency and integrity of governance, including technical training for public sector auditors, support for citizen watchdog groups and/or to promote debate on issues of transparency and integrity in government processes.

RP#2: More Effective Legal Protection for All Citizens

- Activities with public and private sector organizations to increase access to judicial services, including public awareness and legal education campaigns, and technical assistance to implement alternate dispute resolution mechanisms; and
- Activities to improve the responsiveness and effectiveness of the justice system, including improvements in court administrative systems, training and technical assistance to improve professional skills and effectiveness of key judicial sector actors (e.g.,

prosecutors, public defenders, judges), and technical assistance to facilitate the passage of additional legal and or policy reforms which modernize the justice sector, improve transparency and probity of the system, and which extend access.

RP#3: Increased Participation in Strengthened Local Government

- Activities to Expanded Authority and Definition of Roles include policy dialogue, research and investigations, consensus building and technical assistance in drafting or modifying key legislation;
- Activities to Improved Local Government Management Capacity include technical assistance and training to Municipal governments to deliver effective public services in a transparent and efficient manner, which could be improved by further developing their professional staffs and in designing viable service delivery mechanisms. Capacity also needs to be demonstrated by improving service efficiency, effectiveness and planning;
- Activities which promote Alternative Funding include efforts for obtaining private-public partnerships in local service delivery. Assistance could include discussion and training on mechanisms such as concessions, outsourcing as well as development of public-private companies; and
- Activities to improve Citizen Participation in local Government include: a) the promotion for requiring the use of participatory planning by municipal governments prior to the release of funds from the Central Government, b) institutionalization of incipient participatory planning processes, and c) replication of transparent mechanisms, such as open city council meetings and public hearings. Local indigenous groups working in the area of citizen participation, especially NGOs, will be strengthened to provide the training and services demanded by local governments.

II. Recommendation

Since the actions contemplated under this Activity will not have an effect on the natural or physical environment, this Activity qualifies for Categorical Exclusion of Initial Environment Examination under Section 216.2(c)(2)(i), "Educational, technical assistance, or training...", and (iii) "Analyses, studies, academic or research workshops and meetings," of 22CFR.



Agency for International Development
 United States of America A.I.D
 c/o American Embassy
 San Salvador, El Salvador, C.A.

Water and Environment Office

**AMENDMENT OF INITIAL ENVIRONMENTAL EXAMINATION,
 LAC-IEE -98-16**

Activity Location: El Salvador

Activity Title: Democratic Consolidation and Governance

Project Number: 519-0436

Funding: \$33,820,102 (Life-Of-Activity Funding - LOA)

Strategic Objective Grant Agreement Signed: September 29, 1997

PACD: June 30, 2005

IEE Prepared by: William Patterson and Elizabeth de Gonzalez. *William Patterson*
 Environmental Officers *Elizabeth de Gonzalez*
 USAID/El Salvador

Recommended Threshold Decision: Categorical Exclusion

Mission Threshold Decision: Concur with Recommendation

Date Prepared: May 7, 2002

Mark Silverman
 Mission Director

6/27/02

Date

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RP#2: More Effective Legal Protection for All Citizens

- Activities with public and private sector organizations to increase access to judicial services, including public awareness and legal education campaigns, and technical assistance to implement alternate dispute resolution mechanisms;
- Activities to improve the responsiveness and effectiveness of the justice system, including improvements in court administrative systems, training and technical assistance to improve professional skills, effectiveness and coordination among key judicial sector

actors (e.g., prosecutors, public defenders, judges, and national civilian police), and technical assistance to consolidate criminal and criminal procedures reform and facilitate the passage of additional legal and or policy reforms which modernize the justice sector, improve transparency and probity of the system, and which extend access.

- Activities to support the Salvadoran community policing initiatives implemented in coordination with the Department of Justice's International Criminal Investigative and Training Assistance Program (ICITAP).
- Activities to assist the initial stages of the Salvadoran reform process of the commercial, labor and environmental legislation.

RP#3: Increased Participation in Strengthened Local Government

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ACTION MEMORANDUM FOR THE AGREEMENT OFFICER

FROM: Todd Sorenson, *J* Democracy and Governance Office
Director

SUBJECT: Justification for Exception to Competition to amend current award with Creative Associates International, Inc., Cooperative Agreement No. 519-A-00-00-00041-00

ACTION REQUESTED: That you approve an Exception to Competition to extend the life of award, with corresponding addition of funds, of the current Cooperative Agreement with Creative Associates International, Inc. (CREA) under the Democratic Consolidation and Governance Activity No. 519-0436, Citizen Participation and Governance Component (CP&G). The purpose of this 30-month extension is to continue to support efforts of CREA to strengthen mechanisms and channels for citizen participation in democratic decision-making processes and improve effectiveness of civil society organizations (CSOs) to influence public policy. Activities under this component include promoting civil society advocacy, transparency initiatives, and legislative strengthening. The additional estimated cost to USAID will be \$2,223,500 with an estimated completion date of March 31, 2005.

BACKGROUND: The Democratic Consolidation and Governance Activity was authorized on September 29, 1997, for an expected duration of five years (from FY 1997 through FY 2002). After a full and open competition, USAID/El Salvador signed a Cooperative Agreement with CREA on April 10, 2000, for an estimated amount of \$5,250,600 with an end date of September 30, 2002. The Agreement includes a sub-contract with the University of Texas for the implementation of a constituent outreach program with the Legislative Assembly. The Agreement was modified on June 21, 2001 to increase the total estimated amount by \$400,000 for electoral activities, with a new total estimated cost of \$5,650,600. CREA's Agreement is financed by two funding sources, \$875,000 from the Electoral and Democratic Processes Project, No. 519-0391 and \$4,775,600 from the Democratic Consolidation and governance Activity, No. 519-0436.

Under the Agreement, work was contemplated in the following components:

- Civil society organizations (CSOs) support program, through grants, training, technical assistance and institutional

- strengthening, to improve the effectiveness of CSOs to influence national and local public policy in El Salvador;
- Legislative Assembly constituent program to assist, through technical assistance, training, and equipment, the Assembly in the implementation of an outreach program for increased citizen participation and input into the legislative process;
 - Transparency and probity program to assist public entities and CSOs in the design and implementation of activities aimed at increasing the awareness and effectiveness on transparency issues; and
 - Electoral program to provide support to the National Registry (RNPN) and the Supreme Electoral Tribunal (TSE) to further strengthen the electoral system and to address the enactment of target electoral reforms.

The implementation of the Agreement began on May 2000; however, El Salvador was devastated in January and February 2001 by two earthquakes that seriously affected the implementation of most USAID/El Salvador activities. In general, most counterparts and stakeholders concentrated their efforts on the mitigation of the negative effects caused by the earthquakes. Their priorities changed, which delayed the implementation of the various USAID programs.

The CP&G program was not an exception. The CSOs participating in the advocacy program were distracted from their proposals by the emergency surrounding the two earthquakes. The Legislative Assembly and the TSE felt the same impact. This, as a consequence, affected CREA's work with its partners and delayed implementation.

Based on this critical situation, at the Mission's request, the LAC Bureau authorized an extension of the Mission's current Strategic Plan, originally covering the period from 1997 to 2002, through FY 2004.

DISCUSSION: CREA began implementing the citizen participation and governance activities in May 2000. Since then, CREA has been able to: consolidate its team; gain valuable knowledge about the environment in which it works; establish important and beneficial contacts with CSO representatives and government officials; create a consultative group composed of representatives from CSOs to oversee the advocacy program; train several CSO representatives; provide grants to CSOs for advocacy on public policy issues; build a strong working relationship with and provide support to the Legislative Assembly, through the University of Texas; assist the TSE in its modernization process; and initiate transparency activities.

CREA has been successful in its overall performance. Defined indicators for results have shown progress at all levels. The Legislative Assembly has established three constituent outreach service offices to channel citizen concerns to their elected representatives and to increase civil society participation in legislative processes. At least five CSOs have submitted bills or proposals to GOES entities or the Legislative Assembly, indicating more politically active advocacy organizations. Public hearings in the Assembly have been institutionalized to open the legislative process to citizen input. Several CSOs have improved their advocacy skills in areas such as alliances, coalitions, lobbying, as well as their financial and management skills.

The DG Office foresees that the nature of the results contemplated under the referenced Cooperative Agreement will not change. The DG Office also anticipates that the activities for the extension period will remain in the same program areas; however, they will be more focused given the scarcity of resources.

After extensive discussions and consideration of various options, the DG Office has determined that it would be more advantageous for USAID to amend the referenced cooperative agreement rather than open the process to competition. The DG Office has made such a determination based on the following:

- A competition process, in conjunction with the time required for close-out of the present agreement and the time required for setting up a new implementor, would distract human resources and funds from the implementation of the program within the context of the extension period, at a critical point in the implementation of this activity.
- The required time for competition may be abbreviated through the contracting of a task order through an IQC. Currently, there are two IQC holders in the area of civil society, one of which is CREA, suggesting a great possibility that CREA would, in the event of a limited competition, continue to implement this activity. However, an IQC would signify higher costs to USAID/El Salvador. More importantly, a cooperative agreement was originally deemed to be the most appropriate implementation instrument, given the emphasis on working with and providing grants to CSOs, the type of relationship envisioned between the relevant actors, and the provision of cost-share. Since the scope of activities contemplated under the extension will not significantly change, nor will the

expected nature of the relationships, a cooperative agreement remains the most appropriate implementation mechanism.

- CREA was selected as the implementor of this activity, after a full and open competition, due to its proposed methodology and its experience with similar programs in Guatemala. The proposal was determined to be the most relevant to the current situation and needs in El Salvador. USAID/El Salvador envisions the continued relevance of CREA's methodology, which combines small grants with targeted technical assistance, based on its CSO assessment scale.
- In the past two years, CREA has gained valuable knowledge and expertise in the area of citizen participation and governance within the Salvadoran context. It has also developed a strong and mutually respectful working relationship with the various actors, such as the Assembly members and relevant CSOs. The development of the expertise and the relationships has required an investment in terms of time and human resources, and CREA is now at a point of receiving returns on that investment. As a direct result of its expertise and these relationships, CREA has been able to develop a targeted civil society grants program, identify CSOs that can most benefit from technical assistance and training, and provide focused and effective assistance to those selected organizations. In addition, CREA has conducted an in-depth transparency and ethics diagnostic, which continues to contribute to the development of the Mission's strategy in this area, including the drafting of a Code of Ethics for the Executive branch. CREA has, up to the present, laid the groundwork for much of the work that remains, and is at a critical point of taking advantage of the results of those efforts to further deepen programs and their implementation. Interrupting this activity, for the possible selection of a new implementor, will lead to the loss of momentum at a crucial time, and, most likely, would severely delay the achievement of the Mission's proposed results in the areas of citizen participation and governance.
- The University of Texas (UT) has been a highly effective sub-grantee to CREA in the area of legislative strengthening. It has developed excellent, cooperative, and lasting relationships with the various Assembly members, leading to programs that have increased citizen input into the legislative process, and strengthened legislator-constituent relations. These relationships have been an important catalyst for the achievement of results in this area. It is worth noting that it has taken UT several years of sustained,

high-quality involvement with the Assembly to reach the level of trust and collaboration that now exists between these two institutions. Competition may jeopardize the continued involvement of the UT in this activity. A new implementor in the area of legislative strengthening would have to invest considerable amount of time and resources to develop an equally strong relationship, which already exists between UT and the Assembly.

Given the above, CREA is in an excellent position to continue to perform future activities in an efficient and effective manner that would best serve the Mission and its clients. The best programmatic and most cost effective choice for the Mission is the suggested extension of the CREA Cooperative Agreement to further develop the existing activities outlined above.

JUSTIFICATION CRITERION: As specified in ADS Section 303.5.5d(1) and E303.5.5d, competition is not required for amendments to existing awards or follow-on awards for the same activity, or to further develop an existing assistance relationship, provided the SO/RP Team Leader or Cognizant Technical Officer justifies in writing "why it would be more advantageous for USAID to amend an award or create a new "follow-on" award without the benefit of competition rather than open the process to competition."

AUTHORITY: Pursuant to ADS E 303.5.5d (2), all justifications shall be submitted to the Agreement Officer for review and approval. Accordingly, you have the authority to approve this justification for an Exception to Competition to amend this assistance award.

RECOMMENDATION: That, based on the justification set forth above, you approve this exception to competition to extend, to March 2005, the life of award of the CREA Cooperative Agreement, No. 519-A-00-00-00041-00, under the CP&G Component of the Democratic Consolidation and Governance Activity No. 519-0436 and increase the total estimated cost by \$2,223,500 from \$5,650,500 to a new total of \$7,874,100. This increase will be financed under the Activity No. 519-0436.

APPROVED: _____

Beth Paige, Agreement Officer

DISAPPROVED: _____

Beth Paige, Agreement Officer

DATE: _____

June 3, 2002

Action Memorandum for the Agreement Officer
Re: Justification for Exception to Competition to amend current
award with Creative Associates International, Inc., Cooperative
Agreement No. 519-A-00-00-00041-00

Drafted by: MHerrera, DG *MHerrera* date 26/04/02
Reviewed by: Skeyvanshad, DG *SK* date 5/3/02
Cleared by: *5/29/02* DHarrison, SDO *DHarrison* date 5/30/02
RRodriguez, RCG *Rodriguez* date 5/31/02
BMyers, RLA (LTazewell/ARLA) e-mail date 05/28/02
for RGoughnour, DDIR *ms* date 6/3/02

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