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COMBATING CORRUPTION AND STRENGTHENING RULE OF LAW IN UKRAINE UNDER THE MCC TCP

**EXTENSION WORK PLAN
MAY 1, 2009 TO SEPTEMBER 30, 2009**

**A Task Order Under the Rule of Law IQC
Contract No. DFD-I-05-04-00171-00**

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The author's views expressed in this publication do not necessarily reflect the views of the United States Agency for International Development or the United States Government.

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INTRODUCTION

CONTRACT BACKGROUND

The Combating Corruption and Strengthening Rule of Law in Ukraine under the Millennium Challenge Corporation Threshold Country Program (UROL MCC) task order was originally designed as a two-year project to assist Ukraine in its effort to: 1) implement a registry of court decisions; 2) develop and implement a uniform random case assignment system in selected courts; 3) establish an effective and transparent process of judicial appointment and disciplinary procedures; and 4) create an operating system for administrative courts in the regions.

USAID/Ukraine awarded Chemonics International and BlueLaw International LLP a five-month extension on this task order on April 29, 2009. The extension through September 30, 2009 is designed to solidify anticipated results in court automation, judicial testing, and judicial discipline.

WORK PLAN OVERVIEW

ACTIVITY 1: REGISTRY AND CASE ASSIGNMENT

Under the extension period in Activity 1, UROL MCC is assisting the State Judicial Administration (SJA) to develop a national court automation strategy that contains the functional requirements and case management standards necessary and applicable to every court and every third-party software vendor providing automated solutions to courts. The project will promote approval of this strategy by the Council of Judges (COJ) and SJA. To support eventual implementation of the strategy, the project will additionally transfer project management and training skills to select SJA staff. Such capacity-building enables the SJA to train court staff on automated systems in the future.

ACTIVITY 2: STRENGTHENING OF THE JUDICIAL TESTING MECHANISM

Under Activity 2 UROL MCC is working to introduce universal standards and procedures for merit-based judicial testing. During the extension the project will help establish consensus among stakeholders including the High Qualifications Commission (HQC), High Council of Justice (HCJ), and the Academy of Judges (AOJ) on which competencies judicial testing should address. Renewed discussion of the various jurisdictions among stakeholders must also take place before the project can proceed with following up on the recommendations from the pilot test in June 2008. Recommendations aim to validate the revised test with a second pilot exam and support development of written standards and criteria for selecting test developers, as well as for the preparation, conduction and evaluation of the test.

ACTIVITY 3: EXPANDING MECHANISMS FOR JUDICIAL DISCIPLINE

Under Activity 3 UROL MCC aims to establish standardized and uniform practices among Government of Ukraine agencies for the administrative processes surrounding complaints of judicial misconduct, and to increase public and stakeholder awareness about revised forms and procedures. The already-developed petition form can standardize the way information is presented to the Regional Qualifications Commission. As a next step UROL MCC will engage the Ministry of Justice (MOJ) and the SJA in examining and aligning their internal regulations for handling complaints, and will work with the agencies to keep statistical information and track complaint processing. These efforts can promote greater transparency within complaint processing in the future. The MOJ has already posted a version of the complaint form on its own website.

Activity 1: Developing a National Court Automation Strategy							
Activities	May 2009	June 2009	July 2009	Aug 2009	Sept 2009	UROL MCC Resources	External Collaborators
Building the Capacity of the Council of Judges							
<i>Support COJ to develop the core definition of court automation</i>							
(a) Conduct May 18-22 workshop to define functions and requirements for case management systems, by comparing international standards with current SJA terms and pilot court experience						UROL MCC Court Automation Manager Sergey Suchenko, ST experts Pam Daniels, Andrew Urban, and Susan Woody	COJ, SJA, pilot court staff, Canada-Ukraine Judicial Cooperation Project, CoE Transparency and Efficiency of the Judicial System of Ukraine Project
<i>Support COJ's review of SJA's software development activities</i>							
(a) Completed in conjunction with May 18-22 workshop on court information technology (IT) requirements						UROL MCC Court Automation Manager, ST experts Pam Daniels, Andrew Urban, and Susan Woody	COJ, SJA
<i>Support COJ and SJA's development of a court automation strategy for all courts</i>							
(a) Create working group to prepare definitions of key strategy components with input from experts and the SJA; have working group approved by the COJ and the SJA						UROL MCC Court Automation Manager, short-term (ST) experts Pam Daniels, Andrew Urban, and Susan Woody	COJ, SJA, pilot court staff, Canada-Ukraine Judicial Cooperation Project, CoE Transparency and Efficiency of the Judicial System of Ukraine Project
(b) Prepare and circulate to working group members materials and suggested						UROL MCC Court Automation Manager,	COJ, SJA, pilot court staff, Canada-Ukraine Judicial

language for strategy components for review and comments						ST expert Andrew Urban	Cooperation Project, CoE Transparency and Efficiency of the Judicial System of Ukraine Project
(c) Conduct working group meeting in Kyiv to seek consensus and finalize draft strategy						UROL MCC Court Automation Manager, ST expert Andrew Urban	COJ, SJA, pilot court staff, Canada-Ukraine Judicial Cooperation Project, CoE Transparency and Efficiency of the Judicial System of Ukraine Project
(d) Circulate draft strategy to all key stakeholders for review (SJA, COJ, Strategy Working Group, selected courts, donors)						UROL MCC Court Automation Manager	COJ, SJA, pilot court staff, Canada-Ukraine Judicial Cooperation Project, CoE Transparency and Efficiency of the Judicial System of Ukraine Project
(e) Submit draft strategy to the SJA for submission to the COJ for review and approval						UROL MCC Court Automation Manager, ST Andrew Urban	COJ, SJA, pilot court staff, Canada-Ukraine Judicial Cooperation Project, CoE Transparency and Efficiency of the Judicial System of Ukraine Project
Create Development and Operational Capacities within the State Judicial Administration							
<i>Provide senior SJA staff with basic project management skills</i>							
(a) Engage ST expert to assess SJA and Information Court Systems staff training needs						UROL MCC Court Automation Manager, ST expert Susan Laniewski	SJA, Information Court Systems

(b) Develop training materials based on needs						“	“
(c) Conduct trainings						“	“
<i>Provide senior SJA staff technical assistance to implement the court automation strategy</i>							
(a) Develop the capacity for data management within the SJA, including the ability to design and maintain a data architecture and establish data standards						Resources for these tasks include: UROL MCC Court Automation Manager, ST expert Curt DeClue. These deliverables are dependent on the specific technical direction of the court automation strategy, which will be delivered to the SJA and COJ in August.	SJA, Information Court Systems, Canada-Ukraine Judicial Cooperation Project, CoE Transparency and Efficiency of the Judicial System of Ukraine Project
(b) Introduce capacity for quality assurance oversight of the development process for third-party software development vendors						“	“
(c) Assist SJA in establishing software development guidelines and style guides to be published for third-party vendors; Support SJA’s development and publishing of data and statistical reporting standards						“	“

Develop Model Operational Support Capacity in Select Territorial SJA Offices [Donetsk, Ivano-Frankivsk, and Kharkiv]							
<i>Assess infrastructure and equipment needs in each of the targeted territorial SJA offices</i>							
(a) Travel to all three SJA offices to conduct assessment of infrastructure and equipment needs						UROL MCC Court Automation Manager, UROL IT Specialist	SJA, Information Court Systems
<i>Procure and install hardware for a training, automation, and implementation facility in each territorial SJA office</i>							
(a) Based on needs assessment and budget priorities, procure and install hardware —note SJA has requested LAN and licensed system and office sharing provisions						UROL MCC Court Automation Manager, UROL IT Specialist	SJA, Information Court Systems
<i>Establish a set of basic classes that support implementation of court automation that are conducive to deliver in centralized locations</i>							
(a) Assess SJA and court staff training needs and identify the program for the training						UROL MCC Court Automation Manager, ST expert Pam Daniels	
<i>Establish training capacity using training-of-trainers approach in each selected territorial SJA office</i>							
(a) Conduct training and prepare materials for territorial SJA staff (1-day training sessions)						UROL MCC Court Automation Manager, ST expert Pam Daniels	SJA, Information Court Systems Gestaldt, Ltd.
<i>Establish through the COJ minimum staff training requirements in preparation for automation</i>							
(a) Based on assessment findings prepare list of requirements and submit to SJA for approval by the COJ						UROL MCC Court Automation Manager, ST experts Pam Daniels and Susan Laniewski	

Activity 2: Strengthening of the Judicial Testing Mechanism							
Activities	May 2009	June 2009	July 2009	Aug 2009	Sept 2009	UROL MCC Resources	External Collaborators
<i>Hold a workshop to reach consensus on the competencies in which to test judicial candidates</i>							
(a) Identify test owner, test administrator and jurisdiction of each state body involved into the process						UROL MCC Judicial Testing and Discipline Manager Miroslava Vorontsova, ST experts Thomas Wallitsch and Chuck Ericksen, TCN experts Dr. Frank van Luijk and Judge Stam	Council of Judges, High Qualifications Commission, Academy of Judges, State Judicial Administration
(b) Promote official approval of identified jurisdiction						“	”
(c) Distribute approved competencies to stakeholders						“	“
<i>Develop written standards and procedures for:(1) preparing questions and case studies; (2) securing test content and storage; (3) test administration (i.e., guidelines, conduct rules); and (4) test scoring and reporting</i>							
(a) Review current standards and procedures in relation to international best practice and regulations developed during Donetsk pilot project						UROL MCC Judicial Testing and Discipline Manager, ST expert Thomas Wallitsch and Chuck Ericksen	High Qualifications Commission, State Judicial Administration, Academy of Judges
(b) Discuss at a roundtable draft standards with HQC and AOJ representatives						“	“
(c) Incorporate feedback and finalize draft						“	“

(d) Present all drafted materials (standards and procedures, reference manual, publication, and judicial exam) to HQC and AOJ for review, revision and approval						“	“
<i>Develop a reference manual for test administrators</i>							
(a) Present draft reference manual to sample group of test administrators						UROL MCC Judicial Testing and Discipline Manager, ST expert Thomas Wallitsch and/or Chuck Ericksen	High Qualifications Commission, State Judicial Administration, Academy of Judges
(b) Incorporate feedback and finalize draft						“	“
(c) Promote draft approval						“	“
<i>Develop informational publication about test for judge candidates sitting for the exam</i>							
(a) Present draft publication to sample pool of candidates						UROL MCC Judicial Testing and Discipline Manager, ST expert Thomas Wallitsch and/or Chuck Ericksen	High Qualifications Commission, State Judicial Administration, Academy of Judges
(b) Incorporate feedback and finalize draft*						“	“
(c) Enhance public access to the						“	“

* To be published under core UROL project

informational publication about test for judge candidates sitting for the exam on the HQC, Ministry of Justice and other officials Web pages						
<i>Revise the test to include not only substantive questions related to legal knowledge, but also analytical and practical skills necessary to be a judge</i>						
(a) Review current exam in relation to international standards					UROL MCC Judicial Testing and Discipline Manager, ST expert Thomas Wallitsch and/or Chuck Ericksen	High Qualifications Commission, State Judicial Administration, Academy of Judges
(b) Revise exam based on standards, competencies approved during workshop and recommendations from Donetsk pilot project					“	“
<i>Conduct pilot tests using revised questions, standards, procedures, and materials</i>						
(a) Identify site (probably AOJ facilities) and stakeholders for conducting pilot test					UROL MCC Judicial Testing and Discipline Manager, ST expert Thomas Wallitsch and/or Chuck Ericksen	High Qualifications Commission, State Judicial Administration, Academy of Judges
(b) Conduct second pilot test					“	“
(c) Report on pilot test findings and recommendations					“	“
(d) Present findings and recommendations and finalized materials to SJA, AOJ and HQC					“	“

Activity 3: Expanding Mechanisms for Judicial Discipline							
Activities	May 2009	June 2009	July 2009	Aug 2009	Sept 2009	UROL MCC Resources	External Collaborators
<i>Promote approval of the judicial petition form by the Council of Judges for nationwide use</i>							
(a) Present during a roundtable the judicial petition form and MOJ's use of form for other UROL MCC counterparts (Parliament, COJ, SJA, HQC), including recommendations from pilot project						UROL MCC Judicial Testing and Discipline Manager	Council of Judges, High Qualifications Commission, State Judicial Administration, Ministry of Justice
(b) Conduct follow-up discussions on possible ways to implement the form nationwide (legislative decision adoption, promotion without adoption of legislative document)						"	"
(c) Promote COJ decision to use the judicial misconduct petition form						"	"
<i>Modify standing regulations for regional qualifications commissions and COJ regulations for SJA to include improved procedures for handling complaints of judicial misconduct for approval by HQC, COJ, and MOJ.</i>							
(a) Engage judicial discipline experts to examine COJ/ SJA and MOJ regulatory language governing decision-making and processing of complaints						UROL MCC Judicial Testing and Discipline Manager, ST Expert Laurence Beck	MOJ: Mr. Ruslan Riaboshapka and Ms. Inna Fesenko
(b) Analyze standard operating procedures of COJ/SJA and MOJ						UROL MCC Judicial Testing and Discipline Manager, ST Expert Laurence Beck	COJ, HQC, SJA, MOJ

(c) Present expert's recommended changes to counterparts					UROL MCC Judicial Testing and Discipline Manager	COJ, HQC, SJA, MOJ
(d) Incorporate expert's recommended changes according to counterpart's recommendations					UROL MCC Judicial Testing and Discipline Manager	
(e) Promote adoption of the final variant of recommended changes to standing regulations for Regional Qualifications Commissions					UROL MCC Judicial Testing and Discipline Manager	COJ, HQC, SJA, MOJ
<i>Enhance public access to the complaint form on government Web pages (i.e., HQC, SJA, or MOJ)</i>						
(a) Meet with the SJA Head to discuss posting of misconduct complaint form on SJA website consistent with MOJ "Access to Justice" webpage					UROL MCC Judicial Testing and Discipline Manager, UROL IT Specialist Dmytro Moskalyk	SJA
(b) Post the complaint form on COJ/SJA and HQC common website					UROL MCC Judicial Testing and Discipline Manager, UROL IT Specialist, ST information management specialist	SJA, COJ, HQC, SJA webpage developers
(c) Meet with other counterparts who are authorized to initiate disciplinary procedures (Parliament Committee on Judiciary, Ombudsmen, Supreme Court) about posting the form on their websites					UROL MCC Judicial Testing and Discipline Manager, UROL IT Specialist, ST information management	

					specialist	
<i>Support HQC, SJA, and COJ to develop a public awareness campaign for use of new forms and procedures</i>						
(a) Develop public awareness campaign plan and communications strategy, including: defining target audiences, collaboration with civil society and identifying most effective types of media					UROL MCC Judicial Testing and Discipline Manager, UROL Communications Specialist Yuri Mukhin	COJ, HQC, SJA, MOJ
(b) Support HQC, SJA, and COJ implementation of public awareness campaign plan/communications strategy					“	“
<i>Develop content for a handbook on revised judicial disciplinary forms and procedures for members of regional qualifications commissions*</i>						
(a) Develop draft of a handbook including copies of all applicable regulations					UROL MCC Judicial Testing and Discipline Manager	HQC
(b) Discuss drafted handbook with counterparts					UROL MCC Judicial Testing and Discipline Manager	RQC, COJ, HQC, SJA
(c) Finalize handbook based on discussion results					UROL MCC Judicial Testing and Discipline Manager	HQC
<i>Conduct a seminar for regional qualifications commission and territorial SJA members on new judicial disciplinary forms and procedures</i>						
(a) Conduct (2) seminars for authorized employees of the SJA and RQCs members; present handbook					UROL MCC Judicial Testing and Discipline Manager, ST Experts Laurence Beck and	SJA/RQC

						Thomas Wallitsch	
<i>Develop statistical cards to help HQC and SJA track and report on judicial disciplinary cases and decisions, i.e., age and years on the bench, initiator of the complaint, and types of violations</i>							
(a) Develop draft of statistical cards form to use electronically based on legislative requirements (for ex. Regulations on the Procedure for Consideration of Petitions from Citizens and Legal Entities)						UROL MCC Judicial Testing and Discipline Manager, ST Expert Laurence Beck	HQC, SJA
(b) Discuss and agree developed draft of the statistical card form with SJA						UROL MCC Judicial Testing and Discipline Manager	HQC, SJA
(c) Approve developed draft of the statistical card form						UROL MCC Judicial Testing and Discipline Manager	HQC, SJA
<i>Develop a database and providing hardware to HQC and SJA to collect and monitor data on judicial discipline</i>							
(a) Analyze current process and needs of collecting statistical data by SJA Department of Organization of Work with Petitions and Maintenance						UROL MCC Judicial Testing and Discipline Manager, ST Expert Thomas Wallitsch	SJA/ Department of Organization of Work with Petitions and Maintenance
(b) Develop statistical database						UROL MCC Judicial Testing and Discipline Manager, ST Expert Curt DeClue	SJA/ Department of Organization of Work with Petitions and Maintenance
(c) Identify SJA Department of Organization of Work with Petitions and Maintenance hardware necessities						UROL MCC Judicial Testing and Discipline Manager, UROL IT Specialist	SJA/ Department of Organization of Work with Petitions and Maintenance

(d) Provide/install hardware to SJA Department of Organization of Work with Petitions and Maintenance						UROL MCC Judicial Testing and Discipline Manager, UROL IT Specialist	SJA/ Department of Organization of Work with Petitions and Maintenance