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UNITED STATES INTERNATIONAL DEVELOPMENT COOPERATION AGENCY
AGENCY FOR INTERNATIONAL DEVELOPMENT
Washington, D. C. 20523

NICARAGUA

PROJECT PAPER

STRENGTHENING DEMOCRATIC INSTITUTIONS
AMENDMENT NUMBER 2

AID/LAC/P-866
CR - 635

PROJECT NUMBER: 524-0316

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|--|------------------------------------|--------------------------|-------------------------------------|---|--|--------------------------------|-----------|----------------------------|---------|
| Agency for International Development PROJECT DATA SHEET | | | | 1. Transaction Code [C] A = Add Amendment No. C = Change D = Delete <u>2</u> | | Document Code 3 | | | |
| 2. Country/Entity <p style="text-align: center;">Nicaragua</p> | | | | 3. Project Number <p style="text-align: center;">524-0316</p> | | | | | |
| 4. Bureau/Office <p style="text-align: center;">LAC</p> | | [524] | | 5. Project Title (Maximum 40 characters) <p style="text-align: center;">Strengthening Democratic Institutions</p> | | | | | |
| 6. Project Assistance Completion Date (PACD) MM DD YY (1 2 13 11 1971) | | | | 7. Estimated Date of Obligation (Under "B" below, enter 1,2,3, or 4) A. Initial FY 9 1 B. Quarter 3 C. Final FY 9 6 | | | | | |
| 8. Costs \$000 or Equivalent \$ 1 = | | | | | | | | | |
| A. Funding Source | | First FY 91_ | | | Life of Project | | | | |
| | | B. FX | C. I/C | D. Total | E. FX | F. I/C | G. TOTAL | | |
| AID Appropriated Total | | 1,400 | 1,600 | 3,000 | 9,865 | 8,135 | 18,000 | | |
| (Grant) | | (1,400) | (1,600) | (3,000) | (9,865) | (8,135) | (18,000) | | |
| (Loan) | | | | | | | | | |
| Other | | 1. | | | | | | | |
| U.S. | | 2. | | | | | | | |
| Host Country | | ** Contributions in-kind | | | ** | (205)** | (205)** | | |
| Other Donor(s) | | | | | | | | | |
| TOTALS | | 1,400 | 1,600 | 3,000 | 9,865 | 8,440 | 18,205 | | |
| 9. Schedule of AID Funding (\$000) | | | | | | | | | |
| A. Appropriation | B. Primary Purpose | C. Primary Tech. Code | | D. Obligations to Date | | E. Amount Approved This Action | | F. Life of Project | |
| | | 1. Grant | 2. Loan | 1. Grant | 2. Loan | 1. Grant | 2. Loan | 1. Grant | 2. Loan |
| (1) ESE | 701B | 720 | | 9,000 | | 3,000 | | 14,000 | - |
| (2) PSEE | | | | 1,000 | | | | 1,000 | |
| (3) DA | | | | | | 1,000 | | 3,000 | |
| (4) | | | | | | | | | |
| TOTALS | | | | 10,000 | | 4,000 | | 18,000 | - |
| 10. Secondary Technical Codes (maximum 6 codes of 3 positions each) | | | | | | | | 11. Secondary Purpose Code | |
| 721 | | | | | | | | | |
| 12. Special Concerns Codes (maximum 7 codes of 4 positions each) | | | | | | | | | |
| A. Code | BR | BL | BU | | | | | | |
| B. Amount | | | | | | | | | |
| 13. Project Purpose (maximum 480 characters) | | | | | | | | | |
| To strengthen democratic institutions and the values and attitudes that nurture them. | | | | | | | | | |
| 14. Schedule Evaluations | | | | | 15. Source/Origin of Goods and Services | | | | |
| MM | YY | MM | YY | | [X] 000 | [] 941 | [X] Local | [X] Other (specify) | CACM |
| Interim | 09 | 95 | Final | 1 2 | 9 7 | | | | |
| 16. Amendments/Nature of Change Proposed (This is page 1 of a ___ page PP Amendment) | | | | | | | | | |
| This amendment adds an Administration of Justice Component to the Project and increases the LOP funding by \$4 million and extends PACD to 12/31/97. | | | | | | | | | |
| Approved by | Signature <i>Jour Salazar</i> | | | | DATE DOCUMENT RECEIVED IN AID/W. OR FOR AID/W DOCUMENTS. DATE OF DISTRIBUTION | | | | |
| | Title: Director USAID/Nicaragua | | Date Signed: <i>FEB 15, 1994</i> | | | | | | |

AUTHORIZATION AMENDMENT NUMBER 2

Name of Country/Entity: Nicaragua

Name of Project/Project Number: Strengthening Democratic
Institutions (524-0316)

1. Pursuant to Sections 104 and 531 of the Foreign Assistance Act of 1961, as amended, the Strengthening Democratic Institutions Project for Nicaragua was authorized on June 17, 1991. The amended authorization for this project is hereby amended again as follows:

- A. Paragraph 1 of the Authorization is amended by replacing the sum of "Fourteen Million U.S. Dollars (US\$14,000,000)" with the sum of "Eighteen Million U. S. Dollars (US\$18,000,000)" in order to add four million U.S. dollars for the financing of the dollar and local currency costs of the Administration of Justice component of the project.
- B. Paragraph 1 of the Authorization is further amended by changing the Planned Project Assistance Completion Date, June 30, 1995, to December 31, 1997.
- C. Paragraph 2 of the Authorization is deleted in its entirety and replaced by the following paragraph 2:

"The project consists of a series of activities to strengthen democratic institutions and the values and attitudes that nurture them by supporting the free press, key interest groups, human rights groups, national and municipal government entities, and civic education programs. It also supports governmental and other local efforts to improve the effectiveness of the administration of justice system in Nicaragua."

- D. The following Paragraph C: "Conditions Precedent to Disbursement for Administration of Justice Activities" is added to the Authorization:

"(1) Prior to initial disbursement for the Law Reform Activity, the President of the Republic will establish a National Law Reform Commission. The Commission will be considered to be established when

the names of the members are provided to AID as well as the by-laws and a date for its first meeting. All disbursements for this activity will be excluded until the condition is met, with the exception of technical assistance to develop the National Reform Commission by-laws.

(2) Prior to initial disbursement for the Prosecutorial and Defense Services Activity, the Attorney General will hire and have in place a National Director for the National Public Defender's office."

2. Except as amended herein, the amended Authorization cited above remains in full force and effect.

Signature: Janet C. Ballantyne
Janet C. Ballantyne
Director, USAID/Nicaragua

Date: Feb. 15, 1994

Dodd
Drafted: PDIS:Lodle:01/03/94

Clearances:

| | | |
|----------------|-----------------|----------------------|
| GDO:KArmstrong | <u>in draft</u> | Date: <u>1/17/94</u> |
| LA:MVelázquez | <u>in draft</u> | Date: <u>1/18/94</u> |
| OFIN:RLayton | <u>in draft</u> | Date: <u>1/13/94</u> |
| DD:MSilverman | <u>MS</u> | Date: <u>2/9/94</u> |

PDIS:AMD:07/27/93
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**STRENGTHENING DEMOCRATIC INSTITUTIONS
(AMENDMENT # 1 FOR ADMINISTRATIVE OF JUSTICE)**

PROJECT NO. 524-0316

THIS PP COMPLIES WITH CURRENT AGENCY GUIDELINES ON THE METHODS OF FINANCING AND IMPLEMENTATION AND HAS PROVIDED FOR ADEQUATE AUDIT COVERAGE IN ACCORDANCE WITH THE PAYMENT VERIFICATION POLICY IMPLEMENTATION GUIDANCE.


RICHARD W. LAYTON
CONTROLLER

**Strengthening Democratic Institutions
Project Paper Amendment
Administration of Justice Component**

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ACRONYMS

| | |
|---------|--|
| AG | Attorney General |
| AGO | Attorney General's Office |
| AOJ | Administration of Justice |
| AOJ/C | Administration of Justice/Coordinator |
| CBMP | Community-based Mediation Programs |
| C/GDO | Chief, General Development Office |
| DI/C | Democratic Initiatives/Coordinator |
| EEC | European Economic Community |
| ESF | Economic Support Funds |
| FSLN | Frente Sandinista de Liberación Nacional |
| GON | Government of Nicaragua |
| ICITAP | International Criminal Investigative Training Assistance Program |
| IEN | Instituto de Estudios Nicaragüenses |
| ILANUD | United Nations Latin American Institute for the Prevention of Crime and Treatment of Offenders |
| LNGO | Local Non-Governmental Organizations |
| LOP | Life of Project |
| MED | Nicaraguan Ministry of Education |
| NPD | New Project Description |
| OPD | Office of the Public Defender |
| PACD | Project Assistance Completion Date |
| PDD | Partnership for Democracy and Development |
| PPAS | Program Performance Assessment System |
| PRODERE | Programa de Desarrollo de los Desplazados, Repatriados, y Refugiados |
| PSC | Personal Services Contract(or) |
| RAJO | AID Regional Administration of Justice Office |
| RFP | Request for Proposals |
| SDI | Strengthening Democratic Institutions Project |
| UNDP | United Nations Development Program |
| UNESCO | United Nations Educational, Scientific, and Cultural Organizations |
| UNO | Union Nacional Opositora |

I. SUMMARY

A. Basis for the Amendment

The Strengthening Democratic Institutions (SDI) Project was approved on June 17, 1991, as a major step to support Nicaragua's democratization process. As implied in its purpose, the focus of the Project was to strengthen the institutions that normally play key roles in democratic societies. The Project did not include an administration of justice component because at that time the Government of Nicaragua had not established the required foundation for effective international support to develop an effective judicial system. Instead, the decision was made to provide assistance in areas where relatively immediate impact could be made in the context of the evolving political, economic and social situation. It was also decided to analyze carefully the situation in the judicial sector to provide the basis for an Administration of Justice Component at the opportune time.

Meanwhile, following two studies of Nicaragua's judicial sector, USAID/Nicaragua sponsored a bridge activity to train judges, court personnel and prosecutors. However, a broader, more comprehensive support effort is required and the conditions now exist to do it. In this sense, as a result of the assistance provided through the SDI Project, progress has been made toward attaining the targets that will further the democratic processes in Nicaragua. For example:

- a civics education curriculum has been designed and the training of 24 master civics education teachers is now underway.
- 20 workshops and seminars for leaders of cooperatives and private enterprises on their respective roles in democracy have been conducted, 11 documents on different aspects of democracy and cooperativism have been produced as didactic materials, 10 articles on democracy have been published and radio programs on three different Nicaraguan stations have been broadcast.
- workshops have been held for university and secondary school students on the creation of student organizations, legislation affecting youth, community participation and development.
- a civic education program for women community and student leaders was carried out. The program produced a weekly radio program on women in democracy and conducted four public fora and two seminars on different aspects of women participation in democracy.
- programs have been carried out to strengthen the media. For instance, Canal 8, the only independent and privately-owned TV channel in Nicaragua, has improved the format of its news broadcast and continues to produce its public affairs programs.

- The private organization known as FUNDEMOS has held 17 seminars, fora and debates on topics of national relevance, in addition to three workshops on leadership and communication skills for officials of democratic political parties.
- a program of conferences and training of civilians on civil-military relations, producing a first report summarizing the interviews by international experts of the principal governmental, armed-forces, and civic leaders on the subject is underway.
- 26 new unions have been created and strengthened through 80 training courses.
- an electronic voting and integrated sound system in the National Assembly has been installed and a computerized Management Information System in the Legislature has been designed.
- training seminars have been carried out for the members of the Assembly and the public on Presidential vs. Parliamentary systems of government.
- the draft of a strategy for municipal decentralization has been presented to the GON.

Yet, despite the above progress in helping Nicaragua in its democratization process, the GON faces a formidable challenge as it attempts to establish a sound administration of justice system, an essential element of a well-functioning democratic society.

Slightly under four years since its election, the GON is now poised to undertake major reforms to its justice system. However, it does not have the financial and qualified personnel to do it. Thus, consistent with USG objectives in Nicaragua, the Project will support such GON efforts. The Project will do this by providing technical assistance, training and commodity support under a fifth component -- Administration of Justice (AOJ). Such assistance will help the GON reform its legal codes, improve court management, establish defender services, improve the prosecutorial function, train judicial sector personnel, and establish pilot conflict resolution mechanisms in communities and schools.

The addition of the AOJ component is necessary to reinforce current efforts towards the overall sectoral goal: to contribute to the development of a stable, enduring democratic system in Nicaragua that protects human rights, promotes justice, encourages broad participation, and facilitates higher levels of material and social well-being.

The timing for the amendment is propitious because the combination of the above progress under the existing project components and the GON's readiness to carry out critical reforms provide a solid foundation for sustained progress in the implementation of an improved AOJ system, thus furthering a critical USG goal in Nicaragua.

B. Scope of the Amendment

The addition of the AOJ component will affect the overall scope of the SDI Project, the Project Assistance Completion Date (PACD), the Project's funding requirements and the implementation arrangements. It will not affect the goal and purpose, nor the existing components. These changes are summarized below and each is fully explained in the Project Description, Implementation and Financial Plan sections of this paper.

1. The Scope of the Project

The scope of the SDI Project will be expanded to add a series of inter-linked activities under a fifth AOJ component. All the proposed activities revolve around the overall original Project purpose of strengthening democratic institutions and the values and attitudes that nurture them.

The purpose of the AOJ component is to strengthen Nicaragua's evolving justice system. It will do this by providing assistance to modernize and professionalize the judicial sector and its personnel and by establishing conflict resolution mechanisms in schools and communities.

The purpose of this component will be achieved through five inter-linked activities, which, together reinforce the activities currently underway under the initial four Project components. These activities represent first efforts at change. The new activities under the AOJ component are summarized below. These are based on the Institutional, Social Soundness, Criminal Process, and Economic Analyses contained in Annexes C of this paper. They are:

- a. Law Reform**, under which the Project will support GON efforts to modify the principal legislative framework for the Nicaraguan justice system. These proposed law reforms will deal with issues of human rights protection, modern criminal law, delays of judicial cases, the overall organization and administration of the judicial system, the establishment of a strong independent prosecutorial system and public defender systems, and the resolution of conflicts arising from actions taken by the executive branch of government.
- b. Prosecutorial and Defense Services**, under which the Project will help the GON to reorganize the Attorney General's Office and establish a Public Defender's Office. Efforts will focus on: (1) strengthening the role of prosecutors to improve the operation of the criminal law system, and (b) protecting human rights by offering public defender services to those accused of crimes who are unable to pay.
- c. Judicial Administration Improvement**, under which the Project will provide assistance to improve judicial statistics, establish an effective judicial records and records management system, and develop administrative manuals for judicial sector personnel.

- d. **Judicial Sector Human Resources Development**, under which the project will provide resources mainly to train: (1) judges and lawyers in Nicaragua's new legal and ethics codes, concepts, systems and operational methodologies, and (2) judicial support staff in such topics as docketing, record keeping, records management, record storage and retrieval, records retention, computer software, etc.
- e. **Mediation Programs**, under which the Project will provide resources to create alternative, informal, school and community-based conflict resolution mechanisms that are free, fast and effective.

The background, the rationale, the scope, the implementation arrangements, and the financial requirements to implement the above activities are fully discussed in subsequent sections of this Project Paper Amendment.

Part IV of this paper contains the major indicators that will be used to measure the End of Project Status (EOPS) and the accomplishment of planned outputs under the AOJ Project Component. Key EOPS include: (a) the increase in the level of confidence of Nicaragua's justice system as measured by qualitative analyses of project impact; and (b) the degree to which judicial sector institutions are strengthened as measured by impact evaluations of the performance of personnel trained, administrative procedures implemented, the aging analysis of the caseload inventories, etc. The Description part of this paper (Part IV), the Evaluation Plan and the Logical Framework provide further details.

Except as noted above, the Project's components described in the Project Paper of June 17, 1991 remain unchanged. The original components are: 1. Promotion of Democratic Values, 2. Private Institutions of Pluralism, 3. Effective Government, and 4. Protection of Human Rights.

2. Funding Requirements

This Amendment increases the Life-of-Project funding by \$4 million -- from the currently authorized level of \$14 million to \$18 million. The \$4 million will finance dollar and local currency costs for the new activities summarized above. This amount is planned to be used as follows (in US\$000s):

| Category | A.I.D. | | |
|---|--------|------|-------|
| | US\$ | L.C. | Total |
| I. PROJECT MANAGEMENT AND COORDINATION ₁ | 1,083 | 155 | 1,238 |
| II. COMPONENT ACTIVITIES: | | | 0 |
| A. LAW REFORM | 1,132 | | 1,132 |
| B. PROSECUTORIAL AND DEFENSE SERVICES | 369 | | 369 |
| C. JUDICIAL ADMINISTRATION | 276 | | 276 |
| D. TRAINING SUPPORT | 107 | | 107 |
| E. MEDIATION PROGRAMS | 292 | | 292 |
| III. EVALUATIONS* | * | | *0 |
| IV. AUDITS* | * | | 0 |
| V. CONTINGENCY & INFLATION | 586 | | 586 |
| Total | 3,845 | 155 | 4,000 |

* Funds for evaluations and audits were provided in the original Project budget.
₁ includes both AID monitoring and contractor management costs.

An estimated \$3.26 million of the additional funding will be used to finance an institutional contract with a US firm to be selected competitively. This contract will include funds for technical assistance, training and commodities. This contracting arrangement will facilitate the implementation of component activities and greatly reduce the administrative burden of the USAID direct hire staff. The balance will be used to cover overall Project coordination and start up costs (\$155,000) and contingency and inflation (\$586,000).

The GON will complement the above A.I.D. inputs with contributions in-kind valued at an estimated \$205,000 plus costs on an in-kind basis such as office space and counterpart support. This represents approximately 5 percent of the total implementation cost of the AOJ component. The GON contributions are detailed in Part VI (Financial Plan and Cost Estimates). These include: office equipment, publications to be printed, salaries of public defenders who will participate directly in the implementation of the component, office space and supplies, and a vehicle.

12.12

3. Extension of Life-of Project

The planned life-of-project in the authorization must be extended from June 30, 1995 to December 31, 1997. The proposed extension will result in a cumulative LOP period of six years and six months. This extension is necessary to provide enough time for the process of procuring goods and services on a competitive basis and to achieve the outputs under the AOJ activity. Given the evolving nature of this effort, the Mission will review progress at the end of 18 months of implementation to see whether additional time and money will be needed for this effort.

C. Implementation Arrangements

Currently, the overall coordination of the SDI Project is being carried out by a Democratic Initiatives Coordinator (DI/C) hired under a Personal Services Contract (PSC). This person, who works under the guidance and supervision of the USAID/Nicaragua Chief/General Development Officer (C/GDO), and the new USDH Chief of Democratic Initiatives will continue to coordinate the Project, including the activities under the AOJ component. The DI/C will be assisted by a local PSC, who will monitor the implementation of activities under the AOJ component.

A specialized US firm will be contracted to work with the GON and local organizations in implementing component activities. A Request for Proposals (RFP) will be issued and a contractor will be selected by full and open competition. The institutional contractor will be required to open an office within 90 days of the award of the contract. The office will be staffed with two U.S. professional positions (an AOJ Project Director/Chief of Party with court administrative experience and with strong management and overall technical assistance responsibilities, and a Project Administrator with experience in the administration of contracts in Latin America and familiarity with AID administrative norms). The Project will also provide funds for one clerical position.

D. Project Paper Amendment Approval Factors

(1) **AID/W Guidance.** Per State 103600 of April 7, 1993, the New Project Description (NPD) which proposed an amendment of the SDI Project to add an AOJ component was reviewed in AID/W and approved for final design. The AA/LAC delegated the authority for the USAID/Nicaragua Director to authorize the Amendment and add \$4 million to the current authorized amount of \$14 million. The guidance and key concerns expressed in the AID/W cable are addressed as follows:

(a) AID/W suggested that the PP supplement describe how the Mission intends to establish and track benchmarks, both in terms of technical improvements in the sector and public perception of the judicial process.

Part VI.D of this paper (Project Monitoring, Information, and Evaluation Plan) covers this suggestion.

(b) AID/W suggested that the Mission examine the need to obtain cooperation in written form from the GON to deal with the topics of law reform.

This suggestion is discussed in Part VI (Conditions Precedent and Covenants) of this paper. Also, the Project Agreement Amendment that will be signed with the GON shortly after this PP Amendment is authorized will contain the required covenants on law reform.

(c) AID/W suggested that the Mission maintain close communications with LAC/CEN and LAC/DI so that any relevant decisions from the process now underway can be reflected, as necessary, into the Project design.

The Mission maintains a close working relationship with concerned AID/W offices and has reflected relevant suggestions in the design.

- (2) **Project Analyses.** The Project design team which prepared the Project Paper Amendment has concluded that this Amendment to the SDI Project has sufficient sound institutional, technical, financial and social bases to be successful. This conclusion is based on the various Project Analyses carried out by both outside consultants and USAID/Nicaragua officers who participated in the design.
- (3) **Environmental Threshold Decision.** The LAC Bureau Environmental Officer has approved the USAID/Nicaragua recommendation for a Categorical Exclusion because the Project Paper Amendment is not expected to have an adverse impact on the environment.

E. Recommendation

USAID/Nicaragua has determined that the Amendment to the SDI Project is technically, socially and administratively feasible. It will deal with key problems affecting the administration of justice and furthers the important USG objective of supporting actions to foster democracy and the overall quality of life of Nicaraguans. Thus, approval of an additional \$4 million in A.I.D. funding to cover new judicial sector activities is recommended.

II. AMENDMENT BACKGROUND and PROGRESS TO-DATE

A. Overview of the Judicial Sector

Historically, the judicial system of Nicaragua has been one of the weakest in Latin America. The public budget for the judiciary has been well under one percent of the total budget, reflecting governmental priorities from the Somoza era through the Sandinista government. Only in the last two years has the judiciary begun to receive support from the other branches of government.

Nicaragua is a country without democratic traditions. The idea of a separate co-equal branch of government has been anathema to the political leadership. This factor primarily explains the current conditions of the judicial system. The cumulative effects of isolation and downgrading has led to a justice system which is greatly inconsistent with the ideal of real democracy. The requirements to strengthen the judicial sector are so varied and significant that an integrated evolutionary approach is required, since the system does not have the capacity to simultaneously undertake all the needed reforms.

A quote from a 1990 study by Solis/Wilson, entitled "Political Transition and the Administration of Justice in Nicaragua", provides a good idea of the situation of the judicial sector:

"Concern over judicial independence is not unique to the Sandinista period. The lack of a democratic political culture has been a negative factor in the development of an independent judiciary. Throughout its history, the country's tribunals, including the Supreme Court, have been tainted by favoritism resulting both from reliance on judicial positions as patronage and political interference in court procedures. The creation of special tribunals by the Sandinistas, under the jurisdiction of the Executive (Ministries of the Interior, Labor and Welfare, and Agriculture), exacerbated this tendency."

The recent history of the judiciary in Nicaragua during the Sandinista era ironically mirrors the practices under the Somoza regime. The judiciary has been marginalized by the executive authorities. The Sandinistas stripped the judicial structure of its functions and created specialized courts in the name of efficiency. This included removing the military from the jurisdiction of the judicial system, which is still in effect.

The creation of a parallel system of justice further undermined the already weak judicial system. Under the Sandinistas, actions were overtly directed at making the judiciary and the auxiliary judicial institutions parts of the political arm of the government. This strategy was most evident in the establishment of the specialized courts that required one member be a lawyer, while the other two members were lay citizens named by the Ministry of Justice according to their revolutionary commitment. During this period, the philosophical view of the government was to isolate the system from changes occurring in neighboring countries. The legal system's evolution went in a direction away from those in democratic societies. This isolation retarded the development of the legal system, thus creating a significant need for a law reform effort to modernize the system.

The stunted development of the institutions of justice that occurred throughout Nicaragua's history highlight the need for major reforms and resources to support the operation of the judicial system. The prosecutorial function has not been significant. In this respect, the aforesaid study states that "Due to the utilization of police officials as investigating magistrates, the prosecutor is relegated to a paper-pushing role and their function in criminal proceedings has been described as 'null'."

Presently, there is no prosecutorial discretion. No organized defense services exist. The public opinion of the judicial system and of the legal profession has been very low. A recent survey shows 41 percent approval of the operation of the Supreme Court, compared to 38 percent in 1991 (Instituto de Estudios Nicaragüenses [IEN], Resumen Ejecutivo de la Investigación: La Problemática de la Gobernabilidad en Nicaragua, March 1992, p. 7). In sum, the present state of the legal system and its institutions is an obstacle to establishing independent, well-run democratic institutions and traditions.

B. Progress To-Date

In the past two years, the judicial system under the leadership of the Supreme Court has begun to address some of the major weaknesses in the sector. Since the 1990 study mentioned above, there have been several changes, most notably: an increase in funding for the judicial system (from 0.4 percent to 1.8 percent of the national budget); the replacement by the Supreme Court of 70 percent of the lay judges (traditionally lacking judicial training or background); replacement of 2 appellate justices for incompetence; modest improvement in the salary of judges; creation of a judicial school; implementation of a strategy to construct an additional 130 courthouses (7 have been built); automation of the judiciary's financial system; and recognition of the need to reform the legal codes.

The changes that have occurred to date are modest in comparison to the need, but provide a basis for further reforms. In the political environment, where there is no consensus regarding the national direction, these changes are significant. The construction of courthouses is the first tangible evidence of a new judicial system. Along with the new courthouses, the Supreme Court has begun to replace lay judges with newly trained lawyer judges in high conflict areas. This will remove some of the most ideologically committed judges and increase the credibility of the judiciary. As of April 1993, the law schools are requiring a year of service (servicio social) to the judicial system for the new law graduates. Improvement of the quality of individuals who become judges is a critical need (80 percent of respondents in a recent survey believe there is corruption in the National Government, and that officials were placing personal power above the needs of the country). In December 1993, the President made changes to the Supreme Court which should result in a politically balanced Court.

The Supreme Court's strategy is to build confidence through actions that do not lead to additional conflict. In this low-key, unpublicized manner, the Court intends to lay the foundation for wider reforms.

Presently, there is recognition about the need to modify the legal system to build a stronger and more effective judiciary. The steps are incremental and intended to enable the

system to expand its capacity to manage itself in order to assume increasingly larger agendas. Under the leadership of the President of the Supreme Court, the Court Magistrates have pursued judicial system changes, despite opposition. These efforts were recognized by the Presidents of Supreme Courts of Central America when they selected Managua as the location for a Central American Supreme Court.

Key changes to date include: the successful effort to remove employees in the registry of deeds who were falsifying documents; the highly successful automation of the financial support system for the court's budget (completed with the donation of AID computers funded from the Public Sector Support Project); and the program to construct and fully equip new courthouses to put judges in judicially owned and controlled buildings, improve the image of the judiciary and provide suitable living quarters for the new young judges who are training for assignments in the rural areas. This program has completed construction of court houses and judges's residences and placed new judges in areas of conflict such as Pantasma, San Juan del Rio Coco, etc.

III. Amendment Problem Statement, Rationale and Strategy

A. Problem Statement and Rationale

A quote from the Solis/Wilson study cited above sums-up the justification for the addition of the AOJ component to the SDI Project.

"The Nicaraguan Justice Sector is seriously hampered by technical problems ranging from an insufficient number of lawyers, to inadequate training for justice personnel, deficient court administration practices or outdated legislation inherited from the late 19th century. These and other shortcomings have rendered the sector incapable of playing a significant role in the current institutionalization process. Thus, far from strengthening democratic institutions, the weakness of the Justice Sector has resulted in the maintenance of traditional levels of politicization within its structures, a trend which has historically made the Judiciary captive of the Executive....Any system of justice depends on a normative framework which outlines its boundaries and procedures. *Nicaragua is in urgent need of modernization of its codes.*"

Since that was written in 1990, conditions for initiating significant legal reforms have improved. Public perception is that there is more democracy in Nicaragua today -- 53 percent compared to 43 percent in 1991 (IEN, Resumen Ejecutivo de la Investigación, p. 4). President Chamorro declared this year's priority to be the establishment of the Rule of Law. Recognition by the executive branch of the importance of establishing an independent strong judicial branch has also been manifested in the executive's willingness to increase funding for the judiciary and reorganize the Attorney General's Office into a Ministry of Justice. Additionally, the President has agreed to establish a National Law Reform Commission which will involve two prominent legislators, the President's legal advisor, a distinguished law professor, the Attorney General, and a member of the Supreme Court.

The leaders of the legal community support the need for major reform. Under the leadership of the Supreme Court, notably its President, all five law schools have recently signed an agreement to require all graduating law students to give one year of service to the legal system. The response from the students has been very positive -- many have volunteered their services to work in rural courts, or offered to serve as prosecutors or public defenders.

Further, there is support for judicial modernization and improvements in the human rights community. This community was a vigilant critic of the system during the Somoza and Sandinista period. Community leaders have elevated their call for reforms especially in the criminal justice system. Their concerns include the defense of the criminally accused, the past political polarization of the judicial system and the delays in criminal process causing significant numbers of accused to wait very long periods for trial sentence by judges. They also cite the maintenance of a separate criminal justice system for the military where several recent notorious crimes have occurred, as major problem areas.

The low public opinion of the judiciary is caused by the current conditions within the judicial system. However, as the system continues to replace the lay and politically motivated judges and begins to train and educate the other judges, it will create an environment of positive expectations. The introduction of statistics and record management systems, which are more reliable and less subject to tampering, will assist in elevating the judicial branch's own expectations of performance. Externally, the press and the public will demand more accountability because the quality of information available about the system will improve.

The creation of a fair and accessible system will generate higher levels of confidence in the system. A public defender office to protect against human rights abuses will give life to the constitutional language recognizing the right to representation.

Support for democratic initiatives in the justice sector is an essential component of the overall USG strategy of strengthening democratic institutions in Nicaragua. This component begins to assist the GON to address the myriad of crises facing the justice system. The crises include obsolete and poorly conceived criminal procedures and criminal law; a court infrastructure which has suffered through many years of neglect; the absence of an educational capacity to address the needs of the judiciary, support staff and prosecutors; inadequate legal representation of those accused of crime; poorly trained and unprofessional judges; and, a society bitterly divided after years of conflict.

Nicaragua has never experienced any concentrated effort to build democratic tradition. The component's contributions are a major step in the long process of creating a new way for this country to govern itself and break out of its recurrent cycle of autocratic rule. The necessary ingredients for a democratic society to function are in the process of being developed.

B. The Strategy

The AOJ Component seeks to support GON efforts to address the above problems in an integrated manner. This strategy includes supporting and improving the organizational infrastructure through court administrative improvements and training/education programs. The court administration program will improve the judicial system's capacity to manage itself and, therefore, improve the delivery of justice to its citizens. The program will also raise the public accountability of the judicial branch by providing a statistics system for producing data which can be publicly scrutinized.

The highest priority of the judicial community is reform of the criminal code and the criminal procedures code. President Violeta B. de Chamorro has agreed to name a National Law Reform Commission [the Commission] to oversee the legal reform process. The AOJ Component will provide technical assistance to the Commission in its work on these codes, the administrative procedures code and the organic law ("Ley Organica de Tribunales") which defines the court system. It will sponsor assistance to address management issues in the judicial system and expand the capacity of the judicial school to provide continuing education for court personnel on a number of key topics, including Nicaragua's first code of ethics for judges and lawyers.

Further, it will finance assistance to strengthen the prosecutorial function of the Attorney General's Office and create a public defender system. The mediation component will train teachers, school children, and community leaders in conflict resolution skills to improve the ability to reconcile differences that currently divide the country. This will provide a more appropriate conflict resolution method for minor disputes, and decrease the caseload of the court system.

The Component will provide short-term and long-term technical assistance, support for component implementation, training and commodities through an institutional contract. This contractor will work with GON and local entities in implementing the proposed activities under the component. Its responsibilities include administration of subcontracts and grants, and procurement. A project-funded office for the prime contractor will be located in the same building as the law reform personnel, situated as close as possible to the Supreme Court.

AID funding will support short-term technical assistance to assist the GON to conduct analytical studies, design new management systems, draft new laws, train individuals and provide assistance to relevant organizations. It will provide long-term technical assistance to the GON in developing new laws and assisting institutions to acquire new technical and administrative capabilities. The component will also finance: training in Nicaragua, other Latin countries and the U.S.; publications; and the procurement of computers, software, and related materials (communications equipment, office supplies, etc.).

The design of the Component reflects the participation of concerned public and private institutions. The Supreme Court has requested technical assistance for the Commission. The Attorney General has requested technical assistance for strengthening his Office and establishing a Public Defenders Office. The Ministry of Education has requested technical assistance for establishing mediation in the public schools; private nonprofit organizations have expressed interest in training volunteer community leaders.

C. Relationship of the AOJ Component to the A.I.D. Objectives and Strategy

The SDI Project supports the Agency's Democracy Initiative which seeks to focus A.I.D. experience, skills, and resources explicitly to help promote and consolidate democracy as the legitimate organizing principle for political systems throughout the world. The amended project will continue to support USAID/Nicaragua's Democratic Initiatives Program, its Central America Assistance Strategy and its Policy Dialogue Agenda.

D. Other Donors Programs

While there are numerous donors in Nicaragua, few are involved in the democracy sector, and even fewer support the administration of justice. The United Nations Development Program (UNDP) assisted the Supreme Court in the preparation of a project proposal that was presented to potential donors. The emphasis was on infrastructure, and received immediate support from the Italian-funded PRODERE project, managed by UNDP. PRODERE constructed 7 rural courthouses, including living quarters for the local judges (Casa de la Justicia) in highly conflicted areas.

Simultaneously, UNDP (with \$2.8 million Swedish funding, \$0.9 million UNDP) is constructing and equipping an additional 125 rural courthouses. Two additional courthouses will be built by UNDP on the Atlantic coast with Dutch financing through the PRORAAS project. This combined effort adequately addresses the infrastructure needs of the Court.

Other than this infrastructure input, assistance has been very limited. The European Economic Community (EEC) donated \$450,000 in 1991 for typewriters and other equipment. The Danish Government financed a study of local courts in Central America as part of the Partnership for Democracy and Development (PDD) effort. The Mexican Government provided two 18-month scholarships to train prosecutors. The Spanish Government has expressed interest in providing technical assistance with the Criminal Code. The British Government has expressed interest in the forensics laboratory; and the Danes, Norwegians and Canadians wish to continue exploring the sector.

The AID Regional Administration of Justice Office (RAJO) began supporting training and administration in the Nicaraguan Supreme Court in 1992, with a \$50,000 program through ILANUD (United Nations Latin American Institute for the Prevention of Crime and Treatment of Offenders). The Mission built upon this initial effort in its current \$380,000 one-year Cooperative Agreement with ILANUD that provides the Judicial School with technical assistance to train judges, prosecutors and court personnel. RAJO provides continuing technical assistance, as needed. In addition, office equipment, including computers, copiers, furniture, and accessories were provided for the Supreme Court and Attorney General's Office under the USAID-sponsored Public Sector Commodity Support Project.

Coordinating through the RAJO, the Mission has been able to call upon resources available through the PDD, and to ensure that developments in Nicaragua are adequately portrayed in PDD/AOJ meetings. Through this mechanism, the Mission will attempt to encourage other donor support for areas that are not now covered (e.g., commercial code, the forensics laboratory, the penitentiaries). PDD recently provided assistance to the Supreme Court on personnel and procurement systems, which may lead to a further project proposal.

Because of AID's limitations, the Mission has encouraged other donors to work with the police. The Spanish Government has worked on police professionalization, and the International Criminal Investigative Training Assistance Program (ICITAP) is seeking to strengthen its role in Nicaragua by working with the "Inspectoria Civil" of the Ministry of Government.

Given the limited number of donor activities in the sector, coordination is not yet a problem. The Mission has encouraged UNDP to take a more aggressive leadership role, and initial meetings have taken place. As AID's bilateral project activity in this sector begins, the Mission will seek to strengthen donor coordination efforts.

IV. PROJECT AMENDMENT DESCRIPTION

A. Project Goal and Purpose

The Goal and Purpose of the Project remain unchanged. The goal is to contribute to the development of a stable, enduring democratic system in Nicaragua that protects human rights, promotes justice, encourages participation, and facilitates higher levels of material and social well-being. The purpose of the SDI Project is to strengthen democratic institutions and the values and attitudes that nurtures them. The purpose of the AOJ Component is to strengthen Nicaragua's evolving justice system.

B. AOJ End of Project Status (EOPS)

By the end of the implementation period of the AOJ Component, the following is expected:

- An increase in the level of confidence of Nicaragua's justice system as measured by qualitative analyses of project impact.
- Strengthened judicial sector institutions as measured by impact evaluations of the performance of personnel trained, administrative procedures implemented, the aging analysis of the caseload inventories, etc.
- A Management Information System for the judicial sector established.
- An effective mediation program established in pilot communities throughout the country.
- Improved prosecutorial and defense services.

C. AOJ Component Outputs

The Logical Framework attached to this Amendment as Annex A provides detailed information about the planned outputs for the AOJ Component of the SDI Project. The major outputs that will be obtained to reach the above EOPS include:

- These law reforms passed by the National Assembly and signed by the President.
- Ethics Code developed and adopted.
- Administrative Procedures Manual issued.
- Attorney General Office reorganized.
- Defender's Office established.

- Docket card established and in use.
- A Criminal Procedure Code issued.
- A Revised Criminal Code issued.
- An Administrative Grievance Court established.
- An Organizational Law of the Judicial System issued.
- A pilot program developed and implemented to introduce improved prosecutorial and defense services.
- The number of judicial sector personnel trained. The target number will be set once the institutional contractor starts implementation activities.
- A plan to establish a mediation program developed and implemented.

D. Assumptions

Attaining the above EOPS and Outputs assumes that:

- The GON and the private sector continue to recognize that reforms of the law are needed and they sustain their support for the reform effort;
- political differences will not interfere with the progress of the reform (e.g., the impasse in the Legislature which began in September 1992 will be resolved so that legal reforms can be passed by a representative Congress);
- judicial system leaders will actively promote reforms; and
- the three relevant branches of government (legislative, executive, and judicial) will collaborate.

Regarding the specific targets and indicators for the above EOPS and outputs, please note that the baseline information is presently inadequate to define precisely the level to be attained for each. Thus, these will be reviewed and revised as necessary during the early stages of the implementation of the component, after arrival of technical assistance personnel.

E. Detailed Description of the AOJ Component

The AOJ Component will provide funds to finance technical assistance, training, commodities and other implementation costs under five activities, namely: **1. Law Reform, 2. Prosecutorial and Defense Services, 3. Judicial Administration Improvement, 4. Training Support, and 5. Mediation Programs.** These are discussed below.

Activity 1. Law Reform

This activity entails a major effort to change the principal legislative framework for the Nicaraguan justice system. The law reforms address issues of human rights protection, modern criminal law developments, delay reduction, organization and administration of the judicial system, the establishment of a strong independent prosecutorial system and public defender system, and the resolution of conflicts arising from actions taken by the executive branch of government.

The organization and approach focus on supporting Nicaragua's effort to develop consensus at each step in the process. In addition, the AID-funded Nicaraguan staff working on AOJ as well as recent law graduates assigned to the effort will become a resource for additional reforms beyond this initial effort, e.g., commercial and civil code.

The planned criminal law and procedure sub-activities will be developed in a staggered fashion to allow necessary coordination of the legislation. Other reforms will be developed independently, including reforms related to administrative procedures, the public defenders' office and court organization.

To manage the law reform activity, the Supreme Court will name four subcommissions, one for each code to be reformed, which will include the following members who will be hired by the Prime Contractor:

- the subcommissions dealing with the criminal code, criminal procedures code, and administrative procedures code will include a jurist and an assistant who are legal experts.
- the subcommission in charge of the organic law reform will have only one jurist as member, as explained below.

These subcommissions will draft a proposed code and survey the comparable experiences in other countries of the hemisphere, as well as review model codes, where they exist. The subcommissions will also be assisted by graduate law students who will be complying with their year of social service.

The subcommissions will present their conclusions, findings, and drafts to the National Law Reform Commission for review. The National Commission will present the final product to the Supreme Court for presentation to the National Assembly.

Following approval of the law, there will be an implementation period to train the legal community affected by the law and to implement a public education campaign.

Because of the need to exercise close supervision of the AID-funded staffs of the four subcommissions, the Prime Contractor will hire a Nicaraguan lawyer to be a full-time coordinator for the Law Reform Activity. This person will work in concert with a Court-appointed and GON-funded counterpart.

The overall coordination effort for the Law Reform Activity will required the following inputs from A.I.D.-provided funds:

- One Nicaraguan Lawyer for a period of 36 person-months;
- One clerical employee for a period of 36 person-months; and
- Commodities, consisting of one personal computer and a printer, a copier and telephone.

The details of the specific sub-activities to be undertaken as part of the Law Reform effort include: (a) a Criminal Procedure Code, (b) a Criminal Law Reform, (c) Administrative Law Procedures, and (d) Court Organization Law Reform. These are discussed below.

(a) Criminal Procedure Code

The Nicaraguan Criminal Procedure Code has been recently modified to re-establish the jury system (*Ley 124*). This reform, while laudatory in its intent, was prepared by the Justice Commission of the National Assembly in isolation and without consulting the Supreme Court or Attorney General's Office and without the necessary training or budget. This has caused extensive delays in the processing of criminal cases, exacerbating the prison overcrowding problem of accused persons awaiting resolutions of their cases. Estimated delays range from 60 percent to 80 percent of those in prison who are awaiting final court action.

The Criminal Procedure Code was initially adopted in 1879 and was modified several times during the Sandinista period. According to criminal law specialists and members of the Supreme Court, these changes were designed to enhance governmental control over the population. The Code has not had a comprehensive integrated revision since its inception.

Additionally, operational concerns have surfaced regarding the processing of criminal cases. According to the Criminal Law Institute of the University of Central America and the members of the Supreme Court, criminals are being exonerated because of failures of officials to comply with the complex requirements of the Code. The Code's complexity coupled with a judiciary that had been politicized, have combined to create an environment where manipulation and corruption can go undetected.

The subcommission for the Criminal Procedure Code will require two (project-funded) Nicaraguan experts to conduct the research and analysis of the new law. These experts will be assisted by short and long-term technical assistance by international experts. The staff of experts will have a timetable for producing drafts of the proposed code. These drafts will be the subject of a series of seminars in which the legal community will have the opportunity to offer opinions and observations regarding the proposed law reforms.

The implementation of activities related to the Criminal Procedure Code will take approximately 18 months. The schedule will be revised after review by the contractor and counterparts. The planned tasks are as follows:

- | | | |
|-----|---|------------|
| 1) | Supreme Court names subcommission | 1-2 months |
| 2) | Supreme Court identifies Nicaraguan advisors | 1 month |
| 3) | Contractor identifies foreign advisors | 1 month |
| 4) | Review of current law | 2 months |
| 5) | Review of model code | 1 month |
| 6) | Review of experiences in other countries | 1 month |
| 7) | Draft outline of proposed code revision | 4 months |
| 8) | Hold seminar & public meetings to review draft | 3 months |
| 9) | Present draft to full commission | 2 months |
| 10) | Prepare revisions of code | 1 month |
| 11) | Conduct legislature briefings | 2 months |
| 12) | Develop implementation plan (education of judges, lawyers, police & public) | 1 month |
| 13) | Implement plan | 4 months |
| 14) | Prepare final report | 1 month |

The inputs required to review and do studies on the current law, draft a new Criminal Procedure Code, help in implementing it, plan conduct seminars and conferences to implement the Code, and related costs include: Short and long-term technical assistance to work with subcommission staff to draft and implement the Criminal Procedure Code (CPC); funding for seminars and conferences; and commodities.

The provision of these inputs for CPC is planned as detailed in the table below.

| ITEM | NO | LEVEL EFFORT | AID | GON |
|--------------------------------|----|--------------------|-----|-----|
| Jurist (full-time) | 1 | 18 pms | X | |
| Research Assistant (full-time) | 1 | 18 pms | X | |
| Clerical (full-time) | 1 | 18 pms | X | |
| Foreign Experts | 2 | 6 months | X | |
| Students/graduates(volunteers) | 3 | 18 pms | X | |
| Other Costs | | | | |
| Travel | 4 | Visit-Costa Rica | X | |
| Conferences | 5 | 100 attendees | X | |
| Publication | 1 | Draft of Final Law | X | |
| Publicity | 4 | Newspapers | X | |
| Office Equipment | | | | |
| A. PCs with software | 2 | | X | |
| B. desks, chairs | 7 | | | X |
| C. copier, printer, phone, fax | 3 | | X | |
| D. typewriters | 3 | | | X |
| Office Expenses | | | | |
| Utilities | | | X | |
| Supplies | | | X | |

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(b) Criminal Law Reform

The criminal law of Nicaragua, like the Criminal Procedure Law, is replete with minute details, which is one of the primary reasons for the high rate of exoneration of accused individuals. Nicaraguan law permits the police to choose the judge to whom the complaint is presented. This process has caused a significant imbalance in the workload of the judges, further causing processing delays in the legal system.

The Criminal Code of 1974 is a revision of the 1897 code, and modifications over the years have left it without a coherent approach. The Supreme Court and the Attorney General join in citing the need for a thorough review and revision of the code, in coordination with criminal procedure reforms, as discussed above.

The **Criminal Law Reform** subcommission will consist of one Nicaraguan jurist and one criminal Law expert complemented by short-term technical assistance from international experts. The subcommission will research those areas of the code which cause the most concern and develop alternative proposals for presentations at seminars and conferences. Experience has shown that the development of significant criminal law reform is always controversial and time consuming because of the divergence of philosophical views of crime, causes of crime and especially, punishment of crime. This reform effort will require consensus-building in the legal community.

The implementation approach proposes to use international experts as well as other jurists from Latin America to aid in researching and developing the final draft of a code. Acceptance of the revised code will depend on how the process of consensus-building is managed. In order to reduce the risks, there will be considerable effort by the contractor to consult and achieve consensus of the subcommission with representatives of other social sectors. It is also anticipated that members of the Supreme Court, with extensive interest in the area, will maintain close contact and provide guidance when circumstances warrant. Further, it will be necessary to form an advisory committee of these interested parties to meet regularly to discuss the progress of the consensus-building process.

The implementation of activities related to the Criminal Law Reform will take approximately 30 months. Actual timetable will be reviewed and revised by the Contractor and Commission at a later date. The tasks are as follows:

- | | | |
|-----|--|------------|
| 1) | Supreme Court names subcommission | 1-2 months |
| 2) | Supreme Court identifies Nicaraguan advisors | 1 month |
| 3) | Contractor identifies foreign advisors | 1 month |
| 4) | Review current law problems | 4 months |
| 5) | Review model code | 2 months |
| 6) | Review experiences in other countries | 3 months |
| 7) | Draft outline of areas to be changed | 3 months |
| 8) | Hold seminar and public meetings | 4 months |
| 9) | Present draft to full commission | 3 months |
| 10) | Prepare revision of code | 1 month |

- 11) Conduct legislature briefings 2 months
- 12) Develop implementation plan (education of judges, lawyers, police & public) 1 month
- 13) Implement plan 4 months
- 14) Prepare final report 1 month

The project will provide: short and long-term technical assistance to help the subcommission staff draft and implement the Criminal Law Code, funding for seminars and conferences and commodities.

The provision of these inputs is planned as follows:

| ITEM | NO | LEVEL OF EFFORT | AID | GON |
|-----------------------------------|----|--|-----|-----|
| Jurist (full-time) | 1 | 30 months | X | |
| Assistant (full-time) | 1 | 30 months | X | |
| Clerical (full-time) | 1 | 30 months | X | |
| Foreign Experts (ST) | 2 | 5 months each | X | |
| Students/graduates | 3 | 30 months | X | |
| Other Costs | | | | |
| Advisory Committee | 10 | meetings | X | |
| Travel | 2 | Committee & Proj. Director | X | |
| Conferences | | 6 Regional Conferences 50 participants, 1 national conference 300 participants | X | |
| Publications | | printing of materials for conferences and final draft of law | X | |
| Office Space | | | X | |
| Office Equipment | | | | |
| A. PCs with word processing | 3 | | X | |
| B. typewriters | 3 | | | X |
| C. desks/office Furniture. | 7 | | | X |
| D. copier, printer, fax and phone | 4 | | X | |
| Office Expenses | | | | |
| Utilities | | | X | |
| Supplies | | | X | |

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(c) Administrative Law Procedures

During Nicaragua's long tradition of dictatorship and during the Sandinista government, the idea of suing the state to seek relief from an action by the government was not practiced -- the legal system simply made no provision for remedies against the state. The establishment of a democratic regime, coupled with the increasing need to build in more checks and balances in the constitutional system, have heightened the need for an administrative procedures law.

In the current legal system, the only remedies available to aggrieved parties are strikes and injunctions. Both remedies tend to be very expensive in time and money. They also contribute to the atmosphere of conflict that so dominates Nicaragua. An administrative procedures code will provide a more orderly means of presenting claims and grievances before the judiciary, without having to resort to dramatic actions, such as strikes.

Following the same implementation approach planned for the other legal reforms, there will be a subcommission appointed by the Supreme Court. It will consist of Nicaraguan experts (assisted by international consultants) who will conduct research and draft legislation. The research will include all areas of law that govern the operation of the executive branch of government. This issue becomes more important, as is being discovered in other countries in the hemisphere, where there is a significant movement to privatize government services or activities. From these experiences in other countries, thousands of legal complaints have surfaced, often paralyzing the legal system.

The implementation of activities related to the Administrative Law Procedure Code will take approximately 18 months. The schedule may be revised after review by the contractor and counterparts. The tasks are as follows:

| | | |
|-----|---|----------|
| 1) | Supreme Court names subcommission | 1 month |
| 2) | Supreme Court identifies Nicaraguan advisors | 1 month |
| 3) | Contractor identifies foreign advisors | 1 month |
| 4) | Review experiences in other countries | 3 months |
| 5) | Draft code | 2 months |
| 6) | Hold seminar and public meetings | 3 months |
| 7) | Present draft to full commission | 2 months |
| 8) | Prepare revision of code | 1 month |
| 9) | Conduct legislature briefings | 2 months |
| 10) | Develop implementation plan (education of judges, lawyers, police & public) | 1 month |
| 11) | Implement plan | 4 months |
| 12) | Prepare final report | 1 month |

The project will provide: short and long-term technical assistance to help the subcommission staff draft and implement the Administrative Law Procedure (ALP), funding for seminars and conferences and commodities.

The provision of these inputs for ALP is planned as follows:

| ITEM | NO | LEVEL OF EFFORT | AID | GON |
|---------------------------------|--------|----------------------------------|-----|-----|
| Jurist (full-time) | 1 | 18 months | X | |
| Assistant (full-time) | 1 | 18 months | X | |
| Clerical (full-time) | 1 | 18 months | X | |
| Foreign Experts (ST) | 2 | 3 months each | X | |
| Students/graduates | 3 | 54 months | X | |
| Other Costs | | | | |
| Advisory Committee* | | | | |
| Travel | 1 | Visit Costa Rica | X | |
| Conferences & Seminars | 6 1 | Regional Conf. National Conf. | X | |
| Publications | | | X | |
| Publicity | | | X | |
| Office Space | | | X | |
| Office Equipment | | | | |
| A. Desks, chairs, file cabinets | 7 | | | X |
| B. PCs with word processing | 2 | | X | |
| C. Printers, copiers and phone | 3 | | X | |
| D. Typewriters | 3 | | | X |
| Office Expenses | | | | |
| Utilities | | | X | |
| Supplies | | | X | |

* Financed under previous components.

(d) Court Organization Law Reform ("Ley Orgánica de Tribunales")

The organic law defines in great detail how the courts will be organized and function. The law provides virtually no discretion for administrative initiatives to modify court operations. Illustrative of the restrictive nature of the statutes is the court's inability to establish a central office for the filing of cases in a single place to balance the workload among the judges. The restrictive nature of the law reflects the traditional and historical limits on the independence of the judicial system. This was expressed in the adoption of highly prescriptive laws that have frustrated the Court's development and evolution as a co-equal branch of government.

An independent system with checks and balances entails that the judicial system be accorded different treatment by the law that governs its operation, including more autonomy and discretion over the management of funds. Operationally, reviewing the judicial organization law will facilitate other changes.

The court administration aspects of the AOJ Component will generate ideas for reforms in the organization and operation of the trial courts. The statistics and record management activities will surface issues that will require consideration in the drafting of a new law. It is also necessary to alter processes that are now prescribed in the law of court organization. The current organic law was adopted in 1894, and the original concepts have largely been retained since then, even through the recent Sandinista period.

Efforts to organize the court are of paramount importance to the Supreme Court, which has oversight of the court system. The first action is for the Court to identify its concerns about the current statute. The list of concerns will serve as background for the subcommissions drafting legal reforms. They will consider these concerns in drafting proposed reforms. This approach obviates the more difficult process of incorporating changes into a framework once it has been constructed. Some of the concerns will require research, e.g., the jury system, how the support agency for the Supreme Court is organized, the personnel rules and the role of the judicial inspectors.

The implementation of this activity will continue through the life of the component. Organizational issues and proposed solutions will be identified at each stage in the law reform process. Because of the dependence of this activity on the results of the other law reforms, the approach entails an extensive rather than intensive effort. Accordingly, the prime contractor will hire one full-time director for the duration of the Component, to organize and execute the drafting of the organizational law of the Court.

As parts of the organizational law are drafted, they will be presented to the jurist nominated by the Supreme Court and hired by the Institutional Contractor to oversee the reform of this law. Two short-term foreign technical experts will also assist the director in conducting the studies and drafting the law.

The implementation of activities related to Court structure will take approximately 30 months. The schedule may be revised after review by the contractor and counterparts. The planned tasks are as follows:

| | <u>Months</u> |
|---|---------------|
| 1) Supreme Court designates subcommission | 1 |
| 2) Contractor identifies short-term technical assistance needs | 1 |
| 3) Review of court structure laws in Central America | 2 |
| 4) Draft issues paper for President of Supreme Court | 2 |
| 5) Upon completion of each law reform proposal, draft modifications to Ley Organica | 22 |
| 6) Review each area of code and develop proposal | 22 |
| 7) Supreme Court approval of proposals | 2 |
| 8) Conduct Legislative Briefings | 2 |

The Project will provide the following inputs for the organic law activity:

| ITEM | NO. | LEVEL OF EFFORT | AID | GON |
|-----------------------------------|-----|-----------------|-----|-----|
| Jurist | 1 | 30 months | X | |
| Clerical (half-time) | 1 | 30 months | X | |
| Foreign Experts | 2 | 4.5 months | X | |
| Office Space | | | X | |
| Office Equipment | | | | |
| A. Desks, Chairs | 2 | | | X |
| B. PCs with software | 1 | | X | |
| C. Copier, fax, phone and printer | 4 | | X | |
| D. Typewriter | 1 | | | X |
| Office Expenses | | | | |
| Utilities | | | X | |
| Supplies | | | X | |

Activity 2. Prosecutorial and Defense Services

The AOJ component will provide assistance to help the GON reorganize the Attorney General's Office (AGO) and establish a Public Defender's Office. These efforts will deal with the issues that must be resolved to strengthen the role of prosecutors, to improve the operation of the criminal law system, and protect human rights by making available affordable public defender services to those accused of crimes.

(a) Prosecutorial Services

During the past decade Nicaragua has departed from the efforts to strengthen the role of prosecutors along the lines of criminal procedure reforms now underway in other Central and South American countries. These reforms included vesting the investigative authority in the prosecutor and creating a more impartial role for the judge. Previous reforms also created a Ministry of Justice with the consolidation of all the major legal functions of the executive branch of government. However, the code was repealed in 1988 and there was a return to the weakened Attorney General's office. This reversal was precipitated by complaints of the human rights community about the use of the law against public opponents, and the inadequate funding and organizational structure to implement the statutory tasks.

When the law was repealed, the role of the prosecutors was again substantively reduced to intervention in selected serious crimes; the police force was given broad authority to prosecute in other cases. This situation is contributing to the poor image of the judicial system.

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The vast majority of criminal activity is handled exclusively by the police. According to the human rights community, the police were an extension of the political arm of the Sandinista government, therefore, they are seen as being motivated by political ends, as opposed to criminal justice.

The statistics provided by the Supreme Court indicate conviction rates for those accused of crime to be between 20 - 30 percent. This low rate is attributed to the poor work by the police in prosecuting the vast majority of cases. The prosecutors are accurately perceived as being irrelevant to the criminal process, because of their reduced roles. The law reform aspect of this project includes significant changes in the roles and responsibilities of prosecutors. In both the criminal procedure and criminal law components, a comprehensive review of the prosecutorial functions will be conducted.

The Attorney General has attempted to make the office more functional and responsive to current needs. He assigned prosecutors to review the records of 5,000 contested pieces of property. He cited the need for training and technical assistance as being of highest priority.

The SDI Project is providing basic training for prosecutors under the AID Cooperative Agreement with ILANUD. The Law Reform activity discussed previously will include a comprehensive review of the prosecutorial services, and the development of a plan to implement the procedural and criminal codes within the AGO. In addition, the Prime Contractor will provide TA to conduct a thorough review of current practices and procedures, estimates of personnel and operational costs, and design of specialized training programs for prosecutors.

The implementation of assistance related to Prosecutorial Services will be divided in two phases:

- The first phase will be a comprehensive review of the Attorney General's Office and the Prosecutor's Office. It will identify operational and performance issues that must be addressed, establish timelines and priorities. The review will be done as part of the process to draft the criminal procedure reforms, since such reforms will affect the prosecutorial role.
- The second phase entails the provision of technical assistance to develop a plan to implement the new laws. This plan will include training for prosecutors, development of manuals of procedure, and development of statistical reporting systems to monitor activities.

The implementation of activities related to Prosecutorial Services will take approximately 10 months. The planned tasks and illustrative schedule are as follows. The schedule will be revised after review by the contractor and counterparts.

Phase I (5 months):

- 1) Contractor develops scope of work for short T.A. to evaluate Attorney General's office and the prosecutors' offices. 1 month
- 2) Contractor selects team to conduct review of the office 1 month
- 3) Team conducts review and issues report 1 month
- 4) Team visits Costa Rica to observe Public Ministry 1 month
- 5) Assessment of training needs 1 month
- 6) Training programs in judicial school 1 month

Phase II (5 months):

- 7) Contractor selects short term technical assistance team to devise an implementation plan for the new law 1 month
- 8) Team visits Costa Rica to consult on implementation
- 9) Team develops plan 1 month
- 10) Team assists Attorney General in implementation of plan 2 months
- 11) Team conducts review of effectiveness of organizational implementation of reforms 1 month

To carry out the above tasks, the Project will provide the following inputs:

| ITEM | NO. | LEVEL OF EFFORT | AID | GON |
|--|-----|-----------------|-----|-----|
| Foreign Experts | 2 | 5 months | X | |
| Travel and Per Diem for Attorney General's Staff to C.R. | 5 | 2 trips | X | |

(b) Office of the Public Defender

The creation of a Public Defender's Office is a high priority for the Supreme Court and the Attorney General. This office could form a part of a new Ministry of Justice which may be created in 1994. If the new organizational scheme is approved, the Minister of Justice would supervise the Office of Public Defender and the Attorney General's Office.

Under the Nicaraguan constitution, the right to counsel is guaranteed, however, the interpretation of the code of criminal procedure [ART. 34(5)] makes no reference to the provision of legal defense services during the investigatory stage of the criminal process. Since all the evidence is gathered during the investigatory stage, it is the most critical step in the process.

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This legal condition is worsened by the fact that the prosecutors play no role in the preparation of the case. All the foundation work is done by the police. According to the justices of the Supreme Court, the Attorney General and the human rights community, the current process gives the appearance, if not totally true, that the criminal justice process is totally managed by the police. Under the current system some notorious crimes are not prosecuted and less significant ones are fully prosecuted for political reasons. This fact alone has caused the system to suffer a loss of public confidence.

Under the current system the court appoints lawyers, who serve pro bono. The judges interviewed repeatedly indicated those lawyers' poor performance as a major weakness in the justice system. A separate survey (Solis/Wilson p. 66), showed lawyers rarely filed papers, interviewed witnesses or presented evidence.

Professional capable legal representation to defend the rights of the accused will begin the process of establishing a greater balance of interests between the rights of the individual vs. the rights of the state. This will create the means for the human rights protection guaranteed in the constitution to become a reality.

The AOJ Component will initially fund a Public Defender's Office to be created in the trial courts of Managua. The contractor will provide long-term technical assistance through an attorney who will coordinate and monitor this activity and will recruit and train staff for the trial court staff. The Attorney General expects to provide funds for the National Public Defenders Office Staff. Short-term technical assistance will be provided to assist in the creation of the national office.

The creation of this office is independent of the successful adoption of the criminal procedure or criminal law reform since the right to counsel is included in the existing constitution. The existence of the office and a select few professionals with criminal defense expertise will aid in the development of the law reform projects by analyzing or assisting in drafting certain provisions pertaining to criminal defense. In addition, the intervention of competent defense counsel will further identify weaknesses in the current legal framework.

The approach envisions beginning implementation of this activity in Managua where the criminal workload is 65 percent of the total in the country. The focus during the initial years will be on recruiting, training, establishing procedures and assessing the performance of the public defender's office in Managua. The Managua office will be staffed by a delegate, a lead defender, ten attorneys, four investigators and ten secretaries. The function of the public defender "delegate" is to coordinate the regional offices of Public Defender as the representative of the National Public Defender. This function will be performed by the National Public Defender until the creation of more than one regional office in the fourth year of the project. If successful, the lessons learned during the first years will be transferred to other districts during later years of the project.

The implementation of activities related to Office of Public Defender will take approximately 21 months. The schedule will be revised after review by the contractor and counterparts. The planned tasks are as follows:

- | | | |
|-----|---|------------|
| 1) | Contractor installs long term technical assistance provider | 3 months |
| 2) | Attorney General designates director of Public Defender Office | 2 months |
| 3) | Contractor provides short term technical assistance to develop National Office of Public Defender | 1 month |
| 4) | Director of Public Defender Services and long term technical assistance advisor visit Costa Rican counterpart | 1 month |
| 5) | Contractor provides short term technical assistance to develop plan for Office of Public Defender in Managua Courts | 1-2 months |
| 6) | Approval of plan by National Director of Public Defender Services | 1 month |
| 7) | Implementation of OPD in Managua A. recruitment of personnel B. location of office space C. acquisition of equipment D. training for staff and judges | 4-6 months |
| 8) | Short term technical assistance to review progress and identify issues - 6 months after beginning of operation | 1 month |
| 9) | Review of Phase I If successful, schedule will continue as follows. | 1 month |
| 10) | Implementation of OPD offices in 2 districts to be designated by AG or Minister of Justice | 3 months |
| 11) | Short term technical assistance for annual month review of experiences to date and 6 months of performance in 2 new districts | |
| 12) | Short term technical assistance to review progress on National Office of Public Defender, Managua's office and the two new districts | 2 months |
| 13) | Final review and assessment of entire system | 1 month |

It is planned that in the first years AID will provide a major contribution to this activity, with the GON picking up an increasing share as the project advances.

The inputs required to carry out the activity related to the Office of the Public Defender will consist of:

- Short-term technical assistance to work with the Attorney General's Office in the design and organization of the National Public Defender's Office; and
- Long-term assistance to the Public Defender's Office for Managua in year 2, and by year 4 two more districts will be added depending on the success of the program in the initial years.

This assistance will help the GON establish the Office of Public Defender, establish a system to provide public defender services in the trial courts, improve the protection of human rights of accused citizens, and improve the public perception of the justice system.

The provision of the above inputs is planned as shown on next page.

**Planned Inputs for the Office of the Public Defender
Sub-Activity:**

| ITEM | NO. | LEVEL OF EFFORT AID | LEVEL OF EFFORT GON |
|--|-----|---------------------|-----------------------------|
| ADVISOR | 1 | 36 months | |
| A. National Office, OPD | | | |
| National Public Defender | 1 | | Permanent (36m) |
| Assistant Director | 1 | | Permanent (36m) |
| Secretary | 1 | 12 months | 24 months |
| Short-term TA | 2 | 3 months | |
| Supplies | | 12 months | 24 months |
| International Travel | 3 | (Costa Rica) | |
| B. Managua Office | | | |
| Delegate | 1 | 12 months | Permanent (Yr. 5) |
| Director (Lead Defender) | 1 | 12 months | Permanent (Yr. 5) |
| Attorneys | 10 | 12 months | 24 months |
| Investigators | 4 | 12 months | 24 months |
| Secretaries | 10 | 12 months | 24 months |
| Supplies | | 12 months | 24 months |
| In House Training (by advisor) | | 36 months | |
| C. 2 District Offices (Year 4) | | | |
| Director (Lead Defender) | 2 | 12 months | Permanent (Yr. 5) |
| Attorneys | 4 | 12 months | Permanent (Yr. 5) |
| Investigators | 2 | 12 months | Permanent (Yr. 5) |
| Secretaries | 2 | 12 months | Permanent (Yr. 5) |
| Supplies | | 12 months | |
| In House Training (Advisor) | | | |
| D. Office Expenses | | | |
| 1. National Public Defender | | | |
| Office Space (3 persons continuous plus one advisor for 3 years) | 1 | | For 4 persons, for 4 years. |
| Desks | 4 | | For 4 persons, for 4 years. |
| Chairs | 8 | | 4 years |
| Pcs with software | 1 | X | |
| Printer | 1 | X | |
| Copier | 1 | | X |

| ITEM | NO. | LEVEL OF EFFORT AID | LEVEL OF EFFORT GON |
|---------------------------------|-----|---------------------|---------------------|
| Fax and Phone | 1 | | X |
| Vehicle | 1 | | X |
| 2. Trial Courts, Managua | | | |
| Office Space | 1 | | For 25 persons |
| Desks | 25 | | X |
| Chairs | 35 | | X |
| Pcs with software | 5 | X | |
| Printer | 2 | X | |
| Copier, Fax and Phone | | | X |
| 3. Outside Managua | | | |
| Office Space | 2 | | For 5 persons ea. |
| Desks | 10 | | X |
| Chairs | 16 | | X |
| PCs with software | 2 | X | |
| Printers | 2 | X | |
| Phone, Fax and Copier | 2 | | X |

Activity 3. Judicial Administration Improvement

The Judicial Administration Activity has three elements: (a) Statistics, (b) Records and Records Management, and (c) Administrative Procedures Manual.

(a) Statistics

The Office of Statistics is located in the Secretariat of the Supreme Court. In addition to gathering statistics from each court, this office also keeps the registry of all lawyers and notaries as well as publishing all the Supreme Court opinions annually. Each of these activities has a unique set of needs.

While the forms used to collect the statistics are quite extensive, what is sent in each quarter is of questionable value. The statistics are unverifiable due to the lack of a statistical dictionary and a standardized docketing system. A criminal docketing system is a system for tracking each individual case which is processed by the Court through the various steps of processing according to the established legal procedures from the moment the case enters the judicial process (either at the arrest or judge presentation stage) to the completion of the case by sentencing or acquittal.

To compound the problem, the statistical section places the information in a word processing format rather than a spreadsheet program such as Lotus or Quattro Pro or Excel. Thus, the statistics that are submitted must be manually manipulated.

The registry of lawyers and notaries is kept manually and then entered into the same personal computer that records the statistics. The main problem arises when one tries to extract reports from the system. The system was written in dBase IV by an employee of the court who never documented the work that was done. The understudy to the employee who wrote the system has left the court as has the employee who developed the dBase system. Apparently the program was pass protected and is therefore inaccessible to the current personnel. This condition also affects the ability to run reports to determine the active and inactive members of the bar.

A related problem is the renewal of licensing for lawyers and notaries. Currently, it is done in January of each year, and, as a result, the Office of Statistics is inundated with more than two thousand persons trying to renew their licenses. The Project will provide technical assistance to reprogram the computer system and establish a staggered license renewal schedule.

The court opinions are entered into the same personal computer as the statistics and the registry. The computer cannot contain all of this information and so the staff keeps much of the information on diskettes. Currently, the staff must use two software packages to publish the court opinions. This is very inefficient and time consuming. The staff will be trained to use one software product to prepare the publication of opinions.

The facilities of the Office of Statistics are totally inadequate. The staff of six is currently housed in one very small room, and their file cabinets are filled beyond their capacity. This activity must be moved to larger quarters. This might be a possibility when the three trainers move to the Judicial School.

Within the above context, the AOJ Component will provide resources to:

- introduce the concept of a docket and docket control;
- establish a unique numbering system that will allow not only the generation of uniform statistical information for use in planning but will also provide a method to verify judicial activity;
- provide an index and retrieval system for judicial files.

To introduce the concept of the docket card and case number (initially for criminal cases), a work group of judges and clerks from all levels of the judiciary will be appointed by the Supreme Court to:

- work with the consultants in the design of the docket card;
- ensure Nicaraguan participation in the design of the system;

- provide a core group of trainers to be used during the implementation phase of the project.

The docket card will be a single piece of heavy stock paper with a perforation halfway down the card. Each of the perforated halves will have a unique pre-printed number that will identify the judicial region that issued the card. The specific information will be identified during the design phase with the work group. Docket cards will be issued to each court which will fill out the docket card and keep the top half and send the bottom half to each of the six regional administrators for data entry. Each regional office will enter the information on the docket card into a personal computer located in the regional office. From there the information will be forwarded by diskette or modem to the office of statistics in Managua for entry in the central office computer where it can be analyzed and used to plan judicial activities.

At the end of the first six months, the same process of naming a work group would be followed, except that this time the subject would be civil cases. During this second six months of data gathering, the activities would be the same, except the learning curve on the computers. [Note: Although this phase of the Component will not assist the GON to reform the civil code, the standardization of a docket system for civil cases can proceed, and will facilitate any future civil reform process].

The planned tasks and illustrative and schedule related to Office of Statistics are as follows. The schedule will be reviewed, and if necessary, revised by the contractor and work committee.

| Tasks | Duration |
|--|-----------------|
| Naming of work group | 1 week |
| Design of the docket cards | 1 week |
| Train staffs in use of cards | 1 week |
| Install computers | 2 weeks |
| Train staff in data entry | 1 week |
| Train staff in WordPerfect | 2 weeks |
| Observe staffs enter cards | 2 weeks |
| 30-day evaluation | 1 week |
| 120-day evaluation | 1 week |
| Feedback to Criminal Code Reform subcommission | 1 week |
| Design civil docket card | 1 week |
| Train staff in use of card | 1 week |
| 30-day evaluation | 1 week |
| 120-day evaluation | 1 week |
| Feedback to Civil Code Reform subcommission | |

To help the GON establish the Docket Card System, produce the Docket Cards, train court staff on the use of software for the docket system, inform the public about the system and

establish a legal registry system, the AOJ Component will provide funds to finance: short-term international and local TA, commodities, supplies for docket cards, and small amount of funds for the electrical rewiring of some Offices. The inputs are planned as follows:

| ITEM | NO. | L. of EFFORT | AID | GON |
|---|-----|--------------|-----|-----|
| International Consultant | 1 | 3 months | X | |
| Local Consultant | 1 | 2 months | X | |
| Travel and Per Diem | | 5 trips | X | |
| Office Equipment | | | | |
| PCs with software | 10* | | X | |
| Printers | 10 | | X | |
| Fax/modems | 8 | | X | |
| Filing cabinets | 15 | | X | |
| Rewiring | | | X | |
| Supplies/furn. (inc. PC/printer-tables) | 20 | | X | |

* 1 PSC for each regional office (6); 2 for statistics unit in Supreme Court; 2 for use in the Secretariat (production of Supreme Court opinions, lawyers and notary registry).

Two reviews of the civil and criminal statistical pilots at 30 and 120 days would be done by the prime contractor and the Nicaraguan work group in order to make any system adjustments that may be necessary.

(b) Records and Records Management

The interdependence of court records and court operations makes records management a priority. The basic functions of the adjudication of cases by courts, as well as adjunct operations, financial and statistical reporting, among others, rely on court records for their accuracy. Records management is an active, continuing program for controlling the intake, maintenance, use and disposition of records used within a court to document and transact its business. Records management in the Nicaraguan courts is antiquated (e.g., courts continue to sew case files together which requires additional sewing each time a new document is filed. The courts have not adopted records retirement schedules and the judicial archive is full -- case files are accumulating in the corridors of courthouses, at least in Managua.

Each court has devised its own method of filing and locating case files. It is therefore impossible to trace a case without knowing which person created and archived a specific file and then reading the entire case file. Additionally, there is no standard of internal file organization or record retention. This situation encourages the loss of records and promotes graft and corruption in the judicial system. Without any clear guidelines for the creation and retention of records, it

becomes impossible to establish audit standards. Without audit standards the judicial inspectors cannot effectively audit the courts and therefore lack an internal mechanism for self-discipline and improvement. In addition, the Nicaraguans have developed very few standardized forms that would lead to a uniformity of processes. From an administrative standpoint, the lack of uniformity in this regard makes it difficult, if not impossible, to create time and performance standards for the processing of cases.

The AOJ Component will provide assistance to develop a records management system which consists of at least the following:

- guidelines for the management of records including destruction schedules and adherence to legal requirements for records;
- procedures for completion of each required record including case intake registers and registers of final decisions;
- standards and systems, developed at the national level, on case storage and on the use of technology such as filing equipment and use of microfilm.
- guidelines for maintaining security both from the threat of natural disaster (fire, water), and to control access to records.

Standards must be established for opening files, file maintenance, closing files, transfer of cases, assignment of docket numbers, classification of files, file identification systems, records retention, preparation of docket cards, file storage, and destruction of records. These standards should be established by a working committee named by the Supreme Court and should include personnel from the Judicial School. Once these standards are established, the Judicial School, under this activity, will design a series of courses to be taught throughout the judicial system.

The tasks under this activity include:

| Tasks | Duration |
|--|-----------------|
| Naming of working committee | 1 week |
| Establishing standards that include forms design | 4 weeks |

The component will provide international and local short-term TA and some commodities to develop a uniform filing system, design and conduct training courses and prepare manuals.

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Specifically, the inputs will be as follows:

| ITEM | NO. | LEVEL OF EFFORT | AID | GON |
|--------------------------|-----|------------------|-----|-----|
| International Consultant | 1 | .5 months | X | |
| Local Consultant | 1 | 2 months | X | |
| Travel and Per Diem | | 1 trip | X | |
| Equipment and Materials | | | | |
| Filing cabinets | 250 | | X | |
| Courses | 2 | 347 participants | X | |
| Publications | 350 | Manuals | X | |

(c) Administrative Procedures Manual

The Supreme Court handles policy and management functions in addition to the daily appellate caseloads. This reduces focus on such things as trial court impact or administrative consequences of actions. This can result in inappropriate or uneven responses to problems. The basic work of any court is the orderly processing of disputes formally presented for resolution, with all other work being ancillary or supportive to this end. Courts are very complex institutions with many variable components: the population of a district, the location of the court, the scope of the individual court, from single-judge units to multi-judge divisions operating in specialized areas of law. Internal organization as a concept includes everything from the relationship of the clerks and the judges and the litigants to the financial concerns and budgetary processes through which a court must present its needs. These procedures affect the litigative functions and the final disposition of cases. The actual administration serves to assist in meeting the goals of the entire judiciary through proper internal organization and efficient, thorough, timely procedures. Many of these situations can be eased by developing an administrative procedures manual that clearly states principles and processes that are sanctioned by the Supreme Court.

The various chapters of the manual will be developed with the assistance of international and national specialists. The first step is a detailed description of each organizational unit. A Supreme Court-appointed committee will then review the organizational description and make recommendations for procedural and organizational changes. The subsequent chapters of the manual can then be developed with any organizational or procedural changes that are needed.

To help the GON carry out these activities, the AOJ component will provide the following:

| ITEM | NO. | LEVEL OF EFFORT | AID | GON |
|--------------------------|-----|-----------------|-----|-----|
| International Consultant | 1 | 1 month | X | |
| National Consultant | 1 | 6 months | X | |
| Travel and Per Diem | 2 | 2 trips | X | |
| Material for Publication | | 500 manuals | X | |

Activity 4. Training Support

(a) Continuing Legal and Administrative Training

Currently there is no organized training effort for Nicaraguan court personnel. There is a profound need for education and training at all levels of the system. Judicial officers have not been exposed to judicial reform developments in the region, and court personnel have not had training. ILANUD has entered into a one year cooperative agreement with USAID to establish basic training courses at the judicial school. As new legal and ethics codes, concepts, systems and operational methodologies are introduced, it will be necessary to provide training for judges and lawyers in the new codes as well as providing training for judicial support staff in such topics as docketing, record keeping, records management, record storage and retrieval, records retention, computer software etc. In addition to the curriculum to be provided by ILANUD through its cooperative agreement, it is expected that some international specialists in judicial and administrative topics will be needed, and will be identified as part of the legal reform and administrative reform activities of the Component.

The AOJ Component will provide five months of TA to help the GON provide courses for administrative and legal training for new judges and for the training of trainers.

The implementation of this activity is planned as follows:

| Tasks | Duration |
|---|----------|
| Judicial School selects trainers | 1 month |
| Contractor selects int'l. and national consultants | 1 month |
| Course outlines developed together by experts and court staff, with participation of trainers | 4 months |
| Trainers Trained | 1 month |

The inputs required to carry out the above tasks are as follows:

| ITEM | NO. | LEVEL OF EFFORT | AID | GON |
|---------------------------|-----|-----------------|-----|-----|
| International Consultant | 1 | 5 months | X | |
| National Consultant | 1 | 2.5 months | X | |
| Training Site | | | | X |
| Materials for Publication | | 500 copies | X | |

(b) Development of Ethics Code

No ethics code for judges and lawyers exists in Nicaragua, yet the Supreme Court has the responsibility for disciplining judges and lawyers. There is general recognition of the need for an ethics code as a part of an independent judicial system able to manage itself free from intervention from other branches of government. The appointment of new judges provides a unique opportunity to establish a firm foundation for the future by developing and implementing a code of ethics. A code of ethics is a first step in building the institutional capacity to confront corruption. Codes of ethics begin the process of addressing the complex and difficult aspect of reform in judicial systems, namely the attitudes and conduct of the individuals who work in the system. The existence of code of ethics enables both the leadership of the judicial system and the public to demand a certain level of conduct from those entrusted to administer justice.

The need for a code of ethics was recognized by the Supreme Court's officers. In their observations they cited the ethics code as having a long term benefit on the improvement of the administration of justice and improving the public perception of the judiciary.

The establishment of the code must be accompanied by compulsory education for lawyers and judges, both through continuing education, and incorporation into the curricula of the law schools. The creation of an organizational culture that complies to a code of ethics is a long term effort that will only begin during the life of this Component.

The AOJ Component will provide assistance to work with GON counterparts in reviewing the experience with codes of ethics in other Latin American countries and the U.S. and draft a code. The commission will conduct public hearings on the content of the code.

As a result of this assistance, the following is expected to be produced:

- A code of ethics binding on judges and lawyers.
- Rules of procedure to govern complaint process against judges and lawyers.
- A transparent process governing the conduct of judicial officials.

The planned activities during a period of approximately 18 months to produce the above results include:

- 1) Supreme Court names subcommission 1 month
- 2) Supreme Court identifies Nicaraguan advisors 1 month
- 3) Contractor identifies foreign advisors 1 month
- 4) Review of Nicaraguan experience in developing ethics code 1 month
- 5) Review of U.S. experience in judicial ethics - visit 1 month
- 6) Develop outline of areas to be covered in code 1 month
- 7) Review and approval by Supreme Court 1 month
- 8) Draft code 3 months
- 9) Conduct public meetings on the code 2 months
- 10) Incorporate feedback in final draft 1 month
- 11) Submit final draft to Supreme Court for approval 2 months
- 12) Implement the code of ethics 3 months
- 13) Courses are developed 2 weeks
- 14) Courses begin on-going

The schedule may be revised after review by the contractor and counterparts. The required inputs for the training support activities will be financed from the AID contributions as follows:

| ITEM | NO. | LEVEL OF EFFORT | AID | GON |
|-----------------------------------|-----|-----------------------|-----|-----|
| Staff Director | 1 | 5 months | X | |
| Consultant (Uruguay) | 1 | 5 months | X | |
| Consultant (Local) | 1 | 2.5 months | X | |
| Clerical Assistance | 1 | 36 months (part time) | X | |
| Observational visits (U.S.) | 1 | 2 persons | X | |
| Conference | 1 | 200 parts. | X | |
| Conference Expert | 1 | 1 week | X | |
| Travel and Per Diem (Consultants) | | 3 trips | X | |
| Books and materials | 200 | Booklets | X | |

Activity 5. Mediation Programs

(a) Community Mediation

Emergency from a state of war has left Nicaragua a divided society with widespread conflict. The judicial system is limited in its ability to respond to the current political and social reality. The Component will help strengthen the judiciary, and extend new skills into the greater society to confront and peacefully resolve conflict. Even if the judicial system were able to handle the large number and variety of disputes that exist, access to the system is limited by poverty and ignorance, and the credibility of the system is extremely low.

Additionally, many problems (interpersonal, family, and neighborhood conflicts) are inappropriate for courts to hear and resolve. Some of these problems may seem petty but if not addressed at early stages can become a festering source of conflict within the home, schools and communities. Reliance on the formal judicial system to resolve these conflicts would overwhelm the court system and the lengthy judicial process would allow minor conflicts to escalate. As part of the democracy building process, it is necessary to overcome the "paternalismo" tradition, in which dependence on outside or higher intervention is the norm and self-reliance, participation and individual responsibility were discouraged. Community-based mediation is part of a participatory self-governing process at the lowest grass-roots level.

The judicial system should be reserved for and available to resolve those conflicts that cannot be resolved in any other manner and which require highly expert attention. Traditional societies resolved conflicts through elders, councils of wise people and other informal means. Nicaragua had such a tradition in the "amigable componedor" but not in any systematic way. Although citizens of the municipalities can appeal to mayors, local judges and the police for help in resolving certain types of disputes, they may find themselves tolerating others or resorting to violence because they perceive no mechanism for their resolution. Additionally, handing problems over to an institution does little to prepare people for dealing with ongoing or future conflicts. Nicaragua needs a number of alternative and appropriate avenues for conflict resolution, formal and informal, not only for reasons mentioned above but to help rebuild a sense of community and heal emotional wounds caused by the war.

The objectives of the activity are to:

- create alternative, informal, community-based conflict resolution mechanisms that are free, fast, effective, impartial and confidential;
- increase local participation in the resolution of disputes;
- increase morale and sense of community in the municipalities directly/indirectly by communication, conciliation and related skills;
- prevent minor conflicts from escalating and de-escalate more serious ones through early intervention;

- impart democratic values by cooperation and civic participation;
- avoid the need to construct additional bureaucracy and professional "ownership" of services;
- encourage respect for differences and a willingness to learn from others;
- develop culturally appropriate Spanish language manuals;
- establish communication with, provide support for, and work with mediation programs in the schools.

Community-based mediation programs (CBMP's) have existed in the U.S. for nearly 20 years and address a wide range of disputes including fights, threats, harassment, vandalism, property damage, money disputes, family problems, noise concerns, landlord/tenant disputes, workplace disagreements, organization conflicts, consumer hassles, child custody disputes, divorce issues, and some victim-offender cases referred by the juvenile court. Conflicts of this type are significant because they may bring people to the brink of violence and precede violations of social or legal norms. Cases are generally received prior to entry into the justice system. Mediators are generally volunteers and participation is completely voluntary.

The intent of CBMP's is not to compete with or supplant existing forms of conflict resolution but to complement them. For this reason, it is essential that the support of all key players in the municipalities (lay judges, mayors, police) be sought. An educational and promotional campaign must be undertaken. Care must be given that the program be perceived as impartial. Because of Nicaragua's partisan polarization, the issue of maintaining a reputation for impartiality will need to be addressed throughout the program and be an explicitly stated norm for all activities.

Mediation is a term that is used to describe a broad range of approaches to third party intervention. Some forms focus directly on the settlement of a specific difficulty and thus the mediator may take an active role in exploring and identifying solutions. The quality of the relationship between the disputants may be one of the considerations, but is usually secondary to the agreement itself. Parties in dispute do not have to interact; they may not even be present in the same room as in the case of shuttle mediation.

Conciliation is a form of mediation that focuses on bringing people together to talk about their conflict so that they can move beyond hostility, suspicions and avoidance to address the dispute that divides them. Conciliation is most appropriate when disputants have or want an ongoing relationship. It lays the groundwork for resolving not only current difficulties but also future ones. Conciliation often has a strong educational component. The goal is not simply to resolve disputes, but to enhance social relationships and improve the quality of life in a community. CBMP's in the municipalities may need to use a combination of these approaches to address the variety of conflicts that exist in Nicaragua.

To begin the pilot process, relevant local non-governmental organizations (LNGOs) with networks of local affiliates must be found which are widely perceived as impartial and nonpartisan. During the first years, two or three such organizations will receive training and subgrants (funded and administered by the institutional contractor) to work in two or three communities each. At the close of the initial years' activity, the project (with the assistance of the expatriate mediation advisor) will review the pilot efforts and decide whether and which groups would receive follow-on expanded sub-grants.

One person from each implementing organization and the AID-funded Nicaraguan activity manager will be sent to the US for training and observation of mediation programs. This three or four person group will become the coordinating committee. [It would be useful if the AID project manager and the contractor Chief of Party attend the training course with the Nicaraguan group, to enable them to manage and evaluate this activity better]. The coordinating committee would receive continuing technical assistance from the expatriate advisor who would return with the group after their US training for three months to help initiate the program, and then return on a periodic basis throughout the life of the activity [Note: This technician will also advise the school mediation activity].

The training begins by observing CBMP's in the U.S., including training in mediation and trainer of trainers skills, and planning and consultation sessions with staff members of CBMP's. The coordinating committee will design a culturally appropriate mediation approach for Nicaragua. Upon returning to Nicaragua, the coordinating committee will be responsible for training local volunteer community mediators in the pilot communities and establishing a mediation program. It is critical that the communities have ownership of the CBMP's rather than viewing them as foreign ideas imposed upon them. This will require careful selection of the community mediators, and close coordination within the local traditional hierarchy.

The AOJ Component will provide short- and long-term technical assistance, an activity Coordinator (local hire), office supplies and a vehicle to transport staff to local sites, purchased by contractor. These inputs are necessary to train trainers, prepare and publish mediation manuals, prepare promotional materials, inform the public about the mediation program, and establish Community Pilot Mediation Offices in 6-9 pilot communities.

The tasks and timing, subject to revision by counterparts and contractor, to attain the objectives of this activity include:

| Tasks | Months |
|---|---------------|
| Implementing groups are selected. A local CBM coordinator is hired by the institutional contractor. First coordinating meeting takes place. | 1 |
| Committee training in U.S. over a 2-week period. | 2 |
| Design customized program. | 3-4 |
| Select local community volunteers. | 5-6 |
| Conduct an educational and promotional campaign to secure support from "key players" in municipalities, target issues and inform and enthuse the public about the new programs. | 5-6 |

| | |
|---|-------|
| Train volunteers in mediation skills, casework, record keeping, and outreach (approximately 25 people). | 7-8 |
| Implement pilot programs. | 9 |
| Develop promotional campaign to draw recognition to pilot programs (videos, brochures, media coverage) with the goal of informing and motivating other municipalities to adopt similar programs. | 14-21 |
| Committee, AID and foreign consultant review the pilot programs and make necessary modifications before introducing programs into 10 other municipalities. (Procedure for implementing new programs same as in months 5-21 except that experienced mediators are trained as trainers). | 21-24 |
| Review of programs, modifications and planning of 10 new programs that can be self-sustaining. | 36 |

The AOJ Component will provide funds for the following inputs for community mediation:

| ITEM | NO. | LEVEL OF EFFORT | AID | GON Including Municipalities |
|---|-----|-------------------------------|-----|------------------------------------|
| International Consultant | 1 | 5 months (half time) | X | |
| Coordinator, CBMP | 1 | 36 months | X | |
| Vehicle | 1 | 4X4 | X | |
| Clerical | 1 | 36 months (part time) | X | |
| Offices Expenses | | | | |
| Space | 1 | for 3 people | | X |
| Desk/Chair (Sets) | 3 | | | X |
| Typewriter | 1 | | | X |
| Utilities | | | | X |
| Supplies | | | X | |
| Travel, Int'l. Consultant | 3 | U.S.-MGA-U.S. | X | |
| Travel, CBMP team | 2 | 5 people to U.S.; Colombia | X | |
| Program information, pamphlets and manuals | 500 | | X | |
| Course Fee | 10 | 2 weeks | X | |

Each organization will be responsible for keeping accurate records on standardized forms, compiling statistics and doing follow-up work on each case to assess program effectiveness.

(b) School Mediation

Schools everywhere experience conflict. Conflict in Nicaraguan public schools is higher than in most because of critical problems related to: shortages of the most basic supplies, overcrowded classrooms (70 primary-grade students to a class); decaying and inadequate buildings; ill-prepared, overworked and underpaid teachers and the use of schools until recently for ideological training has reduced school morale. Compounding this situation is the fact that public school students are children of low-income families (the wealthier families send their children to private schools) who suffer from all the problems that economic hardship creates: joblessness, physical abuse, verbal threats, neglect, drug and alcohol abuse, malnutrition, and broken homes. Often the only form of resolving disputes these children know is violence. This attitude carries over to the school where physical fights occur for the slightest reason, little respect is displayed for individual rights, and differences are poorly tolerated. Discipline often takes the form of verbal abuse or physical punishment, although the latter is officially prohibited. Teachers have few skills for dealing with conflict.

Structures for dealing with conflict in positive or constructive ways are lacking and badly needed. Children can be taught to resolve many conflicts among themselves, relieving the burden of responsibility felt by teachers. Both staff and students benefit from communication and problem-solving skills to prevent many potential conflicts and keep existing ones from escalating to violent outcomes. These skills can be taught by the use of curricula designed especially for this purpose. Schools that teach students positive ways to resolve conflicts can, ultimately, aid in the reduction of violence in society. Youth who learn to resolve conflicts positively are more likely to do so as adults.

Schools in the U.S. have achieved positive results in dealing with conflict by implementing mediation programs where students are trained as neutral third parties to assist classmates in resolving disputes. At the primary level, pairs of student mediators on the playgrounds hear and help resolve disputes on the spot using a 4-step intervention process. The emphasis is on breaking up an escalating incident and/or making simple agreements to end the problem. At the secondary level, a more formal "sit-down" process is used with pairs of mediators hearing disputes referred by teachers, administrators or youth themselves. Participation in mediation programs is voluntary and confidential.

Student mediation programs are most effective when paired with classroom instruction in basic communication and problem-solving skills. By learning these skills, students are able to solve most problems on their own, or with student mediators who are available to assist them. An additional benefit of this type of instruction is that teachers learn the same skills and are able to utilize them in their interactions with students, and with other staff members.

The Component will provide assistance to pilot test this activity. Student mediation programs in the U.S. will be studied and adapted to Nicaraguan conditions. Once a culture-specific, customized design is created, three schools from different districts will be selected to test the design.

A suggestion has been made by the Ministry of Education (MED) that schools receiving assistance under the UNESCO project might be appropriate pilots since their goals (peace, civic participation) appear to be compatible. The pilot schools should include one school in Managua and one school receiving UNESCO assistance, and all should be primary schools. Secondary school mediation programs are more challenging and can be implemented once primary programs are successfully in place.

The Director General of MED will select pilot schools on the basis of interest and willingness to dedicate the necessary time and effort required. Once sites are determined, meetings will be arranged with the directors and staff of pilot schools to discuss their needs, describe the program and secure their support. This is an important step to ensure acceptance and long-range success of the program. At this time, program coordinators will be selected. One teacher from each school (the program coordinator) will assist in the initial planning of the program, train student mediators, conduct biweekly or monthly meetings with the students, assign students to playground duty, secure meeting space for program activities, encourage student and teacher participation and serve as a liaison between the program, school staff and parents. The time commitment for coordinators is 2-4 hours per week once the program is in place and is best shared by 2 or more teachers. A core group of other staff members often assists with student mediator training and other planning tasks. Training adults takes a minimum of 8 hours for the primary level.

A coordinating committee consisting of 1 project-financed full-time coordinator/administrator of all 3 pilot programs (to be funded by the Ministry of Education after the close of the Component), the 3 pilot school teacher/coordinators, and 1 school director will be formed. The expatriate mediation advisor will also advise this activity. [Note: No additional time is programmed for this activity -- the external advisor will spend a small portion of time programmed under community mediation advising this activity].

In order to receive the training required to implement pilot programs, the committee will spend two weeks in the U.S. studying student mediation programs and learning the processes. In addition, trainer skills will be acquired so that committee members can train others--adults and students. Planning and consultation sessions with school mediation experts and observation of programs in place will provide the additional input necessary to design a customized approach for Nicaragua. Upon return to Nicaragua, the committee will meet several times to discuss strategy for implementation and develop didactic materials. Then, meetings will be arranged to acquaint students of the pilot schools with the program and select and train student mediators.

The foreign consultant will assist with this initial training. During the first year, a promotional campaign will be conducted to generate interest in other schools. At the end of a year, the program will be reviewed by the committee and the foreign consultant to modify the approach as needed. From that point, the programs can be duplicated in other primary schools

and pilot programs begun in secondary schools.

The objectives are to:

- train public school staff and students in basic mediation skills;
- implement student mediation programs in 3-5 districts;
- decrease the amount of time school personnel spend on resolving conflicts;
- reduce tension among staff and students;
- identify and train natural leaders as mediators;
- inform and educate parents about the school mediation programs; and
- improve the overall school climate and morale.

The tasks to attain the above objectives include:

| Tasks | Month |
|--|--------------|
| The Contractor hires a full-time coordinator for the implementation of the pilot programs. | 1 |
| MED selects 3 pilot schools and meets with staff. One coordinator from each school is designated. | 2 |
| The committee meets to plan study trip to U.S. | 3 |
| Committee travels to U.S. for 2-weeks to train/observe [NOTE: Coordinated with community mediation training] | 4 |
| Create customized design, plan implementation strategy, and develop materials and gather baseline data on time spent on discipline, number of conflicts, etc... | 5 |
| Curriculum instruction is begun in 3 schools. | 6 |
| Students are chosen and trained as student mediators. The foreign consultant aids in training first student mediators. | 7 |
| Student mediation program begins on playgrounds. | 8 |
| Promotional campaign is waged to interest other schools in programs (media coverage, outreach). | 9-22 |
| Five new potential sites for programs are identified, their staff is trained, and at least 1 coordinator is selected for each school. Curriculum instruction is begun at 5 schools. MED selects sites for 3 secondary pilots in coordination with the American Federation of Teachers' civic education program for the secondary schools. Meetings are arranged with director, and staff to educate, secure support and identify and train teacher/coordinators. | 9-22 |

| | |
|---|----|
| Curriculum instruction begins. | 22 |
| Review of original 3 pilot programs by the coordinating committee, the Mission, staff of 3 schools and foreign consultant. Modifications in approach are made as needed. More students are trained. | 22 |
| Student mediators from 5 new sites are identified and with assistance of newly trained staff members and foreign consultant. | 23 |
| Student mediation program begins in 5 new schools. | 24 |
| Informational meetings for students held at the 3 pilot secondary schools; student mediators selected/trained. Secondary school mediation pilot programs begin. | 35 |
| Review of 5 new programs and the secondary pilot program by the coordinating committee, the Mission, foreign consultant and school staff members. Modifications made in approach if needed. More student mediators trained. | 36 |
| Overall activity evaluated in conjunction with community mediation activity. | |

The AOJ Component will provide the following resources for the School Mediation activity:

| ITEM | NO. | LEVEL OF EFFORT | AID | GON |
|---------------------------------|-----|----------------------|-----|-----|
| Coordinator, School Mediation | 1 | 36 months | X | |
| Int'l. Consultant | 1 | 5 months (half time) | X | |
| Clerical | | | | X |
| Substitute teacher | 3 | .5 months | | X |
| Vehicle | | | | X |
| Int'l. Travel (MED team) | 1 | 5 people (to USA) | X | |
| Office Space | 1 | for 1 person | | X |
| Promotional & Didactic Material | 500 | | X | |
| Supplies & Materials | 10 | 14 sites | X | |

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V. IMPLEMENTATION PLAN

A. Overall Management Framework and Responsibilities

USAID/Nicaragua has assigned coordination responsibility of the SDI Project to a Democratic Initiatives Coordinator (DI/C) who has been hired under a Personal Services Contract (PSC) arrangement. This person, who works under the guidance and supervision of the USAID/Nicaragua Chief General Development Officer (C/GDO), and will soon work directly with the new Democratic Initiatives USDH officer, will continue to coordinate the Project, including the activities under the AOJ Component.

The DI/C will be assisted by a local PSC, the AOJ Coordinator, who will monitor and coordinate the implementation of activities under the AOJ component. If a local PSC is unavailable, the Mission will consider other options such as a TCN or USPSC contractor. This will entail working closely with the Supreme Court, the Commissions and Sub-commissions, the Attorney General's Office, the Ministry of Education, the institutional contractor and other private and public institutions that will be directly or indirectly involved with the implementation of the AOJ Component.

Before a prime contractor is hired, it will be necessary to contract a consultant to provide pre-implementation technical assistance to the counterparts in planning their activities and to carry out a statistical study of judicial delay. A specialized US firm will be contracted to work with the GON and local organizations in implementing component activities. As noted under the Procurement Plan below, this contractor will be responsible for planning, designing and implementing all training activities, writing specifications and procuring commodities, and contracting all local personnel required under the various component activities.

The option of using a Personal Services Contractor to carry out these tasks is not feasible because of the multiple disciplines and the institutional support required to facilitate implementation. Other Missions, such as Panama, Honduras and Guatemala, have used this approach successfully in carrying out similar projects. USAID/Nicaragua staff and the Democratic Initiatives Interagency Committee will monitor carefully the performance of the contractor and interact with concerned counterparts to detect and address in a timely fashion any political sensitivities that may arise during implementation of the component.

A Request for Proposals (RFP) will be issued and a contractor will be selected by full and open competition. The selected institutional firm will be required to open an office within 90 days of the award of the contract. The office will be staffed with two U.S. professional specialists. One will be the AOJ Component Director/Chief of Party, who will have court administration and/or legal experience, and who will be responsible for the overall management of the component, public relations and negotiating tasks, contributing to or modifying component strategy and tactics and providing technical assistance in relevant program activities. The other person will be a Project Administrator with extensive management and administrative experience and familiarity with AID procedures and regulations, who will be responsible for the contracting of consultants, financial planning and accounting of the program, and the day to day administration of the AOJ component.

The institutional contractor will be responsible for contracting a long-term technical director for the Mediation activity, and the short-term technical assistance for the other Component activities. The contractor will submit the names and curriculum vitae (CVs) of the technical experts (short-term advisors) to the USAID Project Officer and Project Coordinator and to the concerned GON counterpart for review and approval.

The institutional contractor will also be responsible for hiring the Nicaraguan professionals who will draft the law reforms (None of these employees can work for the GON or the Judicial Branch of Government and should not be hired away from government for the purpose of the component). Candidates for these local advisor positions will be presented by the Supreme Court. The contractor will make the final selection based on pre-established technical criteria and with the approval of the USAID Project Officer. The four law reform sub-activities discussed in Part IV of this paper will be coordinated by a locally-hired lawyer funded through the institutional contractor.

The public defenders who will participate in the special pilot program will be selected by the Attorney General's Office (AGO) on the basis of objective criteria agreed mutually between the AGO and AID. The salaries of this special public defenders program will be initially paid by AID through the institutional contractor but the GON will be required to assume costs for the Managua office in year 2 of the program (year 3 of the amendment) and cover the personnel costs of the national defenders office starting in year 1 of the program. The establishment of the Public Defender's Offices (national and regional) will be coordinated by a locally-hired lawyer (funded through the institutional contractor) with experience in public defense. The AGO will covenant with AID that the participants who successfully complete the special public defender's program will be employed by the Public Defender's Office after completing one year of the pilot program.

Those contracted to do the law reforms will be directly supervised by the AID-funded contractor, in concert with a court-appointed counterpart; those participating in the public defenders pilot program will be supervised by the Office of Public Defenders to be established within the Attorney General's Office as well as by the advisor hired by the institutional contractor.

The institutional contractor will follow all AID rules regarding salary levels and contracting provisions for locally-hired personnel. Such rules will be provided to the contractor shortly after the contract is awarded.

The institutional contractor will provide a quarterly report to AID and the appropriate Nicaraguan counterpart on the status of the project (including progress and problems with suggested actions to address key issues.) and the activities to be accomplished in the next quarter. There will be monthly status meetings with AID officials and Nicaraguan counterparts to analyze problems, propose solutions, make corrections, and evaluate overall and individual performance of the past month. Every six months, the institutional contractor will provide USAID a cumulative summary of all activities, major issues affecting the component, actions to be accomplished during the next six months etc for AID's use. In addition, sufficient information will be required to fulfill financial reporting requirements by AID.

B. Project Implementation Schedule

The AOJ Component contains five distinct activities. Implementation of the Mediation Activity, most of the Administrative Reform actions, and the Public Defenders and Ethical Code activities can move independently regardless of the success of the other activities. However, actions regarding reform of the prosecutorial functions, training of judges in the legal codes, the reform of the Court Organizational Law, the standardization of forms and the drafting of the Court Organizational Manual will have to be developed in conjunction with the drafting and passage of the new legal codes. If the present conflict in the National Assembly, therefore, is not resolved within the next 18 months, it will affect the timing and the success of the Prosecutorial and other inter-dependent activities.

Timely implementation will also require close coordination between the prime contractor and the law reform sub-commissions. Because of the need for constant consultation, the TA contractor and sub-commissions and TDYers will need to be physically located in the same facility. Space, however, is a problem for the Supreme Court and the project has set aside funds through the institutional contractor to cover the rent of office space until the Court can make other arrangements.

The critical path events for the AOJ Component, stated in terms of months after the signing of the Project Agreement Amendment in month 0, and subject to review and revision after the contractor submits a detailed implementation schedule, are:

| ACTION | MONTH |
|---|--------------|
| Project agreement signed by GON | 0 |
| Local AOJ/C hired | 6 |
| Contract awarded to US contractor | 9 |
| Law Reform Commission created by GON | 9 |
| Law Reform sub-commissions named by Court | 12 |
| US contractor arrives in country | 12 |
| Interim Evaluation | 12 |
| Statistics working group named by Court Administrator | 13 |
| Records working group named by Court Administrator | 13 |
| Community Mediation NGO's selected | 13 |
| School Mediation Full Time Coordinator hired | 13 |
| Design of Criminal Docket Card | 13 |
| MED selects 3 pilot schools for mediation | 13 |
| Court identifies Nicaraguan experts for subcommission staffs | 14 |
| AGO Designates Director, Public Defenders | 15 |
| Supreme Court names Ethics subcommission | 15 |
| Review of Public Prosecutors functions | 17 |
| Local volunteers for community mediation selected | 18 |
| Design for school mediation courses completed | 18 |
| Administrative Law Procedure Code drafted | 19 |

| | |
|--|----|
| Student mediators chosen | 20 |
| MED identifies 5 new school mediation sites | 21 |
| Design of Civil Docket Card | 22 |
| Implement Community mediation pilot program | 22 |
| Criminal Procedures Code drafted | 22 |
| Ethics Code drafted | 22 |
| Ethics Code implementation plan prepared | 25 |
| Complete Implementation Plan, Criminal Procedures code | 29 |
| Complete Implementation Plan, Administrative Law | 33 |
| MED selects 3 secondary school pilots | 33 |
| Prepare Implementation Plan, Criminal Code | 39 |
| Secondary school student mediators selected | 39 |
| Final Evaluation | 47 |

C. Procurement Plan

(1) Technical Assistance, Training, and Commodities

Under an Amendment to a Handbook 3 Agreement, USAID/Nicaragua will provide funds to help the various GON agencies implement their respective aspects of the AOJ Component. These agencies include the Nicaraguan Court System, the Office of the Attorney General, and the Ministry of Education. Funds will also be available for non-governmental institutions to help in the implementation of specific activities.

Once the Amendment is signed, USAID will contract directly with a U.S. institutional contractor to work with these agencies in implementing all activities under the Amendment.

All technical assistance, training, and commodities to be provided under the Amendment will be procured by the institutional contractor. Funds to cover such inputs will be included in the contract. A summary list of all commodities to be purchased as described throughout the Component Description Section (Part IV) of this paper is provided in Annex D. The technical services and training to be procured are also listed under the respective activity in the Component Description Section (Part IV) of this Paper and summarized in the subsequent Methods of Implementation and Financing Table.

The planned commodities include three vehicles. These vehicles will be used by the selected institutional contractor, who will maintain control over their use and for the community mediation subactivities. This use will be for Component implementation purposes only. USAID/Nicaragua will provide to the Contractor the rules governing the use of such vehicles.

(2) Personnel Service Contract For Project Management and Coordination

To assist the Mission in coordinating, facilitating implementation, and monitoring activities under the Project Amendment, USAID/Nicaragua will negotiate a contract with a Foreign Service National (FSN) Personal Services Contractor (PSC) or a U.S. PSC if a suitable

Foreign Service National (FSN) Personal Services Contractor (PSC) or a U.S. PSC if a suitable FSN is not available. This individual will perform services for a period of up to 42 months, subject to availability of funding and need.

(3) Gray Amendment and Buy America Initiative

The Mission has been advised that there are no Gray Amendment firms with sufficient capability to administer the assistance required under the Project Amendment. The Buy America Initiative is not applicable since Nicaragua has Relatively Least Developed Country status. However, at least 10% of the value of the institutional technical assistance/commodity contract will be set aside for subcontracting to disadvantaged entities by the institutional contractor.

The following table, which flows from the Cost Estimates and Financial Plan, Part VI, of this paper, summarizes the Methods of Implementation and Financing.

Methods of Implementation and Financing (in US\$000s)

| Component Element | Method of Implementation | Method of Financing | Estimated Amount |
|---|--------------------------|---------------------|------------------|
| 1. TA Contractor (contract will include TA, training & Commodities) | AID Direct Contract | Direct Payment | \$3,259 |
| 2. Other Costs (Project Coordination) | AID Direct Contract | Direct Payment | 155 |
| 3. Contingency and Inflation | | | 586 |
| AOJ Component Total | | | \$4,000 |

D. Monitoring, Evaluation and Audits

(1) Monitoring

The Institutional Contractor will establish, in concert with GON counterparts and AID, an information collection and analysis system to track the progress made in attaining the targets of the AOJ Component. This system will be used to provide reports to AID and to concerned GON entities on the status and accomplishments under the Component.

The Institutional Contractor will provide a monthly report to AID and the appropriate Nicaraguan counterpart agency on the status of the progress on achieving objectives and of the activities to be accomplished in the subsequent month, identifying problems hindering accomplishment of objectives. This report will be used in monthly status meetings with AID officials and Nicaraguan counterparts. Every six months the institutional contractor will provide a cumulative summary on all activities for inclusion in SAR reports.

(2) Evaluation

The following evaluations are planned:

60.

- ***First and Second Evaluation.*** The SDI project is scheduled to have an initial evaluation in mid FY 94 looking broadly at implementation issues and progress in each Democratic Initiative component. Again in late FY 1995, after the completion of the on-going activities under the original Project a second evaluation of the Project including AOJ activities will be undertaken. A final evaluation will be conducted by the end of the amended project, December 31, 1997.
- ***AOJ Evaluation.*** Since some of the Administration of Justice activities will be underway by the time of the second evaluation of the complete project (see paragraph above), an AOJ evaluation will not be undertaken separately but will be included as part of the evaluation under the project. The AOJ portion of this second evaluation will address the status and prospects of the process of legal reform in each of the areas addressed by the AOJ Component (Penal Code, Criminal Procedures, Organizational Law of the Judicial System, and Administrative Grievance Court) and the implementation progress of training and other implementation activities.

This second evaluation should occur almost two years into the implementation of the AOJ component when most of the legal reform activities should be at or nearing the point of consideration by the National Assembly and reforms related to Court Structure should be well underway. The evaluation should document the progress made in developing draft legislation and garnering support for the legal reforms contemplated in the project. Based on this analysis of accomplishments and prospects, the evaluation should help determine the appropriate next steps to be taken and propose modifications to the original project design that may be necessary to achieve the reform objectives.

The second evaluation should also examine activities in each of the other components to determine if they are progressing at a pace that will lead to achievement of project goals and objectives and evaluate the quality of project outputs. Where project outputs identified in this Amendment are completed at the time of the evaluation, the evaluation team should document these achievements and undertake preliminary analysis of the impact and effectiveness of these outputs. Where activities are in progress, the second evaluation should identify specific constraints to achievement of project purpose that may require more concerted effort by project participants and make appropriate recommendations to improve implementation and address problem areas.

The second evaluation will address the institutional arrangements in place to implement the project and analyze the interactions and processes involved in project implementation. In particular, it will focus on the working relationships between project contractors, AID, and Nicaraguan counterparts and recommend any appropriate actions that should be taken to improve the effectiveness and efficiency of project activities.

- ***Mission's Program Performance Assessment System.*** In addition, as part of the Mission's Program Performance Assessment System (PPAS) a program of surveys, focus groups, and individual interviews is being developed to evaluate the impact of the overall democratic initiatives portfolio and progress toward the strategic objective of greater consensus on democratic values. It is expected that the program will produce updates of

information related to key indicators on at least an annual basis to provide the necessary information for Mission reporting requirements in the Action Plan. This program of monitoring and evaluation will provide important information on the AOJ component's progress in developing consensus related to legal reforms and in achieving the purpose-level objective of greater confidence in the legal system.

This program-level monitoring and evaluation program will receive initial funding from Program Development and Support funds (PD&S) for the initial design work and base-line studies. Subsequent updates and follow-up survey work will be funded under the SDI project.

- *Final Evaluation.* The final evaluation will look at the degree to which the overall project purpose was accomplished and focus on project impact of various project components, including the Administration of Justice activities. It will also serve to identify and articulate "lessons learned" in the design and implementation of the project. If follow-on activities are considered, the final evaluation should identify those areas that need to be addressed by those activities and suggest how they might be approached. The evaluation might also point out where additional involvement by other donors might complement the work completed under the project. The evaluation team for this evaluation should represent an outside, objective perspective.

(3) Audits

AID direct contract audits in each year of the Project Amendment will be funded with resources allocated under the original SDI project.

VI. COST ESTIMATE AND FINANCIAL PLAN

A. Project Amendment Budgets

The Administration of Justice Amendment consists primarily of technical assistance, training, and limited commodity support to the Courts, Office of the Attorney General (Public Defender's Office), and the Ministry of Education. The proposed total cost of the Amendment is \$4,000,000. AID will contribute \$4,000,000 in Economic Support Funds (ESF) and Development Assistance and the GON will provide in-kind counterpart contributions which will consist of personnel, office equipment, furniture as well as supplies and office space.

The value of these GON contributions are estimated at \$205,000 plus office space and support, or approximately 5 percent of the total cost of implementing the AOJ Component. A table included as part of Annex D of the paper provides details. The GON will be required to report quarterly on the status of its counterpart contributions.

The \$4,000,000 will be obligated through amendments to an existing Handbook 3 Grant Agreement with the GON. Signatories to the Amendment will include USAID/Nicaragua and the Ministry of External Cooperation. The contingency budget will allow USAID to respond new initiatives in support of overall objectives.

Table I
Cost Estimates by Inputs
(Source and Uses of Funds)
(US\$000)

| Project Inputs/Elements | AID | | | | | | | | | | | | | | | GON | LOP Grand Total | |
|---|--------|-----|-------|--------|-----|-------|--------|-----|-------|--------|-----|-------|-------|-----|-------|------|-----------------------|-------|
| | Year 1 | | | Year 2 | | | Year 3 | | | Year 4 | | | LOP | | | | | % |
| | US\$ | L/C | Total | US\$ | L/C | Total | | | |
| I. TECHNICAL ASSISTANCE | 0 | | 0 | 1,671 | | 1,671 | 871 | | 871 | 717 | | 717 | 3,259 | | 3,259 | 81% | | 3,259 |
| (Institutional Contract includes TA, training & Commodities) | | | | | | | | | | | | | | | | | | |
| II. TRAINING (Included in the TA Contract) | 0 | | 0 | 0 | | 0 | 0 | | 0 | 0 | | 0 | 0 | | 0 | | | |
| III. COMODITIES (Included in the TA Contract) | 0 | | 0 | 0 | | 0 | 0 | | 0 | 0 | | 0 | 0 | | 0 | | | |
| IV. OTHER COSTS (Project Coordination and Start-up) | | 65 | 65 | | 30 | 30 | | 30 | 30 | | 30 | 30 | 0 | 155 | 155 | 4% | 205 | 360 |
| V. CONTINGENCY AND INFLATIO | | | | | | | | | | | | | | | | | | |
| A. Contingency | 0 | | 0 | 152 | | 152 | 108 | | 108 | 126 | | 126 | 386 | | 386 | 10% | | 386 |
| B. Inflation | 0 | | 0 | 50 | | 50 | 50 | | 50 | 100 | | 100 | 200 | | 200 | 5% | | 200 |
| Project Total | 0 | | 65 | 1,873 | 30 | 1,903 | 1,029 | 30 | 1,059 | 943 | 30 | 973 | 3,845 | 155 | 4,000 | 100% | 205 | 4,205 |

Table II
Cost Estimates by Element
(US\$000)

| Activity | AID | | | | | | | | | | | | | | | | | LOP |
|----------------------------|----------|-----------|-----------|--------------|-----------|--------------|--------------|-----------|--------------|------------|-----------|------------|--------------|------------|--------------|-------------|------------|--------------|
| | Year 1 | | | Year 2 | | | Year 3 | | | Year 4 | | | LOP | | | % | GON | Grand |
| | US\$ | L/C | Total | US\$ | L/C | Total | US\$ | L/C | Total | US\$ | L/C | Total | US\$ | L/C | Total | | | Total |
| I. Project Mgt. and Coord. | 0 | 65 | 65 | 431 | 30 | 461 | 318 | 30 | 348 | 334 | 30 | 364 | 1,083 | 155 | 1,238 | 31% | | 1,238 |
| II. Component Activities: | | | | | | | | | | | | | | | | | | |
| 1. Law Reform | 0 | 0 | 0 | 511 | 0 | 511 | 426 | 0 | 426 | 195 | 0 | 195 | 1,132 | 0 | 1,132 | 28% | 0 | 1,132 |
| 2. Defense & Prosecutorial | 0 | 0 | 0 | 246 | 0 | 246 | 24 | 0 | 24 | 99 | 0 | 99 | 369 | 0 | 369 | 10% | 197 | 566 |
| 3. Judicial Administration | 0 | 0 | 0 | 276 | 0 | 276 | 0 | 0 | 0 | 0 | 0 | 0 | 276 | 0 | 276 | 7% | 0 | 276 |
| 4. Training Support | 0 | 0 | 0 | 41 | 0 | 41 | 36 | 0 | 36 | 30 | 0 | 30 | 107 | 0 | 107 | 3% | 0 | 107 |
| 5. Mediation Programs | 0 | 0 | 0 | 166 | 0 | 166 | 67 | 0 | 67 | 59 | 0 | 59 | 292 | 0 | 292 | 7% | 8 | 300 |
| Subtotal | 0 | 0 | 0 | 1,240 | 0 | 1,240 | 553 | 0 | 553 | 383 | 0 | 383 | 2,176 | 0 | 2,176 | 54% | 205 | 2,381 |
| Subtotal I and II | 0 | 65 | 65 | 1,671 | 30 | 1,701 | 871 | 30 | 901 | 717 | 30 | 747 | 3,259 | 155 | 3,414 | 85% | 205 | 3,619 |
| III. Contingency | 0 | | 0 | 152 | | 152 | 108 | | 108 | 126 | | 126 | 386 | | 386 | 10% | | 386 |
| IV. Inflation | | | | 50 | | 50 | 50 | | 50 | 100 | | 100 | 200 | | 200 | 5% | | 200 |
| TOTAL | 0 | 65 | 65 | 1,873 | 30 | 1,903 | 1,029 | 30 | 1,059 | 943 | 30 | 973 | 3,845 | 155 | 4,000 | 100% | 205 | 4,205 |

FM

Table I presents the total Project Amendment budget by year by inputs and funding source. Table II presents the estimated yearly cost of the Amendment by activity. Annex D contains the supporting budget tables.

Please note that since approximately one year will be required for the institutional contractor to be selected and arrive in-country, assistance will be administered over three years rather than life of the amendment (four years).

B. Audits and Project Evaluations

Funds for audits and evaluations have been included in the original Project budget.

C. Recurrent Costs

To a significant extent, once reforms and other interventions are implemented, sustained utilization of Project Amendment outputs will simply reflect the routine operations of the GON already funded in their annual operating budget. However, some benefits of the Project Amendment will be sustained only if the GON is willing to continue to fund activities originally developed with AID funding. Examples of such activities include continuing education for judges and public defenders, records management, and mediation services. During the life of the amended project starting in year 2 the GON will provide an increasing share of the permanent (recurrent) costs as follows: \$14,000 in year 2, \$92,000 in year 3 and \$98,280 in year 4 plus in-kind costs. After the project is completed the GON will provide about \$150,000 per year to continue funding those activities which will continue beyond the life of the AID financed project. During negotiations the GON has agreed to assume this cost burden. The amendment will require the GON to agree to provide support, especially for the public defender functions. USAID will carry out a continuing dialogue with the GON to assure that priority aspects of the justice sector receive sustained funding during and after termination of the Project.

VII. CONDITIONS PRECEDENT AND COVENANTS

In addition to the usual conditions precedent and covenants, the following are proposed:

A. Conditions Precedent

Condition Precedent to Initial Disbursement for Activity I:

1. That the President of the Republic will establish a National Law Reform Commission. This Commission will be considered to be established when the names of the members are provided to USAID as well as the by-laws and a date for its first meeting. All disbursements for this Activity will be excluded until the condition is met with the exception of T.A. to develop the National Law Reform Commission by-laws.

Condition Precedent to Initial Disbursement for Activity 2:

1. Before beginning project activities, the Attorney General will hire and have in place a National Director for the National Public Defenders Office.

B. Covenants

1. That the Supreme Court agrees to establish the following four subcommissions to be staffed by Nicaraguan and international experts who will conduct research and prepare draft legislation:

- a) Subcommission for Reform of Criminal Procedures;
- b) Subcommission for Reform of the Criminal Code;
- c) Subcommission for Reform of the Administrative Procedures Code;
- d) Subcommission for Reform of the Organic Law of the Judiciary.

2. The Supreme Court further agrees that all findings and recommendations of the preceding subcommissions will be submitted to the National Law Reform Commission for review and final presentation to the Supreme Court to initiate legislation.

3. That the GON and Supreme Court present the findings and recommendations of the National Commission and the various subcommissions to the National Assembly to initiate enactment of legislation in such areas as reform of Criminal Procedures, the Criminal Code, the Administrative Procedures Code, and the Organic Law of the Judiciary.

4. That the GON agrees to hire those public defenders who have successfully completed the Special Defender Program. The GON will make special efforts to budget for the public defenders function throughout the Life of the Project.

LOGICAL FRAMEWORK

Logical Framework

| Narrative Summary | Objectively Verifiable Indicators | Means of Verification | Assumptions |
|---|--|--|---|
| <p><u>GOAL:</u> Develop a stable, enduring democratic system</p> | <p>Increased level of confidence in democratic institutions and justice system</p> | <p>Surveys and Focus Group Analysis, Impact Evaluations.</p> | <p>Continuing Democratic Process. Resolution of Crisis between Branches of Government.</p> |
| <p><u>Purpose of Project:</u> Strengthen democratic institutions and values</p> <p><u>Purpose of Component:</u> Strengthen justice system</p> | <p><u>EOPS:</u> An increase in the level of confidence of Nicaragua's justice system</p> <p>Strengthened judicial sector institutions</p> <p>A Management Information System for the judicial sector established</p> <p>An effective mediation program established in pilot communities</p> <p>Improved prosecutorial and defense services</p> | <p>Institutional contractor reports and USAID direct monitoring and evaluation.</p> <p>Quantitative and qualitative analyses of project impact</p> | <p>GON and private sector continue to support reforms.</p> <p>Magistrates continue to actively promote reform.</p> <p>Supreme Court's budget increases sufficiently to sustain cost of reform.</p> |
| <p><u>Outputs:</u></p> <p>1. Law Reform</p> <p>a. Criminal Procedure Code</p> <p>b. Penal Code</p> <p>c. Administrative Procedures Code</p> <p>d. Organizational Law of the Judicial System</p> | <p>1 issued</p> <p>1 issued</p> <p>1 issued</p> <p>1 issued</p> | <p>Official GON Gazette Evaluation</p> | <p>Assembly is not in crisis.</p> |
| <p>2. Prosecutorial/ Defense Services</p> <p>a. Restore Prosecutorial functions of Attorney General's Office.</p> <p>b. Design Public Defender Program</p> | <p>Pilot programs developed and implemented</p> | <p>Case Records</p> | <p>Acceptance of assistance and active participation of judges and staff.</p> <p>Timely assistance by contractors and grantees .</p> <p>Passage of draft law reforms by Congress</p> <p>Other assumptions as stated above</p> |
| <p>3. Court Administration</p> <p>a. Judicial Statistics System Development</p> <p>b. Records system standardized and modernized</p> <p>c. Basic office functions automated</p> <p>d. Produce administrative Procedure manual</p> | <p>A Management System for the judicial sector established</p> <p>1 system installed</p> <p>Manual developed</p> <p>1 prepared</p> | <p>Impact evaluations of the administrative procedures implemented, the aging analysis of the caseload inventories, etc.</p> | |

68-

| | Objectively Verifiable Indicators | Means of Verification | Assumptions |
|--|---|---|---|
| 4. Training | | | |
| a. New judges and court personnel trained in new codes and administrative systems | Staff trained | Impact evaluation of performance | |
| b. Ethics code developed | 1 developed and adopted | See published code | |
| 5. Mediation | | | MED's continuing interest. |
| a. Community Mediation Program | programs established | School curriculum | Identify appropriate NGOs or other organizations to run centers |
| b. School Mediation Program | programs established | Center's activity and case report and site visits | |
| <u>Inputs:</u> | | USAID Project Documents | Fund available |
| 1. Technical Assistance Contract (including training, commodities, & project management) | \$ 3,259 | | |
| 2. Other costs (Project Coordinator & Strat-up) | 155 | | |
| 3. Contingency | 386 | | |
| 4. Inflation | 200 | | |
| | Total \$4000 | | |
| Gon In-Kind Office space, personnel, typewriter, supplies, vehicle | GON counterpart contributions valued at \$205,000 for salaries plus in-kind contribution. | Inspect sub-project sites Contractor's reports and evaluations | Continued GON priority to Justice Sector |

ANNEX B

GON Request for Assistance



REC-1

MINISTERIO DE COOPERACION EXTERNA Jan 31 1 27 PM '94

USCIB

Managua, 26 de enero de 1994.
REF: EK-0048-94.

Doctora
JANET BALLANTYNE
Directora
USAID/Nicaragua
Su Despacho

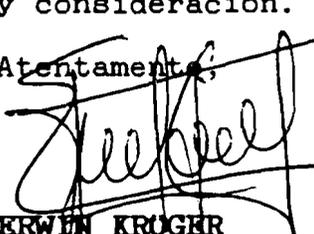
Estimada Doctora Ballantyne:

Por medio de la presente, y en forma oficial, le solicito a Ud. como Directora de la Agencia para el Desarrollo Internacional de los Estados Unidos de América, se realice la firma y debida ejecución de la Enmienda al Convenio "Fortalecimiento de Instituciones Democráticas". El Dr. Enrique Villagra, Vice-Presidente de la Corte Suprema de Justicia, ha constatado que el proyecto brinda apoyo y está conforme con los planes de desarrollo del Sistema Judicial de Nicaragua.

La Dirección de Estados Unidos del Ministerio a mi cargo se pondrá en contacto con los oficiales de USAID/ Nicaragua para ultimar detalles de la ceremonia donde se llevará a cabo la firma de la enmienda en mención.

Aprovecho la oportunidad para agradecerle la cooperación contemplada en este convenio y asegurarle mi más alta estima y consideración.

Atentamente,


ERWIN KROGER
Ministro



**MINISTRO
DE
COOPERACION
EXTERNA**

EK:mev

Due Date: 2/9
Action Taken:

Initials:

BEST AVAILABLE DOCUMENT

| Date JAN 31 1994 Received: | | |
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| | Act. | Info. |
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| Reading File | | ✓ |
| Chron | | ✓ |

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MINISTERIO DE EDUCACION

Managua, 16 de abril de 1993

DRA. JANETT BALLANTYNE
Directora General
USAID/Nicaragua
Su Despacho.

Estimada Doctora Ballantyne:

Después de saludarla muy atentamente, permítome expresarle la grata visita en mi Despacho, de los señores Bill Davis, Lilibana Ayalde y Dra. Rebeca Iverson, en ocasión de la presentación que nos hicieron del Programa sobre "Conflict Managers in Action", en el cual el MED está sumamente interesado y que esperamos, a través de nuestra Directora General de Educación, Lic. Aurora Gurdían de Lacayo, empezar a agilizar el inicio de tan interesante proyecto.

Agradeciéndole toda la cooperación que nos han brindado, aprovecho complacido para testimoniarle mi aprecio y consideración.


HUMBERTO BELLI PEREIRA
Ministro de Educación



Apr 20 12 42 PM '93

USAID

cc: Archivo/93
Cronológico
HBP/MHGG
PROYECTO.

LA

Due Date: 4/29
Action Taken:

Letter sent on 5/20

Initials: *LA/ayalde*

| Date Received: | Act. | Info. | D | DD | LA | EA | PEPS | GDO | EXO | CO | FIN | PDI | ARD | Reading File |
|----------------|------|-------|---|----|----|----|------|-----|-----|----|-----|-----|-----|--------------|
| APR 20 1993 | | ✓ | | | | | | ✓ | | | | | | ✓ |



CORTE SUPREMA DE JUSTICIA

Managua, 20 de Enero de 1994

Dr. Erwin Kruger
Ministro de Cooperación
Externa,
Su Despacho.

Estimado señor Ministro:

Hace aproximadamente un año hemos venido sosteniendo reuniones de trabajo con personeros de la Agencia de los Estados Unidos para el Desarrollo Internacional (AID), con miras a concretar un amplio programa de fortalecimiento del Sistema Judicial de Nicaragua, que en su primera fase nos permitió conjuntamente con ILANUD inaugurar el año pasado la Escuela Judicial que está orientada a la capacitación y profesionalización de todos los operadores del Sistema Judicial, incluidos Procuradores, Jurados, Sistema Penitenciario y algunos sectores de la Policía Nacional.

La segunda fase de este importante proyecto, está relacionado directamente con el Proyecto AID No. 524-0316 (Fortalecimiento de las Instituciones Democráticas) y cuyos objetivos son impulsar la legislación de un nuevo Código Penal, un nuevo Código de Instrucción Criminal, una nueva Ley Orgánica de Tribunales, lo mismo que un Código de lo Contencioso Administrativo, mejoramiento de la administración judicial y el desarrollo de un Código de Etica. Estas reformas legales las impulsará la Corte Suprema de Justicia en estrecha coordinación con los demás Poderes del Estado, tal como Usted puede apreciar en los documentos fotocopiados que estamos adjuntando a ésta.

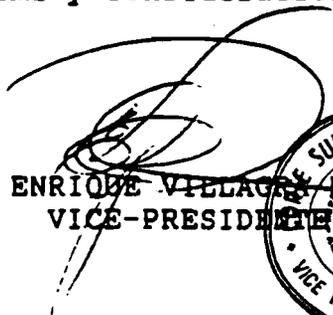
En vista de que las negociaciones para la firma de este Convenio con AID se encuentran en su fase final, y por encontrarse fuera del país el Magistrado Presidente, me permito en nombre de esta Suprema Corte de Justicia, solicitar por su medio, el aval del Gobierno de la República para la pronta firma del mismo, que sin lugar a dudas será un paso de gran trascendencia para la consolidación del Estado de Derecho.



CORTE SUPREMA DE JUSTICIA

-2-

Me permito anticiparle mi agradecimiento por su atención a la presente y me valgo de la oportunidad para testimoniarle mi más alta estima y consideración.


ENRIQUE VILLALÓN
VICE-PRESIDENTE



cc: Ing. Antonio Lacayo,
Ministro de la Presidencia
de la República.

Sr. Kevin Amstrong,
Supervisor General de Desarrollo
AID.

STRENGTHENING DEMOCRATIC INSTITUTIONS

AOJ COMPONENT ANALYSES

1. INSTITUTIONAL ANALYSIS
2. SOCIAL SOUNDNESS ANALYSIS
3. CRIMINAL PROCESS ANALYSIS
4. ECONOMIC ANALYSIS

1. INSTITUTIONAL ANALYSIS

A. The Nicaraguan Judiciary

Nicaragua adds a fourth branch of government (the Supreme Electoral Council) to the traditional tripartite model of government. Like most other Latin American models, the constitutional equality of these branches is not realized in practice and the government is characterized by a presidential model with a strong Executive and weak Legislature and Judiciary, with the Supreme Electoral Council being the weakest branch.

The basic structure of the Judiciary dates back to 1894 with the adoption of the Organic Law of the Courts. The essential framework set forth in this legislation is currently maintained. The Judicial Branch exercises its role through four court levels which are, in descending order:

(1) The Supreme Court

The Supreme Court of Nicaragua has five main sections:

- a) the Court and immediate staff (internal audit and public relations);
- b) the Supreme Court Secretariat that includes the library, archives, judicial inspectors, office of the notary, statistics, and judicial publication, the training office and data processing office;
- c) the Court Administrator, the financial division, the administrative division, and the reporting responsibility for the Registries of Deeds;
- d) the lower courts including local judges, district judges, labor courts and courts of appeals; and
- e) Registries of Deeds.

The court has six regional administrative positions to decentralize administration and provide the central office with staff assistance in providing services to the trial courts.

The office of court administration has several competent individuals providing staff support services who will be the nucleus of the necessary staff capacity to carry out the reform.

The Constitution mandates that the Supreme Court be composed of a minimum of nine magistrates selected by the Assembly from a pool of candidates proposed by the Republic's President. They

serve six year terms. This is one of the most criticized aspects of the system since, in the presidentialist model prevailing in Nicaragua, ratification by the Assembly is a perfunctory act. The most faulted feature of this model is the fact that the Assembly may not reject the pool of candidates proposed by the President. Additionally, the President of the Court is named directly by the Executive from the sitting members rather than being selected by Court members themselves.

The High Court exercises administrative, disciplinary and judicial control over this branch. In addition to the power to name all of the other judges, the Court was awarded, by the outgoing National Assembly, the "exclusive authority to determine any increase in the size of the membership of the Supreme and Appellate Courts in accordance with its own needs. Any such action must be taken by a majority of the Court". Additionally, according to a new decree, the Supreme Court is empowered to create new courts.

This broadening of the administrative and selection powers of the Supreme Court over its own membership as well as the composition of lower courts is a result of the political struggle between the outgoing government and the Chamorro coalition. In an effort to forestall any action from the government to affect its composition, the Court recently adopted Accord 50, which states that the court will expand its number by two judges for a total of nine, and will divide these nine between three chambers ("salas") in an effort at modernization and specialization. The three chambers are Constitutional, Criminal, and Civil/Agrarian. President Chamorro was requested to submit the requisite two slates to the Assembly for selection of the judges.

President Chamorro responded by threatening to reconstitute the totality of the Court, blocking the naming of the two new magistrates and reduction of the Judicial budget. Meanwhile, the Bar Association requested the National Assembly to expand the composition of the Court to thirteen to wrest control from the FSLN. Furthermore, UNO legislators sought to repeal the Sandinista Law on Court Organization to allow President Chamorro to remove the sitting members of the Court. Finally, President Chamorro negotiated an agreement which would allow her to name two candidates for the new positions established by the expansion of the Court to nine members while obtaining the resignation of the President and another member. The end result is a nine member Supreme Court with UNO controlling the Presidency and the FSLN retaining a one vote majority.

(2) Appeals Courts

There are eight regional Appeals Courts with 28 magistrates. In three of the regions (Regions II, III and IV), the courts are divided into two chambers (criminal, labor and civil). Region

III, Managua, hears about 50% of all cases and is assigned 6 appellate judges in two chambers. Regions II (Leon) and IV (Masaya/Granada) are assigned two judges each, in the same two chambers, with the remaining regions served by three appellate courts each. These courts hear appeals from the lower courts and each is composed of three to six judges (all lawyers) under a president. Their decisions are reached by majority rule.

(3) District Courts

There are 54 single-judge courts distributed as follows: 15 civil, 24 criminal and 11 mixed. These courts have jurisdiction over serious crimes (those in which the potential sentence exceeds 3 years imprisonment), civil cases (exceeding a set amount) and appeals from Local Court decisions.

There are separate specialized Labor Courts in Managua and Leon. In all other districts, this jurisdiction is exercised by the District Courts.

Forensic and rudimentary medicine is under the supervision of these courts. This service is carried out by physicians appointed for this task who act under the direction of the District Court judges.

(4) Local Courts

The 151 single-judge courts exercise jurisdiction over minor civil cases and criminal cases in which the penalty does not exceed three years imprisonment. They act under a summary procedure. They used to be lawyers, but include many non-lawyers with political rather than legal qualifications. The Supreme Court has recently named 60 new lawyers as judges of these courts.

(5) Special Courts

According to the Nicaraguan Constitution, special tribunals shall function until they are placed under the jurisdiction of the Judiciary. In the last few years, several special tribunals have been eliminated, among them, the Regional Committees for Housing Affairs of the Ministry of Housing, the Agrarian Tribunals of the Ministry of Agriculture and the Popular Anti-somacista Tribunals.

Two special military tribunals remain. According to the Law of December 2, 1980, the military tribunals exercise exclusive jurisdiction over the members of the armed forces, the Ministry of the Interior (currently, Ministry of Government) military reserves and civilians involved in incidents with military personnel. Rulings of these courts may be appealed before the Supreme Court.

Police Tribunals function under the Police Laws of 1880, and exercise jurisdiction over misdemeanors. In those cases of *flagrante delicto*, the procedure is summary in nature and the judge is entitled to rule with a lesser standard of proof. The prerogatives of Police Tribunals were modified so that police judges, who do not have to be attorneys, are named by the Minister of Government and may issue sentences of up to 180 days in jail or the equivalent fine.

These courts are not part of the Judiciary and have been the subject of much criticism for not adhering to the principle of due process in their proceedings and for their continuance as a judicial entity separate from the ordinary court system.

Finally, as discussed elsewhere, Decree Number 559, as well as the Law on the Duties of the Sandinista Police, awards to police officials a number of powers in the investigation of crimes and trials of misdemeanors, which ordinarily are in the hands of the judiciary.

B. Personnel

The members of the Supreme Court are selected by the National Assembly from candidates proposed by the President. Its chief justice is selected by the President from the membership of the Court. Their terms of office are 6 years and they can only be removed from office for causes established by the Law.

All other judges are named by the Supreme Court. Appeals Courts judges are named for a period of 4 years, District Court judges for 2 years and Local judges for 1 year. District and Local judges are not required to be attorneys, but only "knowledgeable" in the law. However, the Supreme Court has decided to replace the local judges with law trained judges. Since 1992 over 60 new local judges have been named.

Judicial salaries are comparable to those in other institutions of the public sector. Nonetheless, the material conditions in which the whole system operates are deficient. Most offices of the Judiciary are located in rented buildings, and specialized organs of the Supreme Court such as the Statistics Office, the Computer Center and the Bureau of the Publications are either obsolete or lack the resources to operate efficiently.

Judicial staffing and court distribution is grossly inadequate with one judge for every 22,6000 inhabitants. Inequities in the Atlantic Coast are aggravated by the use of indigenous dialects and customary law by the Miskito, Roma and Sumu Indian groups. Territorial distribution of courts aggravates the problem of access to the Judiciary. For example, a case which originates in Puerto Cabeza must be reviewed in Matagalpa, almost 400 kilometers away with ten bridges in between, many of which have been destroyed.

A judicial merit selection and promotion system (judicial career) does not exist in Nicaragua. A new civil service law enacted by the outgoing National Assembly guaranteed job tenure to all officials including judicial employees with the exception of judges.

There is no structured program for judicial training. The Training Office is staffed by one professional and a secretary. Funding for limited judicial training is primarily supplied by a grant from the Friedrich Ebert Foundation (FRG). There is no equipment to support training.

C. Budget

In order to assure judicial independence, a trend has developed in Central America to constitutionally award a percentage of the national budget to the Judiciary. Nicaragua is

the only country in the region without such a guarantee. The budget submitted by the Supreme Court to the Executive Branch is usually drastically reduced by the Ministry of Finance, and then allocated in monthly stipends to the Judiciary. In 1990, the total budget of the Judiciary only represented 0.45% of the national budget. The fact that 60% judicial budget is allocated to pay salaries has compelled the Judiciary to close a number of courts and postpone needed improvements.

D. Controls

Regulation of the judicial ethics of paramount importance to any judicial system. The Judiciary relies on an internal affairs unit whose functions include investigation of misconduct of judges and attorneys. Supervision is exercised by superior courts with the Appeals Courts auditing the District courts and so on. However, there is no code of ethics against which conduct can be measured.

External controls are largely political and are assigned to non-governmental organizations such as the National Commission for the Protection of Human Rights. The judicial budget is audited by the Comptroller General's Office.

E. Operating Resources

The Judiciary's material resources are seriously deficient to carry out basic justice functions. Only two court sites are owned by the Judiciary outright; 80 are rented and in many instances the Court is unable to pay the rent. One hundred lower courts are situated in municipal offices. The Supreme Court has a program to construct courthouses (see Other Donor section).

Many of the administrative offices are unable to perform their functions adequately due to lack of human and material resources. The most basic publications are lacking -- publication of judicial decisions is seriously out of date, the last text being from 1989.

2. SOCIAL SOUNDNESS ANALYSIS

There is widespread disenchantment with the administration of justice in Nicaragua. The human rights organizations report the citizens feel threatened by the absence of legal protection. The Bar Associations complain about the absence of confidence in the competence of the sitting judges. Newspapers are filled with stories of notorious cases which are not presented, most notably acts committed by members of the Sandinista Army.

The President has declared that the highest priority of the government is the establishment of the rule of law in the criminal area, but also in the civil arena. Nicaragua's economic development is impaired by a legal framework which is out of date or influenced by the political dogma of the past regime. In either case the basic statutory framework to modernize and improve the justice system does not yet exist.

These poor conditions are now being reported in the newspapers. Since the newspapers have political agendas of their own, they choose to highlight or not publish stories according to their own interests. Because there is greater press freedom, the newspapers are continuing to put pressure on the government to make changes in the justice sector. This can be very significant in creating higher levels of accountability and public awareness about the operation of the justice system.

The popular view is that the Supreme Court is too sympathetic to the Sandinista viewpoint. Of the nine members, four who were appointed by the Sandinistas will end their term of service in December 1993. The one remaining Sandinista justice's term will end in March, 1994. The change in the composition of the Supreme Court will afford GON the opportunity to address the political appearance of the Supreme Court as well as the approach to substantive law issues.

The leadership of the Supreme Court has decided to take a low profile approach to the changes they have made because it is their belief that if they announce changes it will invite opposition. Therefore, the leadership of the Bar Associations, prominent lawyers, and the human rights organizations were unaware that the court had a strategic program to replace the lay judges with recent graduates of law school. Nor were they aware that the Supreme Court had recently removed two Sandinista judges from office. The removal of a number of employees from the land records office for falsifying titles was also done without calling attention to the acts of the court. These actions are occurring with the consent of the Sandinista majority on the court. Although incremental in name, in the highly changed political environment of Nicaragua these strategies appear to be well-conceived.

The public opinion of the judicial system in Nicaragua has always been very low for good and sufficient reasons. Historically, during the Somoza years the judiciary was treated with disdain and never adequately funded. The Sandinista regime continued the treatment through its meager support for the system and its creation of multiple court structures to handle certain kinds of cases outside the judicial process. The Sandinista government preferred non-lawyer to lawyer.

The success of this project will depend on the continued strong support of those in leadership positions in all branches of government. The almost total absence of Democratic traditions translates into the fact that there is no organized public support for change. Civil participation is unknown. Building consensus to reach a decision about the content of a law is a process and a skill not readily encountered in the society. The support of the democratic leadership will be the key ingredient to success.

Another external factor which will influence the success of the project will be the degree to which the country will be able to reconcile political differences. Crafting law reforms to strengthen the justice sector which has intentionally been maintained as an inferior branch of government will not result in the desired changes if there is a political stalemate.

Change in the judicial system throughout the world is slow, tedious and fraught with setbacks. Adding Nicaragua's recent political history and current political climate, translates into a very difficult, if not desperate scenario where the obvious need for change will confront the political deadlock every step of the way. These factors will influence the successful outcome of the project more than the ability to deliver the enumerated inputs.

3. CRIMINAL PROCESS ANALYSIS

While substantial reform in criminal procedure has occurred in the rest of Latin America, Nicaraguan procedure has remained virtually unchanged since 1879. As described by Wilson, the Code is primarily a product of the Napoleonic Code. The criminal process was also affected by the adoption of the Police Regulations of 1880, adopted contemporaneously with the code of criminal procedure and which included the creation of police instructional judges.

Criminal Procedure is characterized by its strong apparent emphasis on "due process" requirements such as the privilege against self-incrimination, the prohibition of defendants being held incommunicado, the right to counsel, the right to a public trial, and fixed periods for the completion of the different procedural stages. Even though all of these guarantees are

written into the Constitution, they are not always followed.

Nicaragua continues to rely on the traditional civil law written process. Jury trials for certain serious crimes, a notable exception to the written mode and to most other Latin American countries, existed at the time of the revolution, but were gradually abolished in all cases by 1988. This action was taken because of a lack of resources for maintenance of juries and jury lists; the general lack of financial resources; the absence of education by jurors in the rudiments of law and process, and; perhaps most importantly, the tendency of juries to acquit the accused.

The nature of the offense determines the type of charges to be filed and the court in which filing will occur. Police make the initial charging decision within six days. After this period, depending on the nature of the charge, either the prosecutor or the judge will take over the investigation and begin the questioning of the defendant if he or she is in custody. Possible delays of up to eight days before the accused appears before a judge clearly conflict with the 1987 Constitution's requirement that such appearances occur within 72 hours. Trials may proceed to judgment without the defendant's presence, and sometimes do. In some few cases, the private citizen may prosecute criminal wrongdoing through private action in the criminal courts.

The process is divided into two phases once the judge or prosecutor takes over. In the first stage, the investigation, the judge takes the defendant's statement and makes a decision as to bail. Because of the volume of cases, the defendant's statement is often taken by the judge's clerk or secretary. Eligibility for bail is extremely limited since it is available only in cases where the term of imprisonment is less than one year. It is further restricted by the economic resources of most accused. Thus, pre-trial detention is invoked frequently. The first stage is statutorily limited to 8 to 20 days, depending on whether the defendant is detained or not, but routinely exceeds that, running up to six to eight months or even a year for the accused in custody without counsel. At the close of this stage, the judge issues the official act of imprisonment, which binds the defendant over to the trial stage, dismisses the charges, or holds them in abeyance pending the receipt of further evidence.

The second stage, which statutorily last from 16 to 30 days, is known as the plenary, and the parties are permitted to review the evidence gathered by the judge or prosecutor, offer evidence and argue legal points. Again, this stage is likely to take much longer in fact. The Code of Criminal Procedure first mentions defense counsel at this stage of the proceedings, although the 1987 Constitution provides for the right to counsel "from the outset of the proceedings". Defense counsel is routinely

appointed for those who request it, regardless of indigence, at this point, not at the earlier, constitutionally required point.

At the close of the second stage, in pending felonies, the judge either acquits or convicts, proposing a sentence in a formal written document which reviews the evidence and the punishment merited. Then a jury panel of members of the community are impaneled to read the judge's decision and take a vote on innocence or guilt. During the first year and a half of this new system, according the Office of Statistics, in nine courts barely 20% of those reviewed return guilty verdicts. Further, the jurors do not attend court when cited causing significant time delays in processing criminal cases. These delays translate into larger jail populations awaiting final sentence. A 1989 study by the government's human right's commission found that sampled cases took an average of 27.6 months from start of proceedings to final action by the Supreme Court, a period 700% in excess of the 109 days permitted by law.

Even without juries, the system is quite prone to leniency, inefficiency or both. Estimates of conviction rates vary between 20 and 30 percent. Plea bargaining does not exist, so all cases allegedly go to trial, but by the time cases had reached that phase in 1986, nearly 60% had fallen away from the system, either from a decision to drop charges or by judicial decision of insufficient evidence to proceed.

Extraordinary writs of *habeas corpus* and "amparo" are quite frequently filed with the appellate courts, which have original jurisdiction over such matters. In the Region III appellate court, for example, some 18000 petitions for *habeas corpus* were filed in 1989. Of these however, nearly 1300 were not "transmitted" because the threat of punishment (actual custody is not required) was not seen as real. In 1988, the new "amparo" law also carried a provision permitting a challenge of unconstitutionality of any new law by any citizen within 60 days of its enactment by original writ to the Supreme Judicial Court. This writ is also available for attack on the unconstitutional application of any criminal statute to an individual harmed by the law, and attacks on this basis have been leveled.

In addition to the "ordinary" criminal process a simpler and summary procedure is utilized for the trial of minor offenses for which the maximum penalty is less than one year imprisonment. These offenses are prosecuted before local or municipal judges. the entire process is designed to be completed within 10 days.

4. ECONOMIC ANALYSIS

While it is not possible to conduct a meaningful economic analysis of the AOJ Component, given the lack of the most basic baseline data on Nicaragua's system of justice and the large uncertainty in statistics related to the nation's economic growth, the AOJ Component should offer important economic benefits to Nicaragua. A more efficient, transparent, and equitable system of justice should lay a foundation for the development of lawful economic activity. All else being equal, such foundation would tend to:

- Encourage entrepreneurial behavior and, thus, greater levels of investment in Nicaragua, by tending to boost the level of confidence of both domestic and foreign investors in the stability of the economic system. An expansion of such investment is essential to economic growth.
- Reduce transaction costs within the economy, as contract disputes are more efficiently handled through legal channels. Among other things, this would tend to raise productivity, and thus, international competitiveness in the economy, which would also tend to stimulate economic growth.
- Strengthen property rights, as property disputes are resolved on a more timely basis and owners of property gain confidence in the ability of the justice system to protect their rights.

Although the lack of data prevent undertaking a benefit-cost analysis of the AOJ Component in Nicaragua, recently completed research in neighboring El Salvador found that a favorable benefit-cost ratio could be expected for a similar USAID AOJ program in that country.¹ The El Salvador evidence suggests there is a strong possibility that Component benefits would outweigh costs in Nicaragua as well.

¹See Mark Gallagher, "Economic Analysis of the Administration of Justice Project in El Salvador," Staff Working Paper No. 7 (March 1993), USAID Bureau for Latin America and the Caribbean.

ANNEX D

Supplemental Budget Tables

Supplemental Budget Tables

| <u>Position</u> | <u>Time</u> | <u>Salary \$</u> | | <u>Year 1</u> | <u>Year 2</u> | <u>Year 3</u> | <u>Year 4</u> | <u>Total</u> |
|---|-------------|------------------|--|---------------|----------------|----------------|----------------|------------------|
| Staffing Patterns | | | | | | | | |
| I. Project Management | | | | | | | | |
| AID PSC | 42 months | 2,500 /mo. | | 15,000 | 30,000 | 30,000 | 30,000 | 105,000 |
| Contractor | | | | | | | | |
| COP (Base Salary) | 36 months | 86,400 /yr. *2 | | 0 | 86,400 | 86,400 | 86,400 | 259,200 |
| 30 % overhead | | | | 0 | 25,920 | 25,920 | 25,920 | 77,760 |
| Per Diem (2 months) | | | | 0 | 10,000 | 0 | 0 | 10,000 |
| Housing (2,000/mo.) | | | | 0 | 24,000 | 24,000 | 24,000 | 72,000 |
| Freight | | | | 0 | 5,000 | 0 | 5,000 | 10,000 |
| Travel | | | | 0 | 3,000 | 0 | 3,000 | 6,000 |
| Adm. (Base Salary) | | 65,000 /yr. *2 | | 0 | 65,000 | 65,000 | 65,000 | 195,000 |
| 30 % Overhead | | | | 0 | 19,500 | 19,500 | 19,500 | 58,500 |
| Per Diem (2 Months) | | | | 0 | 10,000 | 0 | 0 | 10,000 |
| Housing (2,000/mo.) | | | | 0 | 24,000 | 24,000 | 24,000 | 72,000 |
| 30 % Overhead | | | | 0 | 7,200 | 7,200 | 7,200 | 21,600 |
| Freight | | | | 0 | 5,000 | 0 | 5,000 | 10,000 |
| Travel | | | | 0 | 3,000 | 0 | 3,000 | 6,000 |
| Secretary | 36 months | 488 /mo. *1 *2 | | 0 | 5,850 | 5,850 | 5,850 | 17,550 |
| 30 % Overhead | | | | 0 | 1,755 | 1,755 | 1,755 | 5,265 |
| Office Rental | 36 months | | | 0 | 30,000 | 30,000 | 30,000 | 90,000 |
| 30 % Overhead | | | | 0 | 9,000 | 9,000 | 9,000 | 27,000 |
| Office furniture | | | | 0 | 12,000 | 0 | 0 | 12,000 |
| Communications | 36 months | | | 0 | 6,000 | 6,000 | 6,000 | 18,000 |
| 2 Vehicles & Maintenance 4x4 vehicle | 36 months | | | 0 | 50,000 | 5,000 | 5,000 | 60,000 |
| Equip. & Maintenance | 36 months | | | 0 | 8,000 | 1,000 | 1,000 | 10,000 |
| Two PCS, Fax, Printer, Copier, phone | | | | 0 | 0 | 0 | 0 | 0 |
| Pre-implementation Activities | 6 months | | | 50,000 | 0 | 0 | 0 | 50,000 |
| Miscellaneous | 36 months | | | 0 | 20,000 | 7,500 | 7,500 | 35,000 |
| Total Element I | | | | 65,000 | 460,625 | 348,125 | 364,125 | 1,237,875 |
| Sub-total (rounded to thousands) | | | | 65,000 | 461,000 | 348,000 | 364,000 | 1,238,000 |

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Supplemental Budget Tables

| <u>Position</u> | <u>Time</u> | <u>Salary \$</u> | | <u>Year 1</u> | <u>Year 2</u> | <u>Year 3</u> | <u>Year 4</u> | <u>Total</u> |
|--|---------------|-------------------|--|---------------|----------------|---------------|---------------|----------------|
| II Law Reform Activity | | | | | | | | |
| One Coordinator | 36 months | 2,000 /mo. *1*2 | | 0 | 26,000 | 26,000 | 26,000 | 78,000 |
| 30% Overhead | | | | 0 | 7,800 | 7,800 | 7,800 | 23,400 |
| Two Secretaries | 2 (36 months) | 2 (450 /mo.) *1*2 | | 0 | 11,700 | 11,700 | 11,700 | 35,100 |
| 30% Overhead | | | | 0 | 3,510 | 3,510 | 3,510 | 10,530 |
| Equipment 1 PC, Printer, copier, telephone | | | | 0 | 5,000 | 3,000 | 3,000 | 11,000 |
| Publication of Draft and Final Laws (150 pages/100 copies) | | | | | | 25,000 | 25,000 | 50,000 |
| Notices in newspapers (at \$500 per announcements) | | | | | | 12,000 | | 12,000 |
| Sub-total | | | | 0 | 54,010 | 89,010 | 77,010 | 220,030 |
| CPC | | | | | | | | |
| One Jurist | 18 months | 2,000 /mo. *1*2 | | 0 | 26,000 | 13,000 | 0 | 39,000 |
| 30% Overhead | | | | 0 | 7,800 | 3,900 | 0 | 11,700 |
| One Assistant | 18 months | (1000 /mo.) *1*2 | | 0 | 13,000 | 6,500 | 0 | 19,500 |
| 30% Overhead | | | | 0 | 3,900 | 1,950 | 0 | 5,850 |
| One Clerical | 18 months | 450 /mo. *1*2 | | 0 | 5,850 | 2,925 | 0 | 8,775 |
| 30% Overhead | | | | 0 | 1,755 | 878 | 0 | 2,633 |
| Two TA Consultant | 2 (3 months) | 2,500 /mo. *2 | | 0 | 12,000 | 3,000 | 0 | 15,000 |
| 30% Overhead | | | | 0 | 3,600 | 900 | 0 | 4,500 |
| Three Graduate Students | 18 months | 150 /mo. *1*2 | | 0 | 5,850 | 2,925 | 0 | 8,775 |
| 30% Overhead | | | | 0 | 1,755 | 878 | 0 | 2,633 |
| Equipment, 2PCs, Printer, copier, phone | | | | 0 | 7,500 | 3,000 | 0 | 10,500 |
| Supplies | | | | 0 | 2,000 | 2,000 | 0 | 4,000 |
| Publications | | | | 0 | 0 | 5,000 | 0 | 5,000 |
| Conference Expenses | | | | 0 | 0 | 5,000 | 0 | 5,000 |
| Travel for Experts | | | | 0 | 20,000 | 20,000 | 0 | 40,000 |
| Inter. Travel for staff (4 RT, MAN-CR-MAN) | | | | 0 | 6,000 | 0 | 0 | 6,000 |
| Sub-total | | | | 0 | 117,010 | 71,856 | 0 | 188,866 |

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Supplemental Budget Tables

| <u>Position</u> | <u>Time</u> | <u>Salary \$</u> | | <u>Year 1</u> | <u>Year 2</u> | <u>Year 3</u> | <u>Year 4</u> | <u>Total</u> |
|---|-------------|------------------|---|---------------|----------------|----------------|---------------|----------------|
| CC | | | | | | | | |
| One Jurist | 30 months | 2,000 /mo. *1*2 | 0 | 26,000 | 26,000 | 13,000 | | 65,000 |
| 30% Overhead | | | 0 | 7,800 | 7,800 | 3,900 | | 19,500 |
| One Assistant | 30 months | 1,000 /mo. *1*2 | 0 | 13,000 | 13,000 | 6,500 | | 32,500 |
| 30% Overhead | | | 0 | 3,900 | 3,900 | 1,950 | | 9,750 |
| One Clerical | 30 months | 450 /mo. *1*2 | 0 | 5,850 | 5,850 | 2,925 | | 14,625 |
| 30% Overhead | | | 0 | 1,755 | 1,755 | 878 | | 4,388 |
| Two TA Consultant | 2(5 months) | 3,000 /mo. *1*2 | 0 | 12,000 | 12,000 | 6,000 | | 30,000 |
| 30% Overhead | | | 0 | 3,600 | 3,600 | 1,800 | | 9,000 |
| Three Graduate Students | 30 months | 150 /mo. *1*2 | 0 | 5,850 | 5,850 | 2,925 | | 14,625 |
| 30% Overhead | | | 0 | 1,755 | 1,755 | 878 | | 4,388 |
| Equipment, three PCS, Printer, fax, copier, phone | | | 0 | 10,500 | 5,000 | 5,000 | | 20,500 |
| Conference Expenses | | | 0 | 0 | 10,000 | 10,000 | | 20,000 |
| Publications | | | 0 | 0 | 5,000 | 5,000 | | 10,000 |
| Travel for Experts | | | 0 | 22,000 | 22,000 | 22,000 | | 66,000 |
| Inter. Travel (Jurist+Committee) (Uruguay;Bolivia;CR) | | | 0 | 18,000 | 0 | 0 | | 18,000 |
| Advisory Committe (10 meetings @ 2,000) | | | 0 | 8,000 | 8,000 | 4,000 | | 20,000 |
| Supplies | | | 0 | 2,000 | 2,000 | 1,000 | | 5,000 |
| Sub-total | | | | 0 | 142,010 | 133,510 | 87,756 | 363,276 |
| Administrative Law Procedures | | | | | | | | |
| One Jurist | 18 months | 2,000 /mo. *1*2 | 0 | 26,000 | 13,000 | 0 | | 39,000 |
| 30% Overhead | | | 0 | 7,800 | 3,900 | 0 | | 11,700 |
| One Assistant | 18 months | 1,000 /mo. *1*2 | 0 | 13,000 | 6,500 | 0 | | 19,500 |
| 30% Overhead | | | 0 | 3,900 | 1,950 | 0 | | 5,850 |
| T.A. Consultant | 6 months | 3,000 /mo. *2 | 0 | 12,000 | 6,000 | 0 | | 18,000 |
| 30% Overhead | | | 0 | 3,600 | 1,800 | 0 | | 5,400 |
| One Clerical/Typist | 18 months | 450 /mo. *1*2 | 0 | 5,850 | 2,925 | 0 | | 8,775 |
| 30% Overhead | | | 0 | 1,755 | 878 | 0 | | 2,633 |
| Three Graduate Students | 18 months | 150 /mo. *1*2 | 0 | 5,850 | 2,925 | 0 | | 8,775 |

eb

Supplemental Budget Tables

| <u>Position</u> | <u>Time</u> | <u>Salary \$</u> | | <u>Year 1</u> | <u>Year 2</u> | <u>Year 3</u> | <u>Year 4</u> | <u>Total</u> |
|--|---------------|------------------|------|---------------|---------------|---------------|---------------|--------------|
| 30% Overhead | | | | 0 | 1,755 | 878 | 0 | 2,633 |
| Equipment, Two PCS, printer, copier, phone | | | | 0 | 7,500 | 1,000 | 0 | 8,500 |
| Conference Expenses | | | | 0 | 4,000 | 6,000 | 0 | 10,000 |
| Publications | | | | 0 | | 5,000 | 0 | 5,000 |
| Travel for intero'l Consultants | | | | 0 | 30,000 | 15,000 | 0 | 45,000 |
| Travel for team (Uruguay;CR) | | | | 0 | 7,000 | 3,000 | 0 | 10,000 |
| Supplies | | | | 0 | 2,000 | 1,000 | 0 | 3,000 |
| | | | | ----- | | | | |
| Sub-total | | | | 0 | 132,010 | 71,756 | 0 | 203,766 |
| Organic Law | | | | | | | | |
| Local Expert | 30 months | 2,000 /mo. | *1*2 | 0 | 26,000 | 26,000 | 13,000 | 65,000 |
| 30% Overhead | | | | 0 | 7,800 | 7,800 | 3,900 | 19,500 |
| Secretary | 15 equivalent | 450 /mo. | *1*2 | 0 | 2,925 | 2,925 | 1,463 | 7,313 |
| 30% Overhead | | | | 0 | 878 | 878 | 439 | 2,195 |
| Two Foreign Experts | 9 months | 3,000 /mo. | *1*2 | 0 | 12,000 | 12,000 | 3,000 | 27,000 |
| 30% Overhead | | | | 0 | 3,600 | 3,600 | 900 | 8,100 |
| Travel for Experts | | | | 0 | 5,000 | 5,000 | 5,000 | 15,000 |
| Equipment (1PC, 2,500; 1 Printer, 500; 1 Copier, 1,000; Phone, 1,000; Fax, 500) | | | | 0 | 5,500 | | | 5,500 |
| Supplies | | | | 0 | 1,707 | 1,707 | 2,608 | 6,022 |
| | | | | ----- | | | | |
| | | | | 0 | 65,410 | 59,910 | 30,310 | 155,630 |
| | | | | ----- | | | | |
| Total Element II | | | | 0 | 510,450 | 426,041 | 195,076 | 1,131,568 |
| Sub-total (rounded to thousands) | | | | 0 | 511,000 | 426,000 | 195,000 | 1,132,000 |

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Supplemental Budget Tables

| <u>Position</u> | <u>Time</u> | <u>Salary \$</u> | | <u>Year 1</u> | <u>Year 2</u> | <u>Year 3</u> | <u>Year 4</u> | <u>Total</u> |
|--|---------------|------------------|--|---------------|---------------|---------------|---------------|--------------|
| III Defense and Prosecutorial Component | | | | | | | | |
| A. Advisor | 36 months | 1,500 /mo. | | 0 | 18,000 | 18,000 | 18,000 | 54,000 |
| 30% Overhead | | | | | 5,400 | 5,400 | 5,400 | 16,200 |
| B. National Public Defense Office | | | | | | | | |
| 1. National Public Defender | 36 month | 900 /mo. *3 | | 0 | 0 | 0 | 0 | 0 |
| 2. Assistant PD | 36 months | 500 /mo. *3 | | 0 | 0 | 0 | 0 | 0 |
| 30% Overhead | | | | 0 | 0 | 0 | 0 | 0 |
| 3. Clerical | 1(36 months) | 140 /mo. *1*2*3 | | 0 | 1,820 | 0 | 0 | 1,820 |
| 30% Overhead | | | | 0 | 546 | 0 | 0 | 546 |
| 4. Office Supplies | | | | 0 | 5,000 | 0 | 0 | 5,000 |
| 5. TA | 2X (3 months) | 3,000 /mo. | | 0 | 18,000 | 0 | 0 | 18,000 |
| 6. Travel and P.D. TA | | | | 0 | 16,200 | 0 | 0 | 16,200 |
| 7. International Travel (C.R.) | 3 trips | 2,000 /trip | | 0 | 6,000 | 0 | 0 | 6,000 |
| 8. Equipments (1 PC, 1 Printer) | | | | 0 | 3,000 | 0 | 0 | 3,000 |
| Sub-Total (A + B) | | | | 0 | 73,966 | 23,400 | 23,400 | 120,766 |
| C. Managua Office | | | | | | | | |
| 1. Delegate | 1(12 months) | 500 /mo. *1*2*3 | | | | | 6,500 | 6,500 |
| 30% Overhead | | | | | | | 1,950 | 1,950 |
| 2. Director | 1(12 months) | 425 /mo. *1*2*3 | | 0 | 0 | 0 | 5,525 | 5,525 |
| 30% Overhead | | | | | | | 1,658 | 1,658 |
| 3. Staff Attorneys | 10(36 months) | 350 /mo. *1*2*3 | | 0 | 45,500 | 0 | 0 | 45,500 |
| 30% Overhead | | | | 0 | 13,650 | 0 | 0 | 13,650 |
| 4. Investigators | 4(36 months) | 230 /mo. *1*2*3 | | 0 | 11,960 | 0 | 0 | 11,960 |
| 30% Overhead | | | | 0 | 3,588 | 0 | 0 | 3,588 |
| 5. Clericals | 10(36 months) | 140 /mo. *1*2*3 | | 0 | 18,200 | 0 | 0 | 18,200 |
| 30% Overhead | | | | 0 | 5,460 | 0 | 0 | 5,460 |
| 6. Office Support/Supplies | 12 months | | | 0 | 5,000 | 0 | 0 | 5,000 |
| 30% Overhead | | | | 0 | 1,500 | 0 | 0 | 1,500 |
| 7. Equipment (5 Computers & 2 Printers) | | | | 0 | 13,500 | 0 | 0 | 13,500 |
| Sub-Total C | | | | 0 | 118,358 | 0 | 15,633 | 133,991 |

tb

Supplemental Budget Tables

| <u>Position</u> | <u>Time</u> | <u>Salary \$</u> | | <u>Year 1</u> | <u>Year 2</u> | <u>Year 3</u> | <u>Year 4</u> | <u>Total</u> |
|--|---|------------------|--|---------------|---------------|---------------|---------------|--------------|
| D. Two New District Offices (yr4) | | | | | | | | |
| 1. Lead Defenders | 2(12 months) | 425 /mo. *1*2 | | 0 | 0 | 0 | 11,050 | 11,050 |
| 30% Overhead | | | | 0 | 0 | 0 | 3,315 | 3,315 |
| 2. Four Staff Attorneys | 4(12 months) | 350 /mo. *1*2 | | 0 | 0 | 0 | 18,200 | 18,200 |
| 30% Overhead | | | | 0 | 0 | 0 | 5,460 | 5,460 |
| 3. Two Investigators | 2(12 months) | 230 /mo. *1*2 | | 0 | 0 | 0 | 5,980 | 5,980 |
| 30% Overhead | | | | 0 | 0 | 0 | 1,794 | 1,794 |
| 4. Two Clericals | 2(12 months) | 140 /mo. *1*2 | | 0 | 0 | 0 | 3,640 | 3,640 |
| 30% Overhead | | | | 0 | 0 | 0 | 1,092 | 1,092 |
| 5. Office Support/Supplies | | | | 0 | 0 | 0 | 2,500 | 2,500 |
| 30% Overhead | | | | 0 | 0 | 0 | 750 | 750 |
| 6. Equipment (2 Computers 2 Printers) | | | | 0 | 0 | 0 | 6,000 | 6,000 |
| | | | | ----- | | | | |
| | Sub-Total D | | | 0 | 0 | 0 | 59,781 | 59,781 |
| E. Prosecutorial | | | | | | | | |
| 1. Consultants | 2 (5 months) | (3,000 /mo.) | | 0 | 30,000 | 0 | 0 | 30,000 |
| 30% Overhead | | | | 0 | 9,000 | 0 | 0 | 9,000 |
| 2. Travel & Per Diem (2 round trips-Managua-Costa Rica for 5 People) | | | | 0 | 15,000 | 0 | 0 | 15,000 |
| | | | | ----- | | | | |
| | Sub-total E | | | 0 | 54,000 | 0 | 0 | 54,000 |
| | | | | ----- | | | | |
| | Total Element III | | | 0 | 246,324 | 23,400 | 98,814 | 368,538 |
| | Sub-total (rounded to thousands) | | | 0 | 246,000 | 24,000 | 99,000 | 369,000 |

Supplemental Budget Tables

| <u>Position</u> | <u>Time</u> | <u>Salary \$</u> | | <u>Year 1</u> | <u>Year 2</u> | <u>Year 3</u> | <u>Year 4</u> | <u>Total</u> |
|---|-------------|------------------|--|---------------|---------------|---------------|---------------|--------------|
| IV. Judicial Administration | | | | | | | | |
| A. Docket System | | | | | | | | |
| International Consultant | 3 months | (7,000 /mo.) *2 | | 0 | 21,000 | 0 | 0 | 21,000 |
| 30% Overhead | | | | 0 | 6,300 | 0 | 0 | 6,300 |
| Local Consultant | 2 months | (2,500 /mo.) *2 | | 0 | 5,000 | 0 | 0 | 5,000 |
| 30% Overhead | | | | 0 | 1,500 | 0 | 0 | 1,500 |
| Travel (5 trips) | | | | 0 | 20,000 | 0 | 0 | 20,000 |
| 10 pcs, 10 printer, software, 15 file cabinets, 8 faxes, 20 tables | | | | 0 | 40,000 | 0 | 0 | 40,000 |
| Other supplies and forms (including dockets card) | | | | 0 | 55,000 | 0 | 0 | 55,000 |
| Rewiring of offices | | | | 0 | 10,000 | 0 | 0 | 10,000 |
| Sub-total | | | | 0 | 158,800 | 0 | 0 | 158,800 |
| B. Records & Record Management | | | | | | | | |
| Internat'l Consultant | 0.5 months | 7,000 /mo. *2 | | 0 | 3,500 | 0 | 0 | 3,500 |
| 30% overhead | | | | 0 | 1,050 | 0 | 0 | 1,050 |
| Local Consultant | 2 months | 2,500 /mo. *2 | | 0 | 5,000 | 0 | 0 | 5,000 |
| 30% overhead | | | | 0 | 1,500 | 0 | 0 | 1,500 |
| Travel (1 trip) | | | | 0 | 4,000 | 0 | 0 | 4,000 |
| Equipment & Materials (Filing cabinets, 100x\$200/ea=\$20,000, 54 district courts, 2x54x\$200=\$21,600, 28 appeals courts, 28x\$200=\$5,600, 1 Supreme court, 1x14x\$200=\$2,800) | | | | 0 | 50,000 | 0 | 0 | 50,000 |
| Courses & Publications | | | | 0 | 10,000 | 0 | 0 | 10,000 |
| Sub-total | | | | 0 | 75,050 | 0 | 0 | 75,050 |

BEST AVAILABLE DOCUMENT

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Supplemental Budget Tables

| <u>Position</u> | <u>Time</u> | <u>Salary \$</u> | | <u>Year 1</u> | <u>Year 2</u> | <u>Year 3</u> | <u>Year 4</u> | <u>Total</u> |
|---|-------------|------------------|------|---------------|---------------|---------------|---------------|--------------|
| C. Administrative Procedures Manual | | | | | | | | |
| Internat'l Consultant | 1 month | 7,000 /mo. | *2 | 0 | 7,000 | 0 | 0 | 7,000 |
| 30% overhead | | | | 0 | 2,100 | 0 | 0 | 2,100 |
| National Consultant | 6 months | 2,000 /mo. | *2 | 0 | 12,000 | 0 | 0 | 12,000 |
| 30% overhead | | | | 0 | 3,600 | 0 | 0 | 3,600 |
| Material, Publications | | | | 0 | 10,000 | 0 | 0 | 10,000 |
| Travel (2 trips) | | | | 0 | 7,000 | 0 | 0 | 7,000 |
| Sub-total | | | | 0 | 41,700 | 0 | 0 | 41,700 |
| Total Element IV | | | | 0 | 275,550 | 0 | 0 | 275,550 |
| Sub-total (rounded to thousands) | | | | | 276,000 | | | 276,000 |
| | | | | | | | | |
| V. Training Support | | | | | | | | |
| Staff Director | 5 months | 2,500 /mo. | | 0 | 0 | 6,250 | 6,250 | 12,500 |
| 30% overhead | | | | 0 | 0 | 1,875 | 1,875 | 3,750 |
| Internat'l Consultant - Developmt. of courses for j | 5 months | 3,000 /mo. | *2 | 0 | 0 | 7,500 | 7,500 | 15,000 |
| 30% overhead | | | | 0 | | 2,250 | 2,250 | 4,500 |
| Internat'l Consultant - Ethica Code | 2.5 months | 7,000 /mo. | *2 | 0 | 17,500 | 0 | 0 | 17,500 |
| 30% overhead | | | | 0 | 5,250 | 0 | 0 | 5,250 |
| National Consultant | 5 months | 1,500 /mo. | *2 | 0 | 3,000 | 2,250 | 2,250 | 7,500 |
| 30% overhead | | | | 0 | 900 | 675 | 675 | 2,250 |
| Clerical (part time) | 36 months | 175 /mo. | *1*2 | 0 | 2,275 | 2,275 | 2,275 | 6,825 |
| 30% overhead | | | | 0 | 683 | 683 | 683 | 2,049 |
| Travel including Per Diem | | | | 0 | 6,000 | 6,000 | 6,000 | 18,000 |
| Staff Travel (U.S.) | | | | 0 | 1,000 | 1,000 | 0 | 2,000 |
| Books and materials | | | | 0 | 5,000 | 5,000 | 0 | 10,000 |
| Total Element V | | | | 0 | 41,608 | 35,758 | 29,758 | 107,124 |
| Sub-total (rounded to thousands) | | | | 0 | 41,000 | 36,000 | 30,000 | 107,000 |

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Supplemental Budget Tables

| <u>Position</u> | <u>Time</u> | <u>Salary \$</u> | | <u>Year 1</u> | <u>Year 2</u> | <u>Year 3</u> | <u>Year 4</u> | <u>Total</u> |
|---|-------------|------------------|------|---------------|----------------|---------------|---------------|----------------|
| VI. Mediation Program | | | | | | | | |
| Internat'l Consultant | 5 months | 6,000 /mo. | *2 | 0 | 30,000 | 0 | 0 | 30,000 |
| 30% overhead | | | | 0 | 9,000 | 0 | 0 | 9,000 |
| Coordinator for CBMP | 36 months | 1000 /mo. | | 0 | 13,000 | 13,000 | 13,000 | 39,000 |
| 30% overhead | | | | 0 | 3,900 | 3,900 | 3,900 | 11,700 |
| Coordinator for schools | 36 months | 1,000 /mo. | *2 | 0 | 13,000 | 13,000 | 13,000 | 39,000 |
| 30% overhead | | | | 0 | 3,900 | 3,900 | 3,900 | 11,700 |
| Clerical (Part Time) | 36 months | 200 /mo. | *1*2 | 0 | 2,600 | 2,600 | 2,600 | 7,800 |
| 30% overhead | | | | 0 | 780 | 780 | 780 | 2,340 |
| Vehicle, fuel for MED car (4X4 Vehicle) | | | | 0 | 25,000 | 2,500 | 2,500 | 30,000 |
| Supplies, Publications | | | | 0 | 5,000 | 5,000 | 5,000 | 15,000 |
| Promotion, publicity | | | | 0 | 4,000 | 4,000 | 2,000 | 10,000 |
| Ten Round trip Nic/US | | | | 0 | 4,000 | 4,000 | 2,000 | 10,000 |
| Five Round Trips Nic/Col. (for CBM team only) | | | | 0 | 25,000 | 0 | 0 | 25,000 |
| Two weeks US/10 people (per diem) | | | | 0 | 10,000 | 10,000 | 8,000 | 28,000 |
| One week Colombia/5 People (per diem) | | | | 0 | 3,000 | 0 | 0 | 3,000 |
| Fee to Course | | | | 0 | 4,000 | 4,000 | 2,000 | 10,000 |
| Travel including Per Diem for Int. Consult. | | | | 0 | 10,000 | 0 | 0 | 10,000 |
| Total Element VI | | | | 0 | 166,180 | 66,680 | 58,680 | 291,540 |
| Sub-total (rounded to thousands) | | | | 0 | 166,000 | 67,000 | 59,000 | 292,000 |
| Grand Total (in thousands) | | | | 65 | 1,701 | 901 | 747 | 3,414 |

TOTAL TA, COMMODITIES, TRAINING

OVERHEAD UNDER INSTITUTIONAL CONTRACT (See Note 2)

TOTAL COST OF TA, COMMODITIES, TRAINING WITH OVERHEAD

Notes:

- * 1) Salaries for locals computed on 13 month basis.
- * 2) Overhead under Institutional Contract equals 30% of Base Salary.
- * 3) Funded by GON
- * 4) AID funds only 1 lead defender

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| <u>Activities</u> | GON Contribution and Recurrent Costs (RC) | | | | | <u>RC</u> |
|---|--|---------------|---------------|---------------|--------------|------------|
| | <u>Year 1</u> | <u>Year 2</u> | <u>Year 3</u> | <u>Year 4</u> | <u>TOTAL</u> | |
| Activity 1 (Law Reform) | | | | | | N/A |
| A. Office equipment (In-kind) | | | | | | |
| Desks X 23 | - | . | - | - | . | |
| Chairs X 23 | - | . | - | - | . | |
| Typewriters 19 | - | . | - | - | . | |
| Sub-Total | 0 | 0 | 0 | 0 | 0 | N/A |
| Activity 2 (Office of Public Defender) | | | | | | |
| A. National Public Defense Office | | | | | | |
| Employees | | | | | | |
| 1. National public defender (\$900/mo. continuous) | - | 11,700 | 11,700 | 11,700 | 35,100 | 11,700 |
| 2. Assistant PD (\$500/mo. continuous) | - | | | 6,500 | 6,500 | 6,500 |
| 3. Secretary (\$140/mo.) starting in year 3) | - | 0 | 1,820 | 1,820 | 3,640 | 1,820 |

BEST AVAILABLE DOCUMENT

| <u>Activities</u> | GON Contribution and Recurrent Costs (RC) | | | | | |
|--|--|---------------|---------------|---------------|--------------|-----------|
| | <u>Year 1</u> | <u>Year 2</u> | <u>Year 3</u> | <u>Year 4</u> | <u>TOTAL</u> | <u>RC</u> |
| Office Space (In-kind) | | | | | | |
| 1. Advisor | - | * | * | * | * | * |
| 2. Three GON employees | - | * | * | * | * | * |
| Office equipment (In-kind) | | | | | | |
| 1. Four desks | - | * | - | - | * | - |
| 2. Eight chairs | - | * | - | - | * | - |
| 3. Telephone, fax, copier | - | * | - | - | * | - |
| 4. Vehicle Use | - | * | - | - | * | - |
| 5. Office supplies (Yrs. 3, 4 & future) | - | - | * | * | * | * |
| Utilities (In-kind) | - | * | * | * | * | * |
| Sub-total | 0 | 11,700 | 13,520 | 20,020 | 45,240 | 20,020 |
| B. Managua Office | | | | | | |
| Employees | | | | | | |
| 1. Delegate (at \$500/mo) | - | - | - | - | - | 6,500 |
| 2. Lead Defender (Director) (\$425/mo. continuous) | - | 0 | 0 | 0 | 0 | 5,525 |
| 3. Ten Attorneys starting Yr. 3 (at \$350/mo. continuous) | - | - | 45,500 | 45,500 | 91,000 | 45,500 |
| 4. Four Investigators starting Yr.3 (at \$230/mo. continuous) | - | - | 11,960 | 11,960 | 23,920 | 11,960 |
| 5. Ten Secretaries starting Yr. 3 (at \$140/mo. continuous) | - | - | 18,200 | 18,200 | 36,400 | 18,200 |
| Office Space X 25 (in-kind) | - | * | * | * | * | * |

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| <u>Activities</u> | GON Contribution and Recurrent Costs (RC) | | | | | |
|---|--|---------------|---------------|---------------|--------------|-----------|
| | <u>Year 1</u> | <u>Year 2</u> | <u>Year 3</u> | <u>Year 4</u> | <u>TOTAL</u> | <u>RC</u> |
| Office equipment (in-kind) | | | | | | |
| 1. Desks X 25 | - | • | - | - | • | - |
| 2. Chairs X 35 | - | • | - | - | • | - |
| 3. Copier, fax & telephone | - | • | - | - | • | - |
| Office Supplies starting in Yr. 3 (in-kind) | - | - | • | • | • | • |
| Utilities (in-kind) | - | • | • | • | • | • |
| Sub-Total | 0 | 0 | 75,660 | 75,660 | 151,320 | 87,685 |
| C. Two New District Offices (Year 5) | | | | | | |
| 1. Two Lead Defenders (\$425/mo.) | - | - | - | - | - | 11,050 |
| 2. Four Attorneys (\$350/mo.) | - | - | - | - | - | 18,200 |
| 3. Two Investigators (\$230/mo.) | - | - | - | - | - | 5,980 |
| 4. Two Secretaries (\$140/mo.) | - | - | - | - | - | 3,640 |
| Office Space X (in-kind) | - | - | - | • | • | • |
| Office equipment (in-kind) | | | | | | |
| 1. Ten Desks | - | - | - | • | • | - |
| 2. Chairs X 16 | - | - | - | • | • | - |
| 3. Fax, copier & telephone | - | - | - | • | • | - |
| Office Supplies (in-kind) | - | - | - | - | - | • |
| Utilities (in-kind) | - | - | - | • | • | • |
| Sub-Total | 0 | 0 | 0 | 0 | 0 | 38,870 |
| Sub-Total Activity 2 | 0 | 11,700 | 89,180 | 95,680 | 196,560 | 146,575 |

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| <u>Activities</u> | GON Contribution and Recurrent Costs (RC) | | | | | <u>TOTAL</u> | <u>RC</u> |
|--|--|---------------|---------------|---------------|---|--------------|-----------|
| | <u>Year 1</u> | <u>Year 2</u> | <u>Year 3</u> | <u>Year 4</u> | | | |
| Activity 3 (Judicial Administration) | | | | | | | |
| Sub-Total | 0 | 0 | 0 | 0 | 0 | 0 | N/A |
| Activity 4 (Training Support) | | | | | | | |
| A. Office equipment (in-kind) | | | | | | | |
| Desks X 2 | - | * | - | - | * | | |
| Chairs X 2 | - | * | - | - | * | | |
| Typewriter X 2 | - | * | - | - | * | | |
| Office materials | - | * | * | * | * | | |
| B. Office space (in-kind) | | | | | | | |
| Classrooms X 2 | - | * | * | * | * | | * |
| Space for TA | - | * | * | * | * | | |
| Sub-Total | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Activity 5 (Mediation Program) | | | | | | | |
| A. Office equipment (in-kind) | | | | | | | |
| Desks X 5 | - | * | - | - | * | | - |
| Chairs X 5 | - | * | - | - | * | | - |
| Typewriters X 2 | - | * | - | - | * | | - |

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| <u>Activities</u> | GON Contribution and Recurrent Costs (RC) | | | | | |
|--|--|---------------|---------------|---------------|--------------|-----------|
| | <u>Year 1</u> | <u>Year 2</u> | <u>Year 3</u> | <u>Year 4</u> | <u>TOTAL</u> | <u>RC</u> |
| B. Office space (in-kind) | | | | | | |
| Four rooms | - | * | * | * | * | * |
| C. Utilities (in-kind) | | | | | | |
| D. School mediation coordination | - | - | - | - | - | * |
| E. One clerical staff \$200 a month for 13 months | - | 2,600 | 2,600 | 2,600 | 7,800 | 2,600 |
| F. Vehicle Use (in-kind) | - | * | * | * | * | * |
| Sub-total | 0 | 2,600 | 2,600 | 2,600 | 7,800 | 2,600 |
| TOTAL | 0 | 14,300 | 91,780 | 98,280 | 204,360 | 149,175 |

Rounde up \$205,000

Estimates for office space and support may vary substantially. The Project Agreement will exclude these amounts from the budget. However, a covenant will ensure that office space and utilities required for the success of the project are provided by the GON.

BEST AVAILABLE DOCUMENT

COMMODITY LIST BY ACTIVITIES

I. Project Management

| | |
|--|---------------|
| 1. Office Furniture | 12,000 |
| 2. 4 X 4 Vehicle X 2 | 50,000 |
| 3. Office Equipment (2 PC's, 1 Printer, Copier, Fax, Phone) | 8,000 |
| Sub-Total | <u>70,000</u> |

II. Law Reform Activity

| | |
|---|---------------|
| 1. Office Equipment (Coordinator) (1 PC, 1 Printer, Copier, Phone) | 5,000 |
| 2. Office Equipment (CPC) (2 Pc's, 1 Printer, Copier, Phone) | 7,500 |
| 3. Office Equipment (CC) (3 Pc's, 1 Printer, Copier, Fax, Phone) | 10,500 |
| 4. Office Equipment (Admin. Law Procedures) (2 Pc's, 1 Printer, Copier, Phone) | 7,500 |
| 5. Office Equipment (Organic Law) (1 Pc, 1 Printer, Copier, Fax, Phone) | 5,500 |
| Sub-Total | <u>36,000</u> |

III. Defense and Prosecutorial Activity

| | |
|--|---------------|
| 1. Office Equipment (National Public Defenders Office) (1 Pc, 1 Printer) | 3,000 |
| 2. Office Equipment (Managua Office) (5 Pc's, 2 Printers) | 13,500 |
| 3. Office Equipment (2 New District Offices) (2 Pc's, 2 Printers) | 6,000 |
| Sub-Total | <u>22,500</u> |

IV. Judicial Administration Activity

| | |
|---|---------------|
| 1. Office Equipment (Pocket System) (10 Pc's, 10 Printers, 8 Faxes, 15 File Cabinets, 20 Tables,) | 40,000 |
| 2. Office Equipment (Records management) (250 File Cabinets) | 50,000 |
| Sub-Total | <u>90,000</u> |

COMMODITY LIST BY ACTIVITIES

V. Training Support 000000

Sub-Total 000000

VI. Mediation Program

1. 4 X 4 Vehicle X 1 25,000

Sub-Total 25,000

COMMODITY LIST BY ITEM

| ITEM | UNIT COST | HOW MANY | TOTAL |
|---------------------|-----------|----------|----------------|
| 1. PC's | 2,500 | 29 | 72,500 |
| 2. Printers | 500 | 21 | 10,500 |
| 3. Fax | 500 | 11 | 5,500 |
| 4. Phone | 1,000 | 6 | 6,000 |
| 5. Copier | 1,000 | 6 | 6,000 |
| 6. File Cabinets | 200 | 265 | 53,000 |
| 7. PC/Printer Table | 150 | 20 | 3,000 |
| 8. 4 X 4 Vehicle | 25,000 | 3 | 75,000 |
| 9. Office Furniture | 12,000 | 1 | 12,000 |
| TOTAL | | | 243,500 |

NPD APPROVAL MESSAGE

ACTION: AID-2 INFO: AMB DCM ECON

VZCZCMU0064
RR RUEHMU
DE RUEHC #3600 0970726
ZNR UUUUU 2ZH
R 070725Z APR 93
FM SECSTATE WASHDC
TO AMEMBASSY MANAGUA 0477V
BT
UNCLAS STATE 103600

LOC: 096 907
07 APR 93 1158
CN: 10556
CHRG: AID
DIST: AID

BEST AVAILABLE DOCUMENT

AIDAC FOR MISSION DIRECTOR, JANET BALLANTYNE
E.O. 12356: N/A

TAGS:
SUBJECT: REVIEW OF NEW PROJECT DESCRIPTION FOR AOJ
AMENDMENT TO STRENGTHENING DEMOCRATIC INSTITUTIONS PROJECT
(524-0316)

REF: MANAGUA 01661

1. AN OUT OF CYCLE REVIEW OF THE SUBJECT NPD WAS HELD ON MARCH 29, 1993. THE ISSUES MEETING WAS CHAIRED BY LAC/DR AND INCLUDED PARTICIPATION OF LAC/DPP, LAC/CEN, LAC/DI, R&D/UC, GC/LAC, PA/B AND STATE/ARA, AS WELL AS LILIANA AYALDE, REPRESENTING THE MISSION. A SUBSEQUENT, INFORMAL MEETING, ATTENDED BY REPRESENTATIVES OF LAC/DR, LAC/DPP, LAC/DI, LAC/CEN AND THE MISSION, WAS HELD WITH THE AA/LAC.

2. THE REVIEW MEETING PARTICIPANTS COMMENDED THE MISSION FOR A WELL CONCEIVED PROJECT STATEMENT IN A POLITICALLY SENSITIVE, HIGH PROFILE AREA. THE NPD CLEARLY SPILLS OUT THE STRATEGIC FRAMEWORK FOR THE PROJECT AND ITS RELEVANCE TO THE SERIOUS DEVELOPMENT PROBLEMS FACING NICARAGUA.

3. THE FOLLOWING GUIDANCE WAS OFFERED DURING THE NPD REVIEW TO FACILITATE PROJECT DESIGN:

A. THE PP SUPPLEMENT SHOULD DESCRIBE HOW THE MISSION INTENDS TO ESTABLISH AND TRACK BENCHMARKS, BOTH IN TERMS OF TECHNICAL IMPROVEMENTS IN THE SECTOR AND PUBLIC PERCEPTION OF THE JUDICIAL PROCESS. A PERIODIC ASSESSMENT OF THE IMPACT OF THE PROJECT, WITH A CLEARLY DEFINED SET OF CRITERIA, WILL ALLOW PROJECT MANAGEMENT TO ADJUST TO CHANGING POLITICAL CONDITIONS.

B. THE MISSION SHOULD EXAMINE THE NEED TO OBTAIN COOPERATION IN WRITTEN FORM FROM THE GON TO DEAL WITH THE TOPICS OF LAW REFORM DESCRIBED IN REF A, PARA D4. THE NEGOTIATION OF A GON LETTER MIGHT RESULT IN A CLEARER DEFINITION AND BETTER UNDERSTANDING BY BOTH PARTIES ON THE NATURE AND CONSEQUENCES OF REFORM IN A POTENTIALLY CONTENTIOUS AREA SUCH AS THE JUDICIARY.

C. THE MISSION SHOULD MAINTAIN CLOSE COMMUNICATIONS WITH LAC/CEN AND LAC/DI SO THAT ANY RELEVANT DECISIONS FROM THE PRD PROCESS NOW UNDERWAY CAN BE REFLECTED, AS NECESSARY, INTO THE PROJECT DESIGN. FURTHERMORE, THE MISSION SHOULD MONITOR AND REPORT ON THE PROGRESS IN THE

| | | |
|---------------|------|--------------|
| Date Received | | APR 7 - 1993 |
| | Act. | Info. |
| D | | ✓ |
| DD | | |
| LA | | |
| EA | | |
| PEPS | | |
| GDO | ✓ | |
| EXO | | |
| CO | | |
| FIN | | |
| PDI | | ✓ |
| ARD | | |
| Reading File | | ✓ |
| Chron | | ✓ |

Due Date: 4/12
Action Taken
Initials:

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DEPOLITICIZATION AND PROFESSIONALIZATION OF THE JUDICIAL SECTOR, AS THIS ISSUE IS OF INTEREST TO A WIDE AUDIENCE WITHIN THE USG.

4. THE LAC BUREAU REVIEW OF THE NICARAGUA FY 94-95 ACTION PLAN IS SCHEDULED FOR MAY 1993. AT THAT TIME, THE LAC BUREAU WILL REVIEW THE MISSION'S REQUEST FOR AN ADDITIONAL USDH POSITION TO MANAGE THE DEMOCRATIC INITIATIVES PORTFOLIO. FURTHERMORE, THE ACTION PLAN REVIEW WILL PROVIDE AN OPPORTUNITY FOR THE MISSION DIRECTOR AND THE BUREAU TO DISCUSS THE CURRENT STATUS OF THE ISSUES RAISED IN PARA 3 ABOVE.

5. THE LAC BUREAU HEREBY CONCURS WITH THE MISSION REQUEST TO DEVELOP A NEW ADMINISTRATION OF JUSTICE COMPONENT TO THE STRENGTHENING DEMOCRATIC INSTITUTIONS PROJECT (524-0316) AND TO AUTHORIZE AN INCREASE OF DOLS 4 MILLION TO THE CURRENT LOP OF DOLS 14 MILLION IN THE FIELD. THE MISSION IS REQUESTED TO COORDINATE CLOSELY WITH LAC/DI AND TO CONSIDER THE UTILITY OF LAC/DI PARTICIPATION.

CHRISTOPHER

BT

#3600

NNNN

UNCLASSIFIED

STATE 103600

ANNEX F

**Initial Environmental Examination and
Environmental Threshold Decision**

Amemb. Managua USAID
Unit 2712 Box 9
APO AA 34021



Plata Sub Urbana
Apartado Postal C-167, Managua
ZP 13

INITIAL ENVIRONMENTAL EXAMINATION

Project Location: Managua, Nicaragua
Project Title: Administration of Justice Amendment to
Strengthening Democratic Institutions (SDI)
Project
Project Number: 524-0316
Funding: \$ 4,000,000
Life of Project: August 1993 to July 1996
IEE Prepared By: David A. Lieberman
USAID/Nicaragua

RECOMMENDED THRESHOLD DECISION

A. Project Description

The purpose of the SDI project is to strengthen democratic institutions and the values and attitudes that nurture them. This amendment will help strengthen the democratic process in Nicaragua by providing technical assistance, training and limited commodity support to reform legal codes, improve court management, establish defender services, improve the prosecutorial function, educate judicial personnel and introduce appropriate conflict resolution mechanisms on a pilot basis in communities and schools.

B. Recommendation

It is the opinion of USAID/Nicaragua that the Project does not have an effect on the natural and physical environment. The provision of technical assistance, training, and limited commodity support to the Government of Nicaragua qualifies for a Categorical Exclusion under CFR 216.2(c)(2)(i), "Education, technical assistance, or training activities except to the extent such programs include activities directly affecting the environment (such as construction of facilities, etc.)". Based on the fact that the planned assistance does not include construction or any other activity that would directly affect the environment, it is recommended that no further environmental study be undertaken for these activities and that a "Categorical Exclusion" be approved.

Concurrence: Janet C. Ballantyne
Janet C. Ballantyne
Director
USAID/Nicaragua

Date: JUNE 2, 1993

///

Drafted: PDIS: DLieberman:
Cleared: PDIS: LOdle:
GDO LAYalde
ARDO: RConley:
DDIR: MSilverman:

DLieberman
LOdle
LAYalde
RConley
MSilverman

Date: 6/1/93
Date: 6/1/93
Date: 6/1/93
Date: 6/1/93
Date: 6/2/93



U.S. AGENCY FOR
INTERNATIONAL
DEVELOPMENT

LAC-IEE-93-28

ENVIRONMENTAL THRESHOLD DECISION

Project Location : Nicaragua

Project Title : Administration of Justice
Amendment to Strengthening
Democratic Institutions (SDI)
Project.

Project Number : 524-0316

Activity Funding : \$4 million

Life of Project : 3 years (FY 93-95)

IEE Prepared by : David Lieberman, USAID/Nicaragua

Recommended Threshold Decision: Categorical Exclusion

Bureau Threshold Decision : Concur with Recommendation

Comments : None

James S. Hester Date 6/11/93
James S. Hester
Chief Environmental Officer
Bureau for Latin America
and the Caribbean

Copy to : Janet C. Ballantyne, Director,
USAID/Nicaragua

Copy to : L. Odle, USAID/Nicaragua

Copy to : David Lieberman, USAID/Nicaragua

Copy to : Wayne Williams, REA/CEN

Copy to : John Walls, LAC/DR/CEN

Copy to : James Vanderbos, LAC/CEN

Copy to : IEE File

ANNEX G

STATUTORY CHECKLIST

5C(2) - ASSISTANCE CHECKLIST

Listed below are statutory criteria applicable to the assistance resources themselves, rather than to the eligibility of a country to receive assistance. This section is divided into three parts. Part A includes criteria applicable to both Development Assistance and Economic Support Fund resources. Part B includes criteria applicable only to Development Assistance resources. Part C includes criteria applicable only to Economic Support Funds.

CROSS REFERENCE: IS COUNTRY CHECKLIST UP TO DATE? YES'

**A. CRITERIA APPLICABLE TO BOTH
DEVELOPMENT ASSISTANCE
AND ECONOMIC SUPPORT
FUNDS**

1. Host Country Development Efforts (FAA Sec. 601(a)): Information and conclusions on whether assistance will encourage efforts of the country to: (a) increase the flow of international trade; (b) foster private initiative and competition; (c) encourage development and use of cooperatives, credit unions, and savings and loan associations; (d) discourage monopolistic practices; (e) improve technical efficiency of industry, agriculture, and commerce; and (f) strengthen free labor unions.

The Project will foster private initiative and competition through improved administration of justice.

2. U.S. Private Trade and Investment (FAA Sec. 601(b)): Information and conclusions on how assistance will encourage U.S. private trade and investment abroad and encourage private U.S. participation in foreign assistance programs (including use of private trade channels and the services of U.S. private enterprise).

Through improving Nicaragua's administration of justice, an improved investment climate will be provided for US traders.

a. General requirement (FY 1993 Appropriations Act Sec. 522; FAA Sec. 634A): If money is to be obligated for an activity not previously justified to Congress, or for an amount in excess of amount previously justified to Congress, has Congress been properly notified (unless the Appropriations Act notification requirement has been waived because of substantial risk to human health or welfare)?

A congressional notification was sent to Congress in FY93 and was put on hold. The President has decided to proceed with the obligation notwithstanding the Congressional hold.

¹The Country Checklist (Pages 1-8) were attached to the first project paper approved in FY94 (524-0313 PVO-Co Funding Amendment #1)

b. Notice of new account obligation (FY 1993 Appropriations Act Sec. 514): If funds are being obligated under an appropriation account to which they were not appropriated, has the President consulted with and provided a written justification to the House and Senate Appropriations Committees and has such obligation been subject to regular notification procedures?

N/A

c. Cash transfers and nonproject sector assistance (FY 1993 Appropriations Act Sec. 571(b)(3)): If funds are to be made available in the form of cash transfer or nonproject sector assistance, has the Congressional notice included a detailed description of how the funds will be used, with a discussion of U.S. interests to be served and a description of any economic policy reforms to be promoted?

N/A

4. Engineering and Financial Plans (FAA Sec. 611(a)): Prior to an obligation in excess of \$500,000, will there be: (a) engineering, financial or other plans necessary to carry out the assistance; and (b) a reasonably firm estimate of the cost to the U.S. of the assistance?

Yes

5. Legislative Action (FAA Sec. 611(a)(2)): If legislative action is required within recipient country with respect to an obligation in excess of \$500,000, what is the basis for a reasonable expectation that such action will be completed in time to permit orderly accomplishment of the purpose of the assistance?

No legislative action is required for obligation of these funds.

6. Water Resources (FAA Sec. 611(b); FY 1993 Appropriations Act Sec. 501): If project is for water or water-related land resource construction, have benefits and costs been 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.)? (See A.I.D. Handbook 3 for guidelines.)

N/A

7. Cash Transfer and Sector Assistance (FY 1993 Appropriations Act Sec. 571(b)): Will cash transfer or nonproject sector assistance be maintained in a separate account and not commingled with other funds (unless such requirements are waived by Congressional notice for nonproject sector assistance)?

N/A

8. Capital Assistance (FAA Sec. 611(e)): If project is capital assistance (*e.g.*, construction), and total U.S. assistance for it will exceed \$1 million, has Mission Director certified and Regional Assistant Administrator taken into consideration the country's capability to maintain and utilize the project effectively?

N/A

9. Multiple Country Objectives (FAA Sec. 601(a)): Information and conclusions on whether projects will encourage efforts of the country to: (a) increase the flow of international trade; (b) foster private initiative and competition; (c) encourage development and use of cooperatives, credit unions, and savings and loan associations; (d) discourage monopolistic practices; (e) improve technical efficiency of industry, agriculture and commerce; and (f) strengthen free labor unions.

See Item A. 1 above.

10. U.S. Private Trade (FAA Sec. 601(b)): Information and conclusions on how project will encourage U.S. private trade and investment abroad and encourage private U.S. participation in foreign assistance programs (including use of private trade channels and the services of U.S. private enterprise).

see Item A. 2 above.

11. Local Currencies

a. Recipient Contributions (FAA Secs. 612(b), 636(h)): Describe steps taken to assure that, to the maximum extent possible, the country is contributing local currencies to meet the cost of contractual and other services, and foreign currencies owned by the U.S. are utilized in lieu of dollars.

The GON will provide local currency to finance its counterpart to this project. The U.S. does not own Cordobas.

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b. **U.S.-Owned Currency** (FAA Sec. 612(d)): Does the U.S. own excess foreign currency of the country and, if so, what arrangements have been made for its release?

No.

c. **Separate Account** (FY 1993 Appropriations Act Sec. 571). If assistance is furnished to a foreign government under arrangements which result in the generation of local currencies:

N/A. This Project will not generate local currency.

(1) Has A.I.D. (a) required that local currencies be deposited in a separate account established by the recipient government, (b) entered 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 (c) established by agreement the responsibilities of A.I.D. and that government to monitor and account for deposits into and disbursements from the separate account?

N/A

(2) Will such local currencies, or an equivalent amount of local currencies, be used only to carry out the purposes of the DA or ESF chapters of the FAA (depending on which chapter is the source of the assistance) or for the administrative requirements of the United States Government?

N/A

(3) Has A.I.D. taken all appropriate steps to ensure that the equivalent of local currencies disbursed from the separate account are used for the agreed purposes?

N/A

(4) If assistance is terminated to a country, will any unencumbered balances of funds remaining in a separate account be disposed of for purposes agreed to by the recipient government and the United States Government?

N/A

12. Trade Restrictions

a. Surplus Commodities (FY 1993 Appropriations Act Sec. 520(a)): If assistance is for the production of any commodity for export, is the commodity likely to be in surplus on world markets at the time the resulting productive capacity becomes operative, and is such assistance likely to cause substantial injury to U.S. producers of the same, similar or competing commodity?

N/A

b. Textiles (Lautenberg Amendment) (FY 1993 Appropriations Act Sec. 520(c)): Will the assistance (except for programs in Caribbean Basin Initiative countries under U.S. Tariff Schedule "Section 807," which allows reduced tariffs on articles assembled abroad from U.S.-made components) be used directly to procure feasibility studies, prefeasibility studies, or project profiles of potential investment in, or to assist the establishment of facilities specifically designed for, the manufacture for export to the United States or to third country markets in direct competition with U.S. exports, of textiles, apparel, footwear, handbags, flat goods (such as wallets or coin purses worn on the person), work gloves or leather wearing apparel?

No.

13. Tropical Forests (FY 1991 Appropriations Act Sec. 533(c)(3)(as referenced in section 532(d) of the FY 1993 Appropriations Act): Will funds be used for any program, project or activity which would (a) result in any significant loss of tropical forests, or (b) involve industrial timber extraction in primary tropical forest areas?

No.

14. PVO Assistance

a. Auditing and registration (FY 1993 Appropriations Act Sec. 536): If assistance is being made available to a PVO, has that organization provided upon timely request any document, file, or record necessary to the auditing requirements of A.I.D., and is the PVO registered with A.I.D.?

N/A

b. Funding sources (FY 1993 Appropriations Act, Title II, under heading "Private and Voluntary Organizations"): If assistance is to be made to a United States PVO (other than a cooperative development organization), does it obtain at least 20 percent of its total annual funding for international activities from sources other than the United States Government?

N/A

15. Project Agreement Documentation (State Authorization Sec. 139 (as interpreted by conference report)): Has confirmation of the date of signing of the project agreement, including the amount involved, been cabled to State L/T and A.I.D. LEG within 60 days of the agreement's entry into force with respect to the United States, and has the full text of the agreement been pouched to those same offices? (See Handbook 3, Appendix 6G for agreements covered by this provision).

Per AID HB 3, Appendix 6G this is required for PL 480 Title I and III agreements and DA and ESF obligations in excess of \$25 million. This agreement amendment is below this benchmark.

16. Metric System (Omnibus Trade and Competitiveness Act of 1988 Sec. 5164, as interpreted by conference report, amending Metric Conversion Act of 1975 Sec. 2, and as implemented through A.I.D. policy): Does the assistance activity use the metric system of measurement in its procurements, grants, and other business-related activities, except to the extent that such use is impractical or is likely to cause significant inefficiencies or loss of markets to United States firms? Are bulk purchases usually to be made in metric, and are components, subassemblies, and semi-fabricated materials to be specified in metric units when economically available and technically adequate? Will A.I.D. specifications use metric units of measure from the earliest programmatic stages, and from the earliest documentation of the assistance processes (for example, project papers) involving quantifiable measurements (length, area, volume, capacity, mass and weight), through the implementation stage?

The metric system will be used when procuring non U.S. products.

17. Women in Development (FY 1993 Appropriations Act, Title II, under heading "Women in Development"): Will assistance be designed so that the percentage of women participants will be demonstrably increased?

Yes. Data on court resolutions will be compiled by gender. Hence it will be possible to document the increase in women's case courts resolved.

18. Regional and Multilateral Assistance (FAA Sec. 209): Is assistance more efficiently and effectively provided through regional or multilateral organizations? If so, why is assistance not so provided? Information and conclusions on whether assistance will encourage developing countries to cooperate in regional development programs.

No.

19. Abortions (FY 1993 Appropriations Act, Title II, under heading "Population, DA," and Sec. 524):

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a. Will assistance be made available to any organization or program which, as determined by the President, supports or participates in the management of a program of coercive abortion or involuntary sterilization?

No.

b. Will any funds be used to lobby for abortion?

No.

20. **Cooperatives** (FAA Sec. 111): Will assistance help develop cooperatives, especially by technical assistance, to assist rural and urban poor to help themselves toward a better life?

No.

21. **U.S.-Owned Foreign Currencies**

a. **Use of currencies** (FAA Secs. 612(b), 636(h); FY 1993 Appropriations Act Secs. 507, 509): Are steps being taken to assure that, to the maximum extent possible, foreign currencies owned by the U.S. are utilized in lieu of dollars to meet the cost of contractual and other services.

See Item A. 11.a above.

b. **Release of currencies** (FAA Sec. 612(d)): Does the U.S. own excess foreign currency of the country and, if so, what arrangements have been made for its release?

No.

22. **Procurement**

a. **Small business** (FAA Sec. 602(a)): Are there arrangements to permit U.S. small business to participate equitably in the furnishing of commodities and services financed?

Yes. Small businesses will be able to compete equitably for the contract services and for all commodity procurements.

b. **U.S. procurement** (FAA Sec. 604(a) as amended by section 597 of the FY 1993 Appropriations Act): Will all procurement be from the U.S., the recipient country, or developing countries except as otherwise determined in accordance with the criteria of this section?

Yes.

c. **Marine insurance** (FAA Sec. 604(d)): If the cooperating country discriminates against marine insurance companies authorized to do business in the U.S., will commodities be insured in the United States against marine risk with such a company? N/A

d. **Non-U.S. agricultural procurement** (FAA Sec. 604(e)): If non-U.S. procurement of agricultural commodity or product thereof is to be financed, is there provision against such procurement when the domestic price of such commodity is less than parity? (Exception where commodity financed could not reasonably be procured in U.S.) N/A

e. **Construction or engineering services** (FAA Sec. 604(g)): Will construction or engineering services be procured from firms of advanced developing countries which are otherwise eligible under Code 941 and which have attained a competitive capability in international markets in one of these areas? (Exception for those countries which receive direct economic assistance under the FAA and permit United States firms to compete for construction or engineering services financed from assistance programs of these countries.) No.

f. **Cargo preference shipping** (FAA Sec. 603)): Is the shipping excluded from compliance with the requirement in section 901(b) of the Merchant Marine Act of 1936, as amended, that at least 50 percent of the gross tonnage of commodities (computed separately for dry bulk carriers, dry cargo liners, and tankers) financed shall be transported on privately owned U.S. flag commercial vessels to the extent such vessels are available at fair and reasonable rates? No.

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g. Technical assistance (FAA Sec. 621(a)): If technical assistance is financed, will such assistance be furnished by private enterprise on a contract basis to the fullest extent practicable? Will the facilities and resources of other Federal agencies be utilized, when they are particularly suitable, not competitive with private enterprise, and made available without undue interference with domestic programs?

Yes. Technical assistance will be obtained from a U.S. private for profit firm.

h. U.S. air carriers (International Air Transportation Fair Competitive Practices Act, 1974): If air transportation of persons or property is financed on grant basis, will U.S. carriers be used to the extent such service is available?

Yes.

i. Termination for convenience of U.S. Government (FY 1993 Appropriations Act Sec. 504): If the U.S. Government is a party to a contract for procurement, does the contract contain a provision authorizing termination of such contract for the convenience of the United States?

Yes.

j. Consulting services (FY 1993 Appropriations Act Sec. 523): If assistance is for consulting service through procurement contract pursuant to 5 U.S.C. 3109, are contract expenditures a matter of public record and available for public inspection (unless otherwise provided by law or Executive order)?

Yes.

k. **Metric conversion** (Omnibus Trade and Competitiveness Act of 1988, as interpreted by conference report, amending Metric Conversion Act of 1975 Sec. 2, and as implemented through A.I.D. policy): Does the assistance program use the metric system of measurement in its procurements, grants, and other business-related activities, except to the extent that such use is impractical or is likely to cause significant inefficiencies or loss of markets to United States firms? Are bulk purchases usually to be made in metric, and are components, subassemblies, and semi-fabricated materials to be specified in metric units when economically available and technically adequate? Will A.I.D. specifications use metric units of measure from the earliest programmatic stages, and from the earliest documentation of the assistance processes (for example, project papers) involving quantifiable measurements (length, area, volume, capacity, mass and weight), through the implementation stage?

The metric system will be used when procuring non U.S. products.

l. **Competitive Selection Procedures** (FAA Sec. 601(e)): Will the assistance utilize competitive selection procedures for the awarding of contracts, except where applicable procurement rules allow otherwise?

Yes.

23. **Construction**

a. **Capital project** (FAA Sec. 601(d)): If capital (e.g., construction) project, will U.S. engineering and professional services be used?

N/A

b. **Construction contract** (FAA Sec. 611(c)): If contracts for construction are to be financed, will they be let on a competitive basis to maximum extent practicable?

N/A

c. Large projects, Congressional approval (FAA Sec. 620(k)): If for construction of productive enterprise, will aggregate value of assistance to be furnished by the U.S. not exceed \$100 million (except for productive enterprises in Egypt that were described in the Congressional Presentation), or does assistance have the express approval of Congress?

N/A

24. U.S. Audit Rights (FAA Sec. 301(d)): If fund is established solely by U.S. contributions and administered by an international organization, does Comptroller General have audit rights?

N/A

25. Communist Assistance (FAA Sec. 620(h)). Do arrangements exist 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?

Yes

26. Narcotics

a. Cash reimbursements (FAA Sec. 483): Will arrangements preclude use of financing to make reimbursements, in the form of cash payments, to persons whose illicit drug crops are eradicated?

Yes.

b. Assistance to narcotics traffickers (FAA Sec. 487): Will arrangements take "all reasonable steps" to preclude use of financing to or through individuals or entities which we know or have reason to believe have either: (1) been convicted of a violation of any law or regulation of the United States or a foreign country relating to narcotics (or other controlled substances); or (2) been an illicit trafficker in, or otherwise involved in the illicit trafficking of, any such controlled substance?

Yes.

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| <p>27. Expropriation and Land Reform (FAA Sec. 620(g)): Will assistance preclude use of financing to compensate owners for expropriated or nationalized property, except to compensate foreign nationals in accordance with a land reform program certified by the President?</p> | <p>N/A</p> |
| <p>28. Police and Prisons (FAA Sec. 660): Will assistance preclude use of financing to provide training, advice, or any financial support for police, prisons, or other law enforcement forces, except for narcotics programs?</p> | <p>Yes.</p> |
| <p>29. CIA Activities (FAA Sec. 662): Will assistance preclude use of financing for CIA activities?</p> | <p>Yes.</p> |
| <p>30. Motor Vehicles (FAA Sec. 636(i)): Will assistance preclude use of financing for purchase, sale, long-term lease, exchange or guaranty of the sale of motor vehicles manufactured outside U.S., unless a waiver is obtained?</p> | <p>Yes.</p> |
| <p>31. Military Personnel (FY 1993 Appropriations Act Sec. 503): Will assistance preclude use of financing to pay pensions, annuities, retirement pay, or adjusted service compensation for prior or current military personnel?</p> | <p>Yes.</p> |
| <p>32. Payment of U.N. Assessments (FY 1993 Appropriations Act Sec. 505): Will assistance preclude use of financing to pay U.N. assessments, arrearages or dues?</p> | <p>Yes.</p> |
| <p>33. Multilateral Organization Lending (FY 1993 Appropriations Act Sec. 506): Will assistance preclude use of financing to carry out provisions of FAA section 209(d) (transfer of FAA funds to multilateral organizations for lending)?</p> | <p>Yes.</p> |

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34. Export of Nuclear Resources (FY 1993 Appropriations Act Sec. 510): Will assistance preclude use of financing to finance the export of nuclear equipment, fuel, or technology? Yes.

35. Repression of Population (FY 1993 Appropriations Act Sec. 511): Will assistance preclude use of financing for the purpose of aiding the efforts of the government of such country to repress the legitimate rights of the population of such country contrary to the Universal Declaration of Human Rights? Yes.

36. Publicity or Propaganda (FY 1993 Appropriations Act Sec. 516): Will assistance be used for publicity or propaganda purposes designed 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? No.

37. Marine Insurance (FY 1993 Appropriations Act Sec. 560): Will any A.I.D. contract and solicitation, and subcontract entered into under such contract, include a clause requiring that U.S. marine insurance companies have a fair opportunity to bid for marine insurance when such insurance is necessary or appropriate? Yes.

38. Exchange for Prohibited Act (FY 1993 Appropriations Act Sec. 565): Will any assistance be provided to any foreign government (including any instrumentality or agency thereof), foreign person, or United States person in exchange for that foreign government or person undertaking any action which is, if carried out by the United States Government, a United States official or employee, expressly prohibited by a provision of United States law? No.

39. **Commitment of Funds** (FAA Sec. 635(h)): Does a contract or agreement entail a commitment for the expenditure of funds during a period in excess of 5 years from the date of the contract or agreement? No.

40. **Impact on U.S. Jobs** (FY 1993 Appropriations Act, Sec. 599): No.

(a) Will any financial incentive be provided 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? No.

(b) Will assistance be provided 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? If so, has the President determined and certified that such assistance is not likely to cause a loss of jobs within the U.S.? No.

(c) Will assistance be provided for a project or activity that contributes to the violation of internationally recognized workers rights, as defined in section 502(a)(4) of the Trade Act of 1974, of workers in the recipient country? No.

B. CRITERIA APPLICABLE TO DEVELOPMENT ASSISTANCE ONLY

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| <p>1. Agricultural Exports (Bumpers Amendment) (FY 1993 Appropriations Act Sec. 521(b), as interpreted by conference report for original enactment): If assistance is for agricultural development activities (specifically, any testing or breeding feasibility study, variety improvement or introduction, consultancy, publication, conference, or training), are such activities: (1) specifically and principally designed to increase agricultural exports by the host country to a country other than the United States, where the export would lead to direct competition in that third country with exports of a similar commodity grown or produced in the United States, and can the activities reasonably be expected to cause substantial injury to U.S. exporters of a similar agricultural commodity; or (2) in support of research that is intended primarily to benefit U.S. producers?</p> | N/A |
| <p>2. Tied Aid Credits (FY 1993 Appropriations Act, Title II, under heading "Economic Support Fund"): Will DA funds be used for tied aid credits?</p> | No. |
| <p>3. Appropriate Technology (FAA Sec. 107): Is special emphasis placed on use of appropriate technology (defined as relatively smaller, cost-saving, labor-using technologies that are generally most appropriate for the small farms, small businesses, and small incomes of the poor)?</p> | N/A |
| <p>4. Indigenous Needs and Resources (FAA Sec. 281(b)): Describe extent to which the activity recognizes the particular needs, desires, and capacities of the people of the country; utilizes the country's intellectual resources to encourage institutional development; and supports civic education and training in skills required for effective participation in governmental and political processes essential to self-government.</p> | The Project will support civic education and training in skills required for effective participation in governmental and political processes essential to self-government. |

5. Economic Development (FAA Sec. 101(a)): Does the activity give reasonable promise of contributing to the development of economic resources, or to the increase of productive capacities and self-sustaining economic growth?

Yes. Improved administration of justice provides a better environment for economic growth.

6. Special Development Emphases (FAA Secs. 102(b), 113, 281(a)): Describe extent to which activity will: (a) effectively involve the poor in development by extending access to economy at local level, increasing labor-intensive production and the use of appropriate technology, dispersing investment from cities to small towns and rural areas, and insuring wide participation of the poor in the benefits of development on a sustained basis, using appropriate U.S. institutions; (b) encourage democratic private and local governmental institutions; (c) support the self-help efforts of developing countries; (d) promote the participation of women in the national economies of developing countries and the improvement of women's status; and (e) utilize and encourage regional cooperation by developing countries.

(e) This Project will encourage the use of democratic private and local governmental institutions and through equitable treatment will improve women's status.

7. Recipient Country Contribution (FAA Secs. 110, 124(d)): Will the recipient country provide at least 25 percent of the costs of the program, project, or activity with respect to which the assistance is to be furnished (or is the latter cost-sharing requirement being waived for a "relatively least developed" country)?

No - Nicaragua is a relatively least developed country and the USAID Mission Director waived the contribution requirement for the project in 1991.

8. Benefit to Poor Majority (FAA Sec. 128(b)): If the activity attempts to increase the institutional capabilities of private organizations or the government of the country, or if it attempts to stimulate scientific and technological research, has it been designed and will it be monitored to ensure that the ultimate beneficiaries are the poor majority?

Yes. The project will finance improvements to the AOJ system in Nicaragua, including a public defenders services, which will ultimately benefit those with less access to the justice system, mainly the poor.

9. Abortions (FAA Sec. 104(f); FY 1993 Appropriations Act, Title II, under heading "Population, DA," and Sec. 534):

a. Are any of the funds to be used for the performance of abortions as a method of family planning or to motivate or coerce any person to practice abortions? No.

b. Are any of the funds to be used 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? No.

c. Are any of the funds to be made available to any organization or program which, as determined by the President, supports or participates in the management of a program of coercive abortion or involuntary sterilization? No.

d. Will funds be made available only to voluntary family planning projects which offer, either directly or through referral to, or information about access to, a broad range of family planning methods and services? N/A

e. In awarding grants for natural family planning, will any applicant be discriminated against because of such applicant's religious or conscientious commitment to offer only natural family planning? N/A

g. Are any of the funds to be made available to any organization if the President certifies that the use of these funds by such organization would violate any of the above provisions related to abortions and involuntary sterilization? No.

10. Contract Awards (FAA Sec. 601(e)): Will the project utilize competitive selection procedures for the awarding of contracts, except where applicable procurement rules allow otherwise? Yes.

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11. **Disadvantaged Enterprises** (FY 1993 Appropriations Act Sec. 563): What portion of the funds will be available only for activities of economically and socially disadvantaged enterprises, historically black colleges and universities, colleges and universities having a student body in which more than 40 percent of the students are Hispanic Americans, and private and voluntary organizations which are controlled by individuals who are black Americans, Hispanic Americans, or Native Americans, or who are economically or socially disadvantaged (including women)?

Ten percent of all direct A.I.D. contracts for technical services will be reserved for such institutions.

12. **Biological Diversity** (FAA Sec. 119(g): Will the assistance: (a) support training and education efforts which improve the capacity of recipient countries to prevent loss of biological diversity; (b) be provided under a long-term agreement in which the recipient country agrees to protect ecosystems or other wildlife habitats; (c) support efforts to identify and survey ecosystems in recipient countries worthy of protection; or (d) by any direct or indirect means significantly degrade national parks or similar protected areas or introduce exotic plants or animals into such areas?

N/A

13. **Tropical Forests** (FAA Sec. 118; FY 1991 Appropriations Act Sec. 533(c) as referenced in section 532(d) of the FY 1993 Appropriations Act):

a. **A.I.D. Regulation 16:** Does the assistance comply with the environmental procedures set forth in A.I.D. Regulation 16?

Per A.I.D. Regulation 16, the Chief Environmental Officer for the LAC Bureau concurred in USAID/N's recommendation for a Categorical Exclusion for this project.

b. Conservation: Does the assistance place a high priority on conservation and sustainable management of tropical forests? Specifically, does the assistance, to the fullest extent feasible: (1) stress the importance of conserving and sustainably managing forest resources; (2) support activities which offer employment and income alternatives to those who otherwise would cause destruction and loss of forests, and help countries identify and implement alternatives to colonizing forested areas; (3) support training programs, educational efforts, and the establishment or strengthening of institutions to improve forest management; (4) help end destructive slash-and-burn agriculture by supporting stable and productive farming practices; (5) help conserve forests which have not yet been degraded by helping to increase production on lands already cleared or degraded; (6) conserve forested watersheds and rehabilitate those which have been deforested; (7) support training, research, and other actions which lead to sustainable and more environmentally sound practices for timber harvesting, removal, and processing; (8) support research to expand knowledge of tropical forests and identify alternatives which will prevent forest destruction, loss, or degradation; (9) conserve biological diversity in forest areas by supporting efforts to identify, establish, and maintain a representative network of protected tropical forest ecosystems on a worldwide basis, by making the establishment of protected areas a condition of support for activities involving forest clearance or degradation, and by helping to identify tropical forest ecosystems and species in need of protection and establish and maintain appropriate protected areas; (10) seek to increase the awareness of U.S. Government agencies and other donors of the immediate and long-term value of tropical forests; (11) utilize the resources and abilities of all relevant U.S. government agencies; (12) be based upon careful analysis of the alternatives available to achieve the best sustainable use of the land; and (13) take full account of the environmental

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impacts of the proposed activities on biological diversity?

c. **Forest degradation:** Will assistance 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 which will significantly degrade national parks or similar protected areas which contain tropical forests, or introduce exotic plants or animals into such areas; (3) activities which 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) which pass through relatively undergraded forest lands; (5) the colonization of forest lands; or (6) the construction of dams or other water control structures which flood relatively undergraded forest lands, unless with respect to each such activity an environmental assessment indicates that the activity will contribute significantly and directly to improving the livelihood of the rural poor and will be conducted in an environmentally sound manner which supports sustainable development?

No.

d. **Sustainable forestry:** If assistance relates to tropical forests, will project assist countries in developing a systematic analysis of the appropriate use of their total tropical forest resources, with the goal of developing a national program for sustainable forestry?

N/A

e. **Environmental impact statements:** Will funds be made available in accordance with provisions of FAA Section 117(c) and applicable A.I.D. regulations requiring an environmental impact statement for activities significantly affecting the environment?

No.

14. **Energy** (FY 1991 Appropriations Act Sec. 533(c) as referenced in section 532(d) of the FY 1993 Appropriations Act): If assistance relates to energy, will such assistance focus on: (a) end-use energy efficiency, least-cost energy planning, and renewable energy resources, and (b) the key countries where assistance would have the greatest impact on reducing emissions from greenhouse gases? N/A

15. **Debt-for-Nature Exchange** (FAA Sec. 463): If project will finance a debt-for-nature exchange, describe how the exchange will support protection of: (a) the world's oceans and atmosphere, (b) animal and plant species, and (c) parks and reserves; or describe how the exchange will promote: (d) natural resource management, (e) local conservation programs, (f) conservation training programs, (g) public commitment to conservation, (h) land and ecosystem management, and (i) regenerative approaches in farming, forestry, fishing, and watershed management. N/A

16. **Deobligation/Reobligation** (FY 1993 Appropriations Act Sec. 515): If deob/reob authority is sought to be exercised in the provision of DA assistance, are the funds being obligated for the same general purpose, and for countries within the same region as originally obligated, and have the House and Senate Appropriations Committees been properly notified? N/A

17. **Loans**

a. **Repayment capacity** (FAA Sec. 122(b)): Information and conclusion on capacity of the country to repay the loan at a reasonable rate of interest. N/A

b. **Long-range plans** (FAA Sec. 122(b)): Does the activity give reasonable promise of assisting long-range plans and programs designed to develop economic resources and increase productive capacities? N/A

c. **Interest rate** (FAA Sec. 122(b)): If development loan is repayable in dollars, is interest rate at least 2 percent per annum during a grace period which is not to exceed ten years, and at least 3 percent per annum thereafter? N/A

d. **Exports to United States** (FAA Sec. 620(d)): If assistance is for any productive enterprise which will compete with U.S. enterprises, is there an agreement by the recipient country to prevent export to the U.S. of more than 20 percent of the enterprise's annual production during the life of the loan, or has the requirement to enter into such an agreement been waived by the President because of a national security interest? N/A

18. Development Objectives (FAA Secs. 102(a), 111, 113, 281(a)): Extent to which activity will: (1) effectively involve the poor in development, by expanding access to economy at local level, increasing labor-intensive production and the use of appropriate technology, spreading investment out from cities to small towns and rural areas, and insuring wide participation of the poor in the benefits of development on a sustained basis, using the appropriate U.S. institutions; (2) help develop cooperatives, especially by technical assistance, to assist rural and urban poor to help themselves toward better life, and otherwise encourage democratic private and local governmental institutions; (3) support the self-help efforts of developing countries; (4) promote the participation of women in the national economies of developing countries and the improvement of women's status; and (5) utilize and encourage regional cooperation by developing countries?

Improved administration of justice and democratic institutions will provide a more equitable base for women's participation in Nicaragua's economy. Activities under this project will support the GON in improving its AOJ system, thereby supporting the self-help efforts of the country. In addition, this project amendment will complement the ILANUD Regional Administration of Justice efforts in Nicaragua.

a. Rural poor and small farmers: If assistance is being made available for agriculture, rural development or nutrition, describe extent to which activity is specifically designed to increase productivity and income of rural poor; or if assistance is being made available for agricultural research, has account been taken of the needs of small farmers, and extensive use of field testing to adapt basic research to local conditions shall be made. N/A

b. Nutrition: Describe extent to which assistance is used in coordination with efforts carried out under FAA Section 104 (Population and Health) to help improve nutrition of the people of developing countries through encouragement of increased production of crops with greater nutritional value; improvement of planning, research, and education with respect to nutrition, particularly with reference to improvement and expanded use of endogenously produced foodstuffs; and the undertaking of pilot or demonstration programs explicitly addressing the problem of malnutrition of poor and vulnerable people. N/A

c. Food security: Describe extent to which activity increases national food security by improving food policies and management and by strengthening national food reserves, with particular concern for the needs of the poor, through measures encouraging domestic production, building national food reserves, expanding available storage facilities, reducing post harvest food losses, and improving food distribution. N/A

20. Population and Health (FAA Secs. 104(b) and (c)): If assistance is being made available for population or health activities, describe extent to which activity emphasizes low-cost, integrated delivery systems for health, nutrition and family planning for the poorest people, with particular attention to the needs of mothers and young children, using paramedical and auxiliary medical personnel, clinics and health posts, commercial distribution systems, and other modes of community outreach. N/A

21. Education and Human Resources Development (FAA Sec. 105): If assistance is being made available for education, public administration, or human resource development, describe (a) extent to which activity strengthens nonformal education, makes formal education more relevant, especially for rural families and urban poor, and strengthens management capability of institutions enabling the poor to participate in development; and (b) extent to which assistance provides advanced education and training of people of developing countries in such disciplines as are required for planning and implementation of public and private development activities. N/A

22. Energy, Private Voluntary Organizations, and Selected Development Activities (FAA Sec. 106): If assistance is being made available for energy, private voluntary organizations, and selected development problems, describe extent to which activity is: N/A

a. concerned with data collection and analysis, the training of skilled personnel, research on and development of suitable energy sources, and pilot projects to test new methods of energy production; and facilitative of research on and development and use of small-scale, decentralized, renewable energy sources for rural areas, emphasizing development of energy resources which are environmentally acceptable and require minimum capital investment;

N/A

b. concerned with technical cooperation and development, especially with U.S. private and voluntary, or regional and international development, organizations;

N/A

c. research into, and evaluation of, economic development processes and techniques;

N/A

d. reconstruction after natural or manmade disaster and programs of disaster preparedness;

N/A

e. for special development problems, and to enable proper utilization of infrastructure and related projects funded with earlier U.S. assistance;

N/A

f. for urban development, especially small, labor-intensive enterprises, marketing systems for small producers, and financial or other institutions to help urban poor participate in economic and social development.

N/A

23. Capital Projects (Jobs Through Export Act of 1992, Secs. 303 and 306(d)): If assistance is being provided for a capital project, is the project developmentally sound and will the project measurably alleviate the worst manifestations of poverty or directly promote environmental safety and sustainability at the community level?

N/A

C. CRITERIA APPLICABLE TO
ECONOMIC SUPPORT FUNDS ONLY

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| <p>1. Economic and Political Stability (FAA Sec. 531(a)): Will this assistance promote economic and political stability? To the maximum extent feasible, is this assistance consistent with the policy directions, purposes, and programs of Part I of the FAA?</p> | Yes, Yes |
| <p>2. Military Purposes (FAA Sec. 531(e)): Will this assistance be used for military or paramilitary purposes?</p> | No. |
| <p>3. Commodity Grants/Separate Accounts (FAA Sec. 609): If commodities are to be granted so that sale proceeds will accrue to the recipient country, have Special Account (counterpart) arrangements been made? (For FY 1993, this provision is superseded by the separate account requirements of FY 1993 Appropriations Act Sec. 571(a), see Sec. 571(a)(5).)</p> | N/A |
| <p>4. Generation and Use of Local Currencies (FAA Sec. 531(d)): Will ESF funds made available for commodity import programs or other program assistance be used to generate local currencies? If so, will at least 50 percent of such local currencies be available to support activities consistent with the objectives of FAA sections 103 through 106? (For FY 1993, this provision is superseded by the separate account requirements of FY 1993 Appropriations Act Sec. 571(a), see Sec. 571(a)(5).)</p> | N/A |
| <p>5. Cash Transfer Requirements (FY 1993 Appropriations Act, Title II, under heading "Economic Support Fund," and Sec. 571(b)). If assistance is in the form of a cash transfer:</p> | N/A |
| <p>a. Separate account: Are all such cash payments to be maintained by the country in a separate account and not to be commingled with any other funds?</p> | N/A |

b. Local currencies: Will all local currencies that may be generated with funds provided as a cash transfer to such a country also be deposited in a special account, and has A.I.D. entered into an agreement with that government setting forth the amount of the local currencies to be generated, the terms and

N/A

conditions under which they are to be used, and the responsibilities of A.I.D. and that government to monitor and account for deposits and disbursements?

c. U.S. Government use of local currencies: Will all such local currencies also be made available to the U.S. government as the U.S. determines necessary for the requirements of the U.S. Government, or to carry out development assistance (including DFA) or ESF purposes?

N/A

d. Congressional notice: Has Congress received prior notification providing in detail how the funds will be used, including the U.S. interests that will be served by the assistance, and, as appropriate, the economic policy reforms that will be promoted by the cash transfer assistance?

The Congress was notified in FY 93. The notification was put on hold. The President has decided to obligate these funds notwithstanding the congressional hold.

6. Capital Projects (Jobs Through Exports Act of 1992, Sec. 306, FY 1993 Appropriations Act, Sec. 595): If assistance is being provided for a capital project, will the project be developmentally-sound and sustainable, i.e., one that is (a) environmentally sustainable, (b) within the financial capacity of the government or recipient to maintain from its own resources, and (c) responsive to a significant development priority initiated by the country to which assistance is being provided. (Please note the definition of "capital project" contained in section 595 of the FY 1993 Appropriations Act.)

N/A