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AREA AUDITOR GENERAL - LATIN AMERICA (NORTH)

PANAMA CITY, R.P.

AUDIT REPORT

USAID/COLOMBIA

LEGAL EDUCATION REFORM

PROJECT No. 514-15-660-153

Audit Report No. 1-514-72-77
Date: March 31, 1972

USAID MISSION TO COLOMBIA

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AGENCY FOR INTERNATIONAL DEVELOPMENT
Washington, D. C. 20523

OFFICE OF THE AUDITOR GENERAL
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I. SCOPE OF AUDIT

The Area Auditor General for Latin America (North), under authority of M.O. 203.5, has made an interim examination of the grant-funded Legal Education Reform Project (No. 514-15-660-153) for the period July 1, 1969 to January 31, 1972. The examination was performed between January 19 and February 29, 1972, and covered expenditures of \$195,500 in support of Contract No. USAID 514-127-T, signed June 26, 1970, between the USAID/Colombia and the International Legal Center (ILC).

The contents of this report were discussed in an exit interview on February 19, 1972, with the USAID Human Resources Officer (HRO) and the Regional Legal Advisor (RLA), and were subsequently presented at a USAID Implementation and Evaluation Committee Meeting on March 23, 1972.

Accordingly, the USAID's comments were included in the report to the extent we considered appropriate or necessary.

The primary purpose of the audit was to:

- A. Review and evaluate, to the extent possible, the accomplishments attained in relation to the Project's objectives.
- B. Ascertain the propriety of Project expenditures.
- C. Determine the overall compliance with the terms of the Contract Agreement.
- D. Review and evaluate, where possible, the USAID's supervision and management of the Project.

Accordingly, in conformity with current audit standards, and within the framework of applicable AID Manual Orders, we included such tests of the USAID accounting records, review of Project files, and conferences with USAID, Ford Foundation, and Colombian officials as we considered necessary under the circumstances.

The accounting records of the International Legal Center were not available for our review since they are maintained at the Contractor's home office in New York, New York.

II. BACKGROUND INFORMATION

A. Project Description

In late 1968 the Law Faculties of the Universities of Antioquia, Cauca, Externado de Colombia, and Los Andes (the Colegio Mayor del Rosario joined the Association at a later date) founded the Association for the Reform of Legal Education (ARED) for the purpose of promoting a reform of the legal education system in Colombia. ARED became a legal entity in July 1969, and with the cooperation of the Ford Foundation has developed a program of specific reforms to achieve its purpose.

Project Implementation Order/Technical Services (PIO/T) No. 514-153-3-00209, obligating \$190,000 (\$171,308 expended 12-31-71), was issued on June 25, 1970, for the purpose of financing a contract between the International Legal Center (ILC) and the USAID/Colombia. The Contract provides for the development of a joint USAID Colombian study program for Colombian law deans, law professors, and law students, plus U.S. law professors to work in Colombia with ARED member faculties (Universities) in their legal reform programs. On May 31, 1971, the USAID and the Government of Colombia (GOC) through the National Planning Department (DNP), entered into an agreement (Project Agreement No. 13) obligating \$140,000 (\$20,195 expended 12-31-71) to finance a 12-month extension (through July 31, 1972) of the ILC Contract.

B. Funds Authorized and Released

According to the JSAID Office of the Controller records (cash basis) the following is a summary of AID funds obligated and expended between July 1, 1969 and February 29, 1972:

<u>Cost Element</u>	<u>Obligated</u>	<u>Expended</u>	<u>Balance</u>
Technical Services-			
U.S. Personnel	US \$178,575	US \$123,229	US \$ 55,346
Participants	125,800	57,115	71,685
Other Costs	<u>25,625</u>	<u>14,157</u>	<u>11,468</u>
	US \$330,000	US \$191,501	US \$138,499
	=====	=====	=====

III. SUMMARY

Audit of the Legal Education Reform Project indicates that the major objectives have been achieved, or will be completed within the next few months, although it appears doubtful that present Project plans will be completed by July 31, 1972, the current Final Contribution Date. However, this is an experimental Project and since inception consideration has been given to extending it through FY 1973, and firm plans are now being formulated for such continuation. The USAID/HRD has managed the Project with due diligence, which has been an important factor in achieving the required objectives. Nevertheless, we believe some areas of the Project, particularly those related to the International Legal Center (ILC) Contract, would have been implemented more efficiently if USAID management had monitored the requirements more closely.

Instances of minor significance requiring corrective action were called to the USAID's attention and rectified during the course of the audit.

Other findings, as summarized below, are brought to management's attention for correction.

1. \$190,000 was obligated for the costs of the ILC Contract, USAID 514-127-T (PIO/T 00209) which expired July 31, 1971. ILC has been reimbursed through December 31, 1971, but an unexpended balance of \$18,693 remains. An estimate of the amount required to complete the Contract indicates a balance of about \$16,000 should be deobligated by the USAID. (Finding B,1, (a), page 9)

2. ProAg No. 13 obligated \$140,000 for the costs of a one-year extension of the ILC Contract which will expire July 31, 1972. Only \$20,193 was expended as of February 29, 1972, and it appears that only about \$66,000 additional will be expended prior to July 31, 1972, leaving an unexpended balance of about \$54,000. As a result ILC should (1) estimate the budget necessary to complete this extended portion of the Contract, (2) submit to the USAID a plan of present priorities which the USAID should assist in expediting in order to meet the Final Contribution Date, or to determine what portion of the Project may be deferred for the planned extension of the Project to July 31, 1973, or (3) for possible deobligation by July 31, 1972. (Finding B,1,(b), page 10)
3. It appears likely that a professor under ILC-USAID contract may have published a book contrary to Article XV,A,3, of the contract. The USAID should make a determination if there has been such a violation. (Finding B,2, page 11)
4. The USAID Contracting Officer exceeded his delegated authority by \$40,000 in executing Amendment No. 1 which increased the ILC Contract by \$140,000. The USAID is currently taking steps to rectify this situation. (Finding B,3, page 12)

IV. AUDIT FINDINGS AND RECOMMENDATIONS

A. Overall Performance

1. General

The objectives of the Legal Education Reform Project as described in the Project Agreement are to:

- (a) Achieve an improvement in the analytical rigor and social relevances of legal education.

- (b) Bring law deans, teachers and students into closer contact with problem areas of Colombian law through empirical research and student activities such as legal aid programs.
- (c) Encourage sensitivity of professors to public policy implications of their substantive areas of law.
- (d) Reinforce cooperation among law schools interested in reform both as a means to strengthen these efforts and to avoid duplication, and
- (e) Carry out a program of publication of relevant research.

Objectives (a) and (c) are long range due to the time span required to institute the necessary changes. The Project Appraisal Report (PAR) prepared in the latter part of FY 1971, indicates evidence of achievement in implementing objective (a) as follows:

- (1) The Los Andes University has been completely successful in using the analytical approach where an entirely new law curriculum has been instituted. Law facilities in other universities have been experimenting in various courses with generally good results.
- (2) The ARED is functioning as a self-sustaining institution, influencing all major law schools, as evidenced by all member universities meeting their budget contributions as required of ARED members.

The PAR did not evaluate the progress attained in the other objectives areas. The ensuing paragraphs describe what in our judgment, based on information obtained during our

examination, are the accomplishments obtained by the USAID in implementing the Project's objectives. We want, however, to give recognition to the political sensitivity of the Project and consequential need for the USAID to keep its direct involvement to a minimum level. Also, student strikes, unrest, and negative attitude regarding ARED motives, objectives and source of financial support, have contributed to the apparent slow progress.

2. Legal Aid Programs

Four of the five member faculties (Rosario is the exception) have legal aid programs. The emphasis of the legal aid programs has been shifted from providing legal assistance to the individual indigent to one of dissemination of legal information to the public. The local educational television channel has been used for this purpose. It is the opinion of the Ford Foundation representative, that in approximately three years ARED will be heavily involved in legal aid by trying test cases and its centers will operate in the same manner as those legal aid centers in the United States.

3. Research and Publications

This is one area where ARED has not made any significant achievement. ARED published one issue of the "Law Review" in August 1970, but its contents were not of the quality envisioned by the members and no further publications were made. ARED has indicated that it is considering using the funds earmarked for publications to finance short-term technicians in Methodology, Penal Law, and Techniques in Investigations.

4. Participant Training

In accordance with the provisions of the Contract, ILC in cooperation with the Ford Foundation has organized a training program for ARED member faculties. A total of 16 participants have been sent for training as follows: United States (10), Chile (5), and Mexico (1). Twelve participants have returned and all but one have resumed

their teaching activities at their sponsoring faculties. One returned participant was relieved of his duties, but is being considered for a professorship by another ARED member. The 16 participants are from the following faculties:

<u>Entity</u>	<u>No. of Participants</u>
Universidad del Cauca	7
Universidad de Antioquia	3
Universidad Externado de Colombia	2
Universidad del Rosario	2
Universidad de Los Andes	<u>2</u>
Total	16 =====

During the first year of USAID participation in the Project, it was noted that participants were experiencing difficulty in the U.S. due to improper preparation in the English language. As a result of the USAID evaluation made in FY 1971, intensive English language training is now given to participants in the U.S. before they assume specialized training.

5. In-Country Seminars

It is the opinion of USAID officials, the Ford Foundation representative, and ARED officials that this has been the most successful area of the Project. Six seminars in Methodology were given between January 1970 and July 1971, in which 63 ARED faculty professors participated, and professors from Costa Rica (2), Venezuela (2) and Mexico (1) attended as observers.

The 1971 ARED report states that two major benefits were obtained as the result of these seminars.

- (a) The genuine interest of participants in the development of new teaching techniques which was manifested by the search for authentic information, and the realization that not only the

professors, but the students also should have an active participation in this research.

- (b) The mutual discussion of experiences and material resulted in an active collaboration and useful exchange of information among the participating professors.

But more important, the ARED report states, was that these seminars were the focal point in creating a group of professors who were seriously aware of the need and the form that legal education reform must take.

6. Law Libraries

The general work plan to achieve Project objectives includes a training program for law libraries. As part of the implementation of the work plan in this area, one participant studied Library Science for one year in Simmons College, Boston, Massachusetts. Shortly after returning to Colombia, this participant acted as coordinator of a seminar on Legal Libraries. In its annual report ARED indicates that the initiation of the law library program was behind schedule because it was found that the individual ARED member needs vary in this area. While some members find a centralized library convenient for their purposes, others favor a decentralized library as a better means of satisfying their requirements. It is to be noted that none of the money budgeted for a visiting library professor (PIO/T 00209 for \$9,500, and PIO/T 10114 for \$5,000) has been expended. The total of \$14,500 was for salaries and other related expenses such as travel and per diem. (See Finding B.1, page 9)

7. Visiting North American Professors

The first visiting (long-term) North American professor, appointed by and originally financed by the Ford Foundation, arrived in Colombia in August 1969 for a one-year assignment. The second professor arrived in Colombia on July 31, 1970, a few days before his predecessor's departure, and left on January 15, 1972.

ARED, in its annual report, indicated several areas in which these professors did not, in their opinion, fulfill expectations, since the first professor only taught at the Los Andes University when it was intended all member universities would benefit from his services; and the second professor was criticized for not carrying out a specific program which was planned for the universities. In addition, both professors, did not have the necessary proficiency in Spanish as was claimed to be required by ARED.

On balance, however, in further reviewing this situation it appears the professors were not entirely at fault in these situations. Apparently there was lack of proper coordination between ARED and ILC in determining the professor's duties. This would also apply to a large extent in that the USAID should have assisted the ARED and ILC in clarifying the professors' duties since the ILC-USAID Contract paid for the professors' assistance in this Project. Also, the ILC-USAID Contract was, at least, loosely worded with respect to any specific requirements for the professors in the Spanish language since it only stated "a reasonable working knowledge of Spanish" was required.

However, the ARED has taken the necessary action by recommending in its annual report a broader selection of candidates for visiting professors to include North American, Latin America, and European professors, but first obtaining assurance of their ability to speak Spanish and a reasonable knowledge of the Colombian legal system. It is also recommended that short-term assignments be given preference over long-term assignments. The USAID Project Manager has indicated that ILC will no longer hire technicians for long-term assignments (the one who left in January has not been replaced) and that in the future only short-term technicians will be used in the Project.

B. Findings Requiring Corrective Action

1. Unexpended Obligations

a. On June 26, 1970, \$190,000 was obligated to cover the ILC Contract USAID 514-127-T (PIO/T 00209) for the period July 1, 1969 to July 31, 1971. This Contract

included some \$55,400 to be applied retroactively for expenses of the first visiting professor for the first year which had been advanced by the Ford Foundation who appointed the professor. AID reimbursed the ILC who in turn paid the Ford Foundation.

ILC has been reimbursed by vouchers through December 31, 1971 in the total of \$171,307.29, leaving an unexpended balance of \$18,692.71. It appears that the only remaining expenditures against the initial PIO/T (514-153-3-00209) will be for a participant still undergoing training in the United States, who is scheduled to return in September 1972, and the only estimated expense necessary to complete the training is about \$2,000. We discussed this with the Office of the Controller, the Human Resources Division and the Program Office and all were in agreement that the USAID should request ILC to submit an estimate of the amount needed to finance the projected expenditures under PIO/T 00209 and then take action to deobligate the remaining balance.

b. ProAg No. 13, issued on May 31, 1971, provides funds (\$140,000) for a one-year extension of the ILC Contract (through July 31, 1972). As of February 29, 1972, ILC had submitted reimbursement vouchers totaling \$20,193.15 or 14.42% of the available funds. Due to ARED's shift in Project priorities, such as preferring short-term technicians over long-term technicians, and not intending to utilize funds available for services of law library consultants, it appears that only participant training funds (\$65,800) will be fully expended as originally obligated, which would leave an unexpended balance by the Final Contribution Date of approximately \$54,000. We were informed by the HRD that ARED has been made aware of the fact that funds not used may have to be deobligated by the USAID. Since the ProAg expires on July 31, 1972, the USAID should (1) request the ILC to submit at the earliest date a plan and budget reflecting their present priorities, and (2) move forward on the basis of this information in order to meet the current Final Contribution Date, or determine what segments of the project may be implemented in FY 1973 with planned additional funds, or (3) consider deobligation of the unexpended balance in the event a decision is made not to implement the present planned extension for FY 1973.

2. Publication

Professor Lloyd Weinreb of Harvard University was contracted by ILC to provide technical assistance to ARED during the period August 1969-August 1970. Mr. Weinreb agreed with the understanding that he would be allowed to do research in France during the months of November and December 1969. Expenses for these two months were not charged to the ILC-USAID Contract. In his final report Mr. Weinreb discussed among other things how he had had sufficient time during his one-year stay in Colombia to write a first and second draft of a book on criminal process. He stated that his intention was to write a book about criminal process as such rather than a description of a particular country's criminal procedures, and that his book would not be influenced to any extent by the Colombian criminal system.

In discussing Professor Weinreb's literary effort while in Colombia, the Ford Foundation representative stated that the book may well be published by now. The HRD informed us that the USAID did not receive or give its approval prior to publication (if any) of Professor Weinreb's book.

Article XV.A,3, states "...The Contractor may not publish either in whole or in part, any report or information obtained during the period of advisory services without prior written approval of the USAID."

We are aware that since (1) the professor is no longer stationed in Colombia or under contract to AID, (2) it has not been verified that the book has been published, and if published that (3) the book contains any information obtained during his period of advisory services, that no violation of the Contract clause can be determined at this time on information presently available to the Mission.

Nevertheless, in order to satisfy Contract requirements, we strongly suggest that USAID management pursue this matter further and take the necessary action to determine if there may have been a violation of the Contract Publication clause.

3. Delegation of Authority

The USAID requested AID/W for authority to sign the ILC Contract which exceeded the statutory \$100,000 authority delegated to the Latin American Mission Directors in their Contracting Officer capacity. AID/W authorized the USAID/Colombia Mission Director authority to sign a Contract with the ILC in an amount, including any amendments thereto, not to exceed \$290,000.

The original ILC-USAID Contract was signed on June 26, 1970, having a dollar cost of \$190,000 and an estimated completion date of July 31, 1971. Amendment No. 1 increased the dollar cost of the Contract by \$140,000 for a total Contract obligation of \$330,000. In executing Amendment No. 1, the Contracting Officer exceeded his delegated authority by \$40,000.

We brought this matter to the attention of the USAID Executive Officer who has been delegated all contracting duties and to the Office of the Controller. In our discussion with both USAID officers, we were informed that no procedures were in existence to control the commitment amounts in relation to delegated authority. This situation has now been rectified by the USAID. Also, on February 21, 1972, the USAID asked AID/W for additional authority to cover the \$40,000 exceeded by the execution of Amendment No. 1.