

QUARTERLY PERFORMANCE REPORT #1

STRENGTHENING ELECTORAL ADMINISTRATION IN UKRAINE

Submitted to:

U.S. Agency for International Development
Regional Mission for Ukraine, Belarus and Moldova

Under Agreement No. 121-A-00-04-00701-00



Authors:

Yarema Bachynsky
George Jones



Submitted by:

Development Associates, Inc.
1730 North Lynn Street
Arlington, VA 22209-2023

April 2004

STRENGTHENING ELECTORAL ADMINISTRATION IN UKRAINE
(DECEMBER 15, 2003 – MARCH 15, 2004)
QUARTERLY PERFORMANCE REPORT

Agreement No. 121-A-00-04-00701-00

Period of Performance: 12/15/03-12/14/06,
Amount: \$4,480,893

USAID/Ukraine signed a three-year cooperative agreement with Development Associates, Inc. (DA), on December 15, 2003. DA, which on November 30 had completed demobilization of its office in Kyiv and closeout of USAID's Elections and Political Processes Project (EP3), predecessor to SEAUP, immediately proceeded to reestablish operations in Ukraine.

The activities described below are listed under the two Program Components, or tasks, specified in the Agreement, and by the Outcomes that are listed in the Performance Monitoring Plan submitted by DA.

I. PROGRAM ACTIVITIES

TASK ONE: IMPROVING THE LEGAL AND REGULATORY FRAMEWORK FOR THE ELECTORAL PROCESS

Because the project has not yet been officially registered by the Ministry of Economy, no publicly announced project activities were conducted under Task One in this quarter. However, SEAUP staff worked hard to constructively inform the highly-charged debate within the Verkhovna Rada on the entire range of issues associated with election law reform and the closely associated topic of constitutional reform.

Outcome A. Quality of Ongoing Legislative Debate on Presidential and Other Election Legislation Enhanced

In cooperation with such NGOs as the Election Law Institute and the Institute for Politics, SEAUP Activity Managers (AMs), in particular former MPs Dr. Volodymyr Kovtunets, Oleksandr Barabash and Oleksandr Vorobyov, participated in numerous informal meetings and consultations organized by MPs in the Parliamentary Temporary Commission on Amending the Constitution (PTCC), which was charged, from late February onwards, with working on the drafts of new Presidential Election, Parliamentary Election, and Local Election Laws. The AMs worked in parallel with two (competing) groups of MPs to inform their creative and drafting activities vis a vis election legislation. Approximately 20 meetings were held in toto with these MPs throughout February and the first half of March.

Special attention was paid to the draft Presidential Election Law, because it would be the first to require implementation, if enacted. The draft new Parliamentary Election Law also went through a careful "reverse engineering" by the AMs, with AM Serhii Kalchenko acting as an in-house devil's advocate to his colleagues and the project's interlocutors. More than 50 draft provisions

of the new Parliamentary Election Law were presented by the AMs to MPs as a result of this process. A number were included in the draft bill submitted for first reading.

At the end of February/first week of March, our informal project partner, the Association of People's Deputies of Ukraine, dispatched to all VR factions and to members of the PTCC and the State Building & Local Self Government, Legal Policy, Freedom of Speech & Information, Law Enforcement Support, and Rules Committees, a 10-page packet of proposed provisions for the Presidential Election Law. This document was prepared with very direct input from our AMs. It contained specific recommendations and proposed wording for several dozen draft legislative provisions.

On March 10, a Round Table on International Standards for Democratic Elections was held at the VR, in close physical proximity to the location at which the PTCC was in continuous deliberation. This event was unofficially organized by SEAUP and kindly hosted by the USAID-funded Parliamentary Development Project (PDP) and by long-time DA partner the Election Law Institute (ELI). At this event, with 9 of the 12 new CEC members and five MPs (three from the PTCC), participating, as well as over 40 other experts and election professionals, discussion focused on the measurement of extant Ukrainian election legislation by international standards, as well as particularly pressing areas for enhancement of the legislative framework.

In effect, the round table provided an extracurricular venue for PTCC members to exchange thoughts on the legislative crafting ongoing literally next door, and also gave election think tank and other civil society representatives an opportunity to inform legislators of critical areas for improvement on the eve of the 2004 Ukraine presidential campaign.

Outcome B. Parliamentary Discussion and Impact Assessment of Ukraine's Potential Ratification of CIS Convention on Democratic Elections Conducted

The March 10 round table referenced above also studied the potential impact that ratification of the CIS Convention on Democratic Elections might have on Ukraine's OSCE obligations, as well as the permissible scope and quality of the international community's election-related technical assistance activities. Many of the MPs and CEC members were not aware at the outset of discussion that full implementation of the convention would greatly constrict Ukraine's ability to meet its OSCE and related obligations, and could be interpreted as a step away from free, fair and transparent elections and electoral systems.

At the event's conclusion, participants, including a Communist MP considered that party's election drafting workhorse, agreed that ratification of the Convention should be put aside for some time, in order to better study how implementation might affect Ukraine's ability to conduct elections fairly and competently, among other issues.

Outcome C. Groundwork Laid for Comprehensive Analysis of National and Local Elections Practice in 2002-2004

Throughout February and March, project AMs worked on the analysis of election law enforcement in Ukraine in 2002-2003, which we intend to publish and disseminate to elections practitioners and the general public (through www.vybory.com) in the second quarter. This analysis is based primarily on information gleaned during implementation of our predecessor

project (EP3), enhanced with information obtained since then from a variety of sources within the Ukrainian election practitioner community.

Outcome D. Legislative Strengthening Grant Program Ready for Announcement of Competition

Working throughout the reporting period, SEAUP staff, led by our AM for Grant Programs, Serhii Kalchenko, and with direct Home Office support and participation, developed a grant-based instrument to support enhancement of the legislative framework for the 2004 Presidential Election specifically and Ukrainian presidential elections generally. The grants to be given under this competition will ensure that the one or two NGOs selected will have the flexibility to continue working after the timeframe for legislative amendments has passed (i.e. after the VR closes shop for the summer). It is anticipated the grantee(s) will work with the CEC and other electoral process participants throughout the entire period of the election campaign.

Constraint – Announcement of Legislative Strengthening RFA Delayed

At the end of this reporting period, announcement of the RFA was still pending USAID approval of the grant selection criteria and the grant process schedule, and resolution of the registration issue.

TASK TWO: STRENGTHENING ADHERENCE TO THE LEGAL FRAMEWORK AND TO INTERNATIONAL STANDARDS BY THE UKRAINIAN GOVERNMENT, POLITICAL PARTIES AND CANDIDATES

As with activities under Task One, the project did not officially conduct programming under Task Two during the reporting period. However, limited activities did take place and served to “grease” the project’s “wheels” as we awaited registration.

Outcome A. By-election Commissioner Training Underway

In preparation for a by-election to the Volyn Regional (Oblast) Council held in Turiisk on February 8, DCOP Kovtunets conducted a special training for PSC commissioners, with a special emphasis on Election Day procedures under the local election law. Dr. Kovtunets observed the election as well.

DCOP Kovtunets and AM Vorobyov provided long-distance advice and counsel to election commissioners for the Krasnyi Luch (Luhansk oblast) mayoral by-election scheduled for March 18. AM Vorobyov will observe this election. SEAUP offered to provide PSC/TEC training on condition that the TEC send an official invitation, but that was not forthcoming.

The above activities were useful preparation as SEAUP began to focus on crafting a mass training program for PSC and TEC commissioners for the presidential election.

Outcome B. Judicial Education Grant Program Ready for Announcement of Competition

As with the legislative strengthening grant program, SEAUP prepared a judicial continuing education grant program (to facilitate discussion by judges of the proper application of election

laws during the presidential election). An RFA was prepared in close consultation with our Home Office. It is expected that two or more grants will be given to Ukrainian NGOs capable of working closely with the judiciary and mobilizing their peers to conduct programmatic activities. When planning this program, DA consulted with, among others, the CEC and the State Judicial Administration. At the end of this reporting period, announcement of the RFA was still pending USAID approval of the grant selection criteria and the grant process schedule, and resolution of the registration issue.

Outcome C. Foundation Laid for Election Commissioner Training Curricula Development

During the reporting period, in particular in February, our AMs conducted a number of meetings with Ukrainian NGOs involved in election-related training activities, in particular ELI and the Institute of Politics, as well as the Committee of Voters of Ukraine. SEAUP staff initiated development of curricula and concepts for training materials to be used for TEC, and later, PSC commissioners. During the next quarter, we will complete the development of training curricula and materials, incorporating the state of the Presidential Election Law as of that time. Should no new Presidential Election Law be adopted, training materials will be available based on the current law.

Finally, SEAUP began development of a concept for a distance learning course for local election commissioners.

II. ADMINISTRATIVE AND LIAISON ACTIVITIES

PROJECT OFFICE SETUP

Outcome A. Office Rental Completed

On December 15, a lease was signed with DA's old landlord; as a result SEAUP is located at the same office on Antonovycha Street 23, Suites 2-3, in which EP3 was located. While research had been conducted previously on other possible sites, a determination was made that the familiarity of numerous Ukrainian NGOs and other potential partners and beneficiaries with the old location made it perfectly logical to remain in place.

Outcome B. Office Refurbished, Equipment Procured, Installed & Tested

The project office was refurbished and a new computer network installed by January 10. Certain office furniture was rented from the landlord (payment included in the first year of the lease); a full office computer server/terminal system was rented from a Ukrainian network solutions provider (selected via a competitive bidding process); the system was later purchased outright following receipt of a VAT payment waiver from RCO/Kyiv.

A new telephone system based on the existing office PBX system (belonging to the landlord) was installed and tested. All 5 telephone lines available to DA under EP3 were re-established (some had become idle upon EP3 project closeout).

Throughout February and early March further equipment purchases were made.

By the end of the reporting period, the large majority of the office equipment included in our proposal to USAID (including a high capacity Xerox copier and the full range of computer software permitting word processing, communications, graphic design, and website/print publishing) had been procured, installed and was operational.

Outcome C. Principal Human Resources/Staffing in Place

DA “inherited” key project staff from EP3. Coming over to SEAUP were DCOP Dr. Volodymyr Kovtunets and Activity Managers (AMs) Oleksandr Barabash, Oleksandr Vorobyov and Serhii Kalchenko. Three staff members were promoted to new positions: Halyna Senyk, formerly a Researcher, was promoted to the newly established position of AM for Gender Issues and Research; our former receptionist, Anna Zhytnikova, was promoted to the position of Program Assistant, in accordance with project needs and Ms. Zhytnikova’s solid performance record; and our former Financial Manager, Dmytro Chernyavskyy, was promoted to the newly established position of Executive Administrator.

New consultant agreements were concluded with all project staff, reflecting revised job descriptions and adjusted rates of compensation for services rendered. Project staff continued to provide services to DA/SEAUP as duly registered Private Entrepreneurs.

A car and driver were retained in late January and are used on an 80%/as needed basis, thereby significantly increasing office mobility in Kyiv.

During the next quarter, an Assistant Grants Manager, a Senior Program Assistant, and a bilingual secretary/receptionist will be added, bring the CCN staff to 11.

Liaison, Networking and Recognition Issues

Outcome D. Primary Contacts Established with USAID/Kyiv, Other Implementing partners & the CEC

During the reporting period, project staff, supported by Home Office senior management, established an extensive range of contacts with USAID/Kyiv, numerous USAID implementing partners and relevant Ukrainian NGOs, political party representatives, and representatives of the anticipated primary project beneficiary, the Central Election Commission of Ukraine.

On February 5, 2004, Ellen Seats was appointed CTO to SEAUP, with Oleksandr Piskun as Project Activity Manager. In December 2003 and January 2004, prior to Ms. Seats’ appointment as CTO, the project liaised with USAID/Kyiv through Mr. Piskun as well as directly with ODG management.

DA President Peter B. Davis visited Kyiv February 12 – 19. He and COP Yarema Bachynsky met with US Ambassador John Herbst, DCM Marie Yovanovitch, USAID/Kyiv Mission Director Christopher Crowley, Deputy Director Karen Hilliard, RCO/Agreement Officer Donnell Russell, ODG staff (Office Director Louis Coronado, SEAUP CTO Ellen Seats, Activity Manager Oleksandr Piskun) and other USAID officials. The purpose of these meetings was to brief Embassy and USAID on the DA approach to project implementation and to exchange views on issues that may arise during the coming implementation period, in particular

the time leading up to the 2004 Ukraine Presidential Election. DA received a strong commitment from Ambassador Herbst as well as from the USAID Front Office, RCO and ODG, to help further project goals and support project activities as appropriate. Particular attention was paid to efforts to have the Government of Ukraine formally recognize SEAUP (i.e., register the project and the DA project office).

Mr. Davis and Mr. Bachynsky also met with Members of Parliament (including the Chairman of the Information & Freedom of Speech Committee, Mykola Tomenko) and current and former, respectively, CEC members Yurii Danylevskyy and Vasyl Spivak. The latter meeting was unofficial, as the project was not yet registered, and, furthermore, the CEC had just undergone a personnel transition that made it impossible and inadvisable to seek an official or semi-official meeting with the new CEC Chairman Serhii Kivalov.

On the implementing partner side of the equation, Mr. Davis and Mr. Bachynsky met with representatives of IRI (Resident Country Director Chris Holzen and Resident Program Office Brian Mefford); NDI (Country Director Andreas Katsouris and Political Party Programs Director David Dettman); the Indiana University Parliamentary Development Project (Director Fred Bradley and Associates Field Director Edward Rakhimkulov); numerous other chiefs of party; representatives of the OSCE (Morten Ehnberg and Harald Jepsen); and Ukrainian NGO representatives.

On February 17, during Mr. Davis' visit, a Project Open House was held at the project office. The event was low key given the project's status; however it affirmed to the elections assistance community that SEAUP was open for business.

On February 20, DA submitted the Draft Initial Implementation Plan for Year One of SEAUP activities. The plan was accompanied by the grant program documentation (selection criteria and grant process schedule) that requires CTO approval.

Constraint — Project Registration Not Effected

For a variety of reasons, first and foremost the major personnel transition at the CEC, the project was not registered by the Ministry of the Economy of Ukraine during the reporting period. The fact that 12 of 15 serving CEC members, including now former Chairman Mykhailo Ryabets, left the CEC on January 20, 2004, significantly handicapped efforts to ensure the speediest possible recognition of the project and DA by the Government of Ukraine.

Throughout the reporting period, DA and USAID staff maintained close contact, both formal and informal, with the CEC and the Ministry of the Economy, to move the process along.

COP Yarema Bachynsky, with extensive Home Office support, particularly by DA President Peter Davis and Project Coordinator George Jones, worked closely with USAID/Kyiv to finalize the Project Description to be submitted by USAID to the Ministry of the Economy. Following registration, this description will be posted on the project website.

A new Memorandum of Understanding was to have been signed by USAID and the CEC shortly after the end of the reporting period. Submission of registration documents was to have followed immediately thereafter.

Constraint — Project Unable to Conduct Official Operations

As a consequence of not being registered throughout the reporting period, SEAUP could not open a corporate bank account, having to rely on other methods to ensure stable functioning of the office and conduct of permissible program activities. Once the project is registered through USAID by the Ministry of the Economy, DA will seek project accreditation with the Ministry, which will in turn permit the project office in Kyiv to establish a corporate bank account; make direct grant and other payments via local wire transfer; allow the COP to obtain a Service Visa through USAID from the Ministry of Foreign Affairs; provide direct assistance to the expected primary project beneficiary, the CEC; and take other official actions that are dependent upon registration and accreditation.

It should be noted here that the VAT waiver given by RCO/Kyiv was essential throughout the reporting period to enabling DA to conduct basic administrative operations. It should also be noted that equipment vendors were pleased to bid for and furnish all manner of NXP regardless of the project's status, and that no issues are expected upon project demobilization with regard to documentation for said equipment.

III. OTHER ACTIVITIES

A. WEBSITE DEVELOPMENT

During the reporting period our Web Administrator and DCOP collaborated on developing the www.vybory.com project web-site. Once the registration issue is resolved or a determination is made by USAID that we may "go public," we will launch this website with its new look, and the old EP3 website will be placed in an archived sub-section.

B. ELECTION LAW/ISSUE ANALYSIS FOR USG

Throughout the reporting period, project AMs analyzed a variety of legislative developments within the VR, including the transition of the Central Election Commission from initial information gathering on potential CEC candidates, through exploration of the potential new dynamics within the CEC following approval of new members by the VR. Analysis was provided to USAID and the Embassy both verbally and in writing at various junctures. Topics included the CEC, constitutional reform, and election law issues. In this regard we worked in coordination with PDP, sharing resources and information as appropriate.

COP Yarema Bachynsky also participated in two elections briefings at USAID during the reporting period (in January and February, respectively), presenting the latest information on election law and constitutional reform issues, as well as addressing potential election scenarios and their implications for TA providers.

C. ANALYSIS AND INFORMATION FOR OTHER US ELECTION PROJECT IMPLEMENTERS

At the request of the OSCE Project Coordinator's Office in Ukraine, in February we prepared and delivered to them a presentation on constitutional reform and the 2004 Presidential election.

SEAUP also participated in PDP's monthly parliamentary assistance coordination meetings. Special legislative updates were prepared, presented and distributed at the meetings held in January and February of the reporting period.

D. DONOR/IMPLEMENTER COORDINATION.

During the reporting period, project representatives participated in close to twenty meetings with OSCE, IRI, NDI, Internews, ABA/CEELI and other implementers, as well as meetings with Ukrainian think tanks such as the Razumkov Centre, Democratic Initiatives Foundation, Agency for Legislative Initiatives (ALI), Election Law Institute and others, on the entire range of election-related issues.

Throughout February and March, DCOP Dr. Volodymyr Kovtunets participated in a series of round tables on campaign finance held jointly by the Freedom of Choice Coalition and ALI at the VR.

IV. FINANCIAL REPORT

Contractor Name: Development Associates, Inc.
Agreement No. 121-A-00-04-00701-00
Quarterly Financial Report, Cumulative through 3/31/04

Authorized Expenditures:	\$4,480,893.00
Actual Expenditures to Date:	\$ 183,593.79
Balance Remaining:	\$4,297,299.21