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November 30, 2001

Uljan Bilotkach
USAID/Kiev
19 Nizhniy Val
04071 Kyiv, Ukraine

Re: Task Order #809 under Evaluation IQC
AEP-I-00-00-00023-00

Dear Mr. Bilotkach:

Development Associates is pleased to transmit the final version of its report "An Assessment of Prospects for Sustainability of Ukrainian Training Resources." The report is sent in these media: PDF file, four bound copies, one unbound copy, and diskette. This satisfies the Task Order requirements for Ukraine.

We would like to thank you and your staff for the assistance provided to the team while there and to Development Associates during the report process. It is our hope this report will assist USAID/Ukraine in carrying out its important efforts to assist the people of Ukraine.

Sincerely,



Peter B. Davis
President

**AN ASSESSMENT OF PROSPECTS FOR SUSTAINABILITY
OF UKRAINIAN TRAINING RESOURCES
FINAL REPORT**

Submitted to:

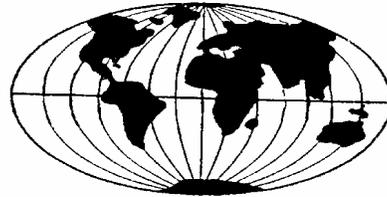
USAID/KYIV

In response to:

**Task Order #809 under Evaluation IQC
AEP-I-00-00-00023-00**

Team Members:

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November, 2001

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I. EXECUTIVE SUMMARY

This assessment was commissioned by USAID/Kyiv to assess the prospects for sustainability of three training and technical assistance entities which have been funded by USAID's SO 2.3 programs. In the context of this report the use of the word training denote training and technical assistance. These entities are

- ▶ The prospective Ukraine Water Technology Center (UWTC) currently operated under contract by CH2MHILL in Lviv
- ▶ The Association for Ukrainian Cities Regional Offices (AUCROs) assisted by RTI.
- ▶ The Regional Training Centers operated by the US-Ukraine Foundation.

A. THE MAIN CONCLUSIONS OF THE ASSESSMENT TEAM ARE

1. THERE ARE TWO DISCRETE POTENTIAL MARKETS FOR TRAINING:

- ▶ *A local market.* Currently there is no local market for municipal training programs. This does not mean there is no need. The need is very large. We have defined "market" as the perceived need for a service coupled with the willingness and ability to pay for the service. In the foreseeable future none of the programs assessed can expect to secure any significant revenue from municipalities with one exception: the AUCROs which receive a very small amount of money from member dues. These typically amount to about UAH 10,000 per year. This amount can barely support a staff performing secretariat functions for the members. Current prospects for dues increases are low, but may increase over time. Payment rates by region vary but unpaid dues are significant.
- ▶ *A donor market .* There is a donor market largely consisting of USAID programs including those outside the SO 2.3 program which do spend significant amounts on training municipal officials. Examples include the Regulatory Reform Program which needs to train local officials enhanced business management and the Budget Code training program about to be launched by the Fiscal and Economic Reform Support project. In addition, the Tariff Reform program has a significant training and development component. These types of training activities can be funneled through the RTCs and AUCROs. This would support them and capitalize on USAID's sunk investment in them.

Another major component of the donor market is the emerging Municipal Development Loan Fund. This Ukrainian institution capitalized by the World Bank will require extensive training and technical assistance to potential borrowers. Fund operations are expected to start in 2003. As part of it, the UWTC could write the Fund's water sector standards and could plan and review proposals for water sector loans as well as train Ukrainian engineers in the Funds requirements. The UWTC could function in essence, as the Fund's Water Sector technical arm. This would leverage USAID's six years of sunk costs in the UWTC into a source of technical training and policy influence which is both

nationwide and permanent. In addition, the RTC's and AUCROs could play significant roles in training borrowers in non-water sectors.

2. THE LEGAL ENVIRONMENT FOR ESTABLISHING UKRAINIAN ORGANIZATIONS TO CARRY OUT TRAINING IS POOR. SPECIFICALLY

- ▶ There is significant conflict between laws and the way they are interpreted by the State Tax Authorities. No quick resolution of this issue is in sight. This results in very high risks in starting a consulting and/or training business (for-profit or non-profit). These risks adversely affect prospects for sustainability.
- ▶ The study team identified the best option for structuring a non-profit in the current legal environment as being: to set up a Ukrainian non-profit organization using the "charitable" form. This type of organization can accept donor funds and retain its tax exempt status, However if it accepts fees for service it runs the risk of losing its tax exempt status, not only on the fees it receives for service, but on all its revenues. To avoid this problem the best current option is for the non-profit to set up a "daughter" for-profit company which can charge a fee for services. The "daughter" company would have to charge VAT on the services and if it had a profit it would pay the 30% corporate profit tax.

3. THE MAIN RECOMMENDATIONS ARE THAT USAID SHOULD

- ▶ Provide modest additional support to AUCROs through competitive and sustaining grants. It should do this now. This can be done in a way which enhances the prospects for dues based sustainability.
- ▶ The UWTC should continue to be funded and the current contract with PADCO is the most appropriate vehicle, given the current context. Additionally, USAID should advocate for a key role for the UWTC at the emerging MDLF.
- ▶ Utilize the resources it has committed to the RTCs and AUCROS to support it's Mission-wide municipal training agenda.
- ▶ Consider how Ukrainian non-profits performing tasks identical to those of US Contractors can be protected by the US-GoU bilateral agreement from the vagaries of State Tax Administration practice, the main business risk. All the training organizations can be effectively run by Ukrainian staff. Using Ukrainian non-profit entities under contract could mean that
 - USAID's dollars go further; and
 - The stage is set for sustainability when the current business and tax environment improves.

B. OVERALL CONCLUSION

In the current financial and legal environment in Ukraine the organizations assessed can not survive on their own as *training and technical assistance providers*. AUCROs can barely survive, but only as a secretariat to their members. *If USAID views having influence on development of the municipal sector as an important policy goal*, continued USAID support of

these excellent organizations is key. There is no possibility they will become self-funded in the foreseeable future, except from donors. If they are disassembled, recreating them at some future time will be costly, time consuming and of uncertain effect.

METHODOLOGY

The stated purpose of this “Assessment of Prospects for Sustainability of Ukrainian Training Resources” as identified in the USAID/Kiev Scope of Work is “encourage sustainability of Ukrainian organizations to help perpetrate USAID’s training and technical assistance objectives.” A specific focus was on the local government training activities of the Ukraine Water Technology Center (UWTC), the Regional Training Centers (RTCs) created under the Community Partnerships Program for Local Government Training and Education (CPP), and the Regional Offices (ROs) of the Association of Ukrainian Cities (AUC). A key component of the assessment was the context of these training activities within the current and prospective legal structure of the Ukraine.

The expertise of the four team members: L. Alan Beals, Richard Kobayashi, Oiha Holoyda and Serhii Kalchenko provided the range of experience necessary to discharge the assignment. Ms. Holoyda and Mr. Kalchenko focused on the legal aspects of the report, although their range of knowledge contributed to the overall report.

Project activities began in Washington with acquisition of various documents. These materials were acquired from a variety of sources including USAID, the Internet and other sources. The fieldwork began on October 1, 2001 in Kiev where USAID/Kiev briefed the team. Two major field trips were taken during the month of October.

In the first week, one field trip centered on an all staff retreat of the Regional Training Centers in Kamyanytsya-Podilskyi and visits to two AUCROs. A second field trip was made to Lviv to meet with the Ukraine Water Technology Center, a Regional Training Center and a Regional Office of the AUC. During the month, a series of interviews and meetings were held in Kiev with the US-Ukraine Foundation, the Research Triangle Institute, non-profit organizations and other donors. The team made extensive use of e-mail communication with the three major contractors to clarify issues and gather additional information.

Arrangements were made to attend a regular meeting of all the Directors of the AUCRO’s. A survey form to solicit information was developed by the team. Team member Kalchenko facilitated a group discussion in the Ukrainian language of the Regional Directors. This session contributed greatly to the final report.

The list of contacts during the course of the month in Ukraine is included as an Appendix to this report.

II. ACRONYMS

AUC: Association of Ukrainian Cities
AUCRO: Association of Ukrainian Cities Regional Office(s)
CH2MHILL: An international engineering firm under contract to USAID
CMC: Counterpart META Center
COP: Chief of Party
CPP: Community Partnerships Program for Local Government Training and Education
CSE: Communal Services Enterprise(s)
EBRD: European Bank for Reconstruction and Development
GoU: Government of Ukraine
HMRSC: Housing and Municipal Reform Support Center
LMDI: Lviv Municipal Design Institute
MDLF: Municipal Development Loan Fund of the World Bank
PADCO: Planning and Development Collaborative International
RTC: Regional Training Center(s)
RTI: Research Triangle Institute
STA: Ukrainian Government State Taxing Authority
TA: Training and technical assistance
UAH: Hryvna, Ukrainian currency
ULF: Ukraine Legal Foundation
UMREP: Ukraine Market Reform Education Project
USAID: United States Agency for International Development
USUF: U.S.-Ukraine Foundation
UWTC: Ukraine Water Technology Center
WB: The World Bank

III. HISTORICAL PROGRAM OVERVIEW AND PURPOSE OF THE ASSESSMENT

USAID began providing support to municipal development in Ukraine in 1993. Through its Municipal Finance and Management Project it supported efforts in three pilot cities to increase the effectiveness, accountability and openness of local government and to boost citizen involvement. USAID's initial activities also focused on strengthening the legal basis for local governance by supporting the development of the Association of Ukrainian Cities (AUC) as a policy and legislative advocacy arm of city governments in Ukraine. The AUC successfully advocated broad autonomy of local governments as defined by the law on Local Self-Governance that was enacted in 1997. USAID efforts to support AUC development and certain municipal finance reforms have been carried out by the Research Triangle Institute, as Implementing Partner. Currently the AUC with USAID funded assistance from RTI is implementing a program to establish regional AUC offices with the goal of having a regional office in the capital city of each oblast. This will bring the AUC closer to its current 385 member cities and help cities provide more input into national AUC agenda setting and lobbying as well as develop customized regional agendas including training of local officials and collective negotiation with oblast state administrations, which are administrative subunits of the central government.

Another major USAID activity aimed at local government management capacity building and citizen involvement in decision-making is the Community Partnerships for Local Government Training and Education Project (CPP). This program, which is not a part of this sustainability assessment, paired 18 competitively selected cities in Ukraine with counterparts in the US. This work is carried out by the US-Ukraine Foundation under a cooperative agreement with USAID. The Foundation has also developed a municipal training program based at four Regional Training Centers (Cherkasy, Donetsk, Lviv, and Kherson) which are part of this assessment. These RTCs are providing training in a variety of areas to partner and non partner cities with much of the training focused in four areas: housing and communal services, economic development, budget and citizen participation. The RTCs are providing training in non municipal topics based on demand.

Issues of water service delivery have been addressed in two other USAID projects Urban Water Supply Improvement in Lviv and the follow on work which disseminated lessons learned in Lviv to Ivano-Frankivsk and Rivne, two cities in western Ukraine within driving distance of Lviv. Subsequently, USAID began a three year (1999-2002) Municipal Water Rollout Activity with two major objectives. The first is designed to assist eight municipalities analyze the technical, financial and managerial strengths and weaknesses of their water utility and develop action plans for improvement. The second is to formalize and to strengthen expertise developed under earlier USAID projects so local experts may become a catalyst to assist other municipalities. This second objective is one of the three main focus areas of this assessment. The original thinking concerning the method through which this objective would be achieved was through the establishment of a Ukraine Water Technology Center comprised of local water experts who had received training and experience in the earlier work in Lviv and on the rollout project. The working assumption was that the appropriate home for the UWTC would be the state owned

Lviv Municipal Design Institute. However structural issues made this infeasible: USAID cannot give money to a state organ and bridge financing for an indeterminate period of time, which was seen as essential to ensure sustainability. Additional description of the evolution of this situation is included in the SOW which is included as an appendix. All of the water related work in Ukraine funded by USAID has been carried out by the engineering firm of CH2MHILL. They concluded in September 2000 that establishing the proposed UWTC as part of the LMDI would be difficult and perhaps may not be advisable. Accordingly, a significant component of this assessment is to identify alternative options which have the potential to ensure sustainability.

While in Ukraine, the Assessment team was asked to look at the option of putting the UWTC function under the USAID umbrella by evaluating the feasibility of placing the function under the aegis of the US-Ukraine Foundation or PADCO. Both are current contractors. USAID officials advised that continuing the contract was not feasible, but that responsibility for the UWTC could be assigned to another contractor by a contract amendment. The study team was advised that USAID Officials had had preliminary conversations with the COPs of both contractors.

In addition to the projects mentioned above, USAID is carrying out through PADCO a project titled Tariff Reform and Communal Services Enterprise Restructuring which is focused, among other things, on improving the financial management capabilities of local water companies and district heating companies. While organized as private firms these companies are 100% owned by their municipalities and municipal approval is required for tariff adjustments.

While USAID has made significant investments in a wide range of municipal topics the current assessment focuses on only three topics: the AUCROs, the US-Ukrainian Foundation's Regional Training Centers, and the options for establishing a UWTC which have a high chance of sustainability.

IV. FINDINGS – AN ASSESSMENT OF SUSTAINABILITY

This section of the report describes the current context for municipal training activities and prospects for sustainability. It first describes the market for services and its limitations and then describes and assesses the current prospects for each of the organizations.

A. GENERAL PROSPECTS - MARKET FOR TRAINING SERVICES

The development of a market for municipal training services is the *sine qua non* for the long term sustainability of the three training organizations that are the subjects of this assessment. A *market for training* requires two components:

- ▶ A perceived need for training; and
- ▶ The ability and willingness to pay to meet those needs.

We have identified two potential training markets:

- ▶ Local Self Government, i.e. municipalities, and their agencies, e.g. water utilities and district heating companies;
- ▶ International donor institutions and their Ukrainian daughter institutions. The Municipal Development Loan Fund sponsored by the World Bank is an example.

B. THE LOCAL GOVERNMENT MARKET

Based on the Study Team's direct observations of the training programs covered by the assessment, the opinions of USAID contractors and USAID staff interviewed for this assessment the ability to pay for training by cities is *low to non-existent*. This confirms the training assessment conclusions performed by Rutgers for the RTCs in Spring 2001 and broadens those conclusions to include the AUCROs and UWTC. The factors that will favorably affect this condition are:

- ▶ Improvement of macroeconomic conditions;
- ▶ Increases in discretionary spending capability of cities;
- ▶ Increases in the perceived value of training;
- ▶ Requirements for training imposed by the state; and
- ▶ Training as a precondition to accessing donor funds, credits from IFIs and similar forms of aid.

1. THE LOCAL MARKET - DISCUSSION

Based on the virtually unanimous opinion of people we have interviewed and the Rutgers report the municipal market is non-existent. Municipal training will continue to be needed to assist cities develop and influence the new local officials that will be elected in the Spring 2002 elections. In general, these training efforts will not be financially self sustaining in the foreseeable future. Local budgets do not contain line items for training. In general the most that can be expected is that token fees could be collected to offset the cost of materials or similar purposes. These fees would have the main purpose of adding perceived value to the training rather than functioning as a meaningful cost recovery mechanism. The possible exception is the AUC Regional Offices. These appear to be very low cost operations that are developing the capacity to provide a combination of training and follow-on technical assistance. Also they are “owned” by their respective members. Each serves a relatively small number of cities and have agendas which are member driven. The potential of these dues supported organizations to become sustainable is significant over the medium to long term (5 – 10 years) but not certain, as dues are very low and the proportion of unpaid dues is high. As the new budget code is implemented over a period of years the potential for enhanced support for training should improve.

C. THE INTERNATIONAL DONOR MARKET

International donors that focus on municipal development – broadly defined – are the major market for training. Each has a specific policy agenda that relies on influencing the behavior of local officials. It is efficient and beneficial for donors to use the training organizations and capabilities which are the subject of this assessment. *This is a market; it has a perceived need for training municipal officials and the ability to pay for it.*

1. THE DONOR MARKET – DISCUSSION

Based on initial impressions, it appears that there may be a significant market for training among donors seeking to influence the municipal sector.

Understanding the training needs of donors and how they “fit” the capabilities of the organizations is a focus of this assessment. The general experience appears to be that lender and donor projects have had sub optimum results or outright failure in some instances due in part to a lack of readiness/capability by potential recipients. Evidence for this appears to be particularly strong in the lending arena. The recent experience of EBRD in the Water Sector, UKERESCO in the energy sector and the World Bank’s expressed concerns about loan demand for the MDLF are examples.

The training organizations that are the subject of the assessment could be the vehicle through which training is provided on the following kinds of project, all of which are underway:

- ▶ USAID Tariff Reform and Restructuring Project. This has a major training and dissemination component.

- ▶ The USAID Regulatory Reform Project. This will require training of municipal officials in implementing regulatory reforms which have been developed by this project to expedite business formation and operation. While the main focus of this program has to encourage local business communities to bring pressure on Cities to reform business permitting procedures, telling the story and training city official on how to do this could be a valuable dissemination strategy.
- ▶ The World Bank financed the MDLF loan fund that is now being organized and is anticipated to be operational in 2003. Municipal officials will require training on how to access and apply to the fund and how to meet loan conditions.

The general approach would involve the donor/lender agency providing or identifying expert trainers and the training organizations providing facilities, advertising, logistics as well as their well-developed network of municipal level contacts. They would have the capability to market the donor supported training in a way that gets the most appropriate municipal officials to attend. In addition, the AUC ROs and RTCs have the capability to train Ukrainian nationals who are technical experts in specific functional areas in modern and effective adult learning techniques; thus, enhancing training effectiveness.

2. POTENTIAL PARTICIPANTS IN DONOR MARKET

a. The Municipal Development Loan Fund

The Municipal Development Loan Fund is a World Bank Project that was initiated in 1998. It has two components: A Social Development Fund and a Municipal Development Loan Fund. The Social Development Fund was intended to make grants, largely to poor municipalities facing acute and urgent needs. This portion of the overall program has been placed into operation. The World Bank put the MDLF on hold and conditioned implementation on passage of the Budget Code. This code, enacted in summer 2001, provides a predictable revenue stream to municipalities by creating the statutory basis for distribution of a share of state revenue. In the view of the World Bank this predictable and stable revenue stream provides the basis for local governments to repay loans, an essential precondition to the establishment of the MDLF.

Since the passage of the Budget Code, the World Bank has begun additional developmental work on the MDLF. As a next step a study will be conducted for the Ministry of Finance on barriers to subnational lending and appropriate laws and regulations will be prepared which will enable subnational lending by the MDLF and others. A major requirement is legislation that allows the MoF to offset loan payments from subventions or shared taxes.

The World Bank envisions that the subnational lending legal study will be completed in approximately four months. Funds for this work have been provided to the MoF as a grant by the Japanese Government.

According to the World Bank staff, it is likely that the major demand for loans from the MDLF will be for communal services particularly water and district heating utilities. Some loan demand will be for other public infrastructure such as roads. While communal services enterprises are

organized as Ukrainian commercial companies, they are typically owned entirely by their respective municipalities. World Bank staff envision that loans from the MDLF will be to the city, not to the utility. The city, of course, can sub loan the funds to the Communal Services Enterprise or make other appropriate arrangements.

The basic schedule for MDLF development envisions 2002 as the year of final development and preparation for the operational phase of the Fund. Lending would begin in 2003.

The current thinking of World Bank staff is that the MDLF would not provide training and project development assistance to potential borrowers with their own staff or closely linked consultants. The conceptual working paper on the Fund¹ points out that international experience shows that the technical assistance providers working for a fund tend to reduce the opportunity for thorough and independent evaluation of loan packages, as technical assistance providers tend to become project advocates within the organization.

Accordingly, the current thinking is that the Fund would either contract for training and TA providers or work with donors to fund a training and TA program which is in direct support of the MDLF lending program. This effort likely would have two major components: a general training program designed to familiarize city officials with the MDLF program and its requirements and technical assistance in preparing loan packages.

It appears that current orientation is to provide training and technical assistance with Ukrainian training and technical assistance organizations and that contracts would be with the MDLF or with donor organizations interested in ensuring a supply of bankable loan proposals to MDLF. The Fund is expected to be organized either as a part of the MoF or function as quasi-independent entity.

The current World Bank Work Plan envisions a development sequence for the MDLF along the following lines:

- ▶ Analysis of gaps in legal and regulatory framework for sub-national borrowing and the preparation of draft legal recommendations on sub-national borrowing. Completion: March 2002
- ▶ Consultant services for analysis of best MDLF structural option and consensus building leading to a choice of structure
- ▶ Determination of evaluation criteria for access to the Fund and preparation of an operations manual.
- ▶ Technical assistance and training of MDLF staff in funds management, project evaluation, implementation and management.

¹ "Building a Hard Credit Culture With Ukrainian Subnational Governments and Communal Services Enterprises: Capital Market Strategies and Municipal Development Loan Fund Options" Report prepared for the World Bank Ukraine Community Development Project by Capital Advisors, January 1999.

- ▶ Workshops across Ukraine to explain MDLF and procedures to municipalities.
- ▶ Technical assistance to localities to develop business plans, project preparation, analysis of credit carrying capacity
- ▶ Technical assistance to the MDLF in creation of unit for monitoring subnational debt.

World Bank staff advised that the capitalization plan for the MDLF involved a commitment of U\$S 120 million, with the first tranche expected to be U\$S 40 million. While not certain whether the Fund would operate on a revolving basis, World Bank staff indicated that this was a preference.

Implications for Training Organization Sustainability

To be successful the MLF will need a pool of well-qualified borrowers. That is, the technical basis for the project must be sound and evidence of the ability to repay the loan must be provided. Building the capacity to meet either of these preconditions is not a task which the MDLF plans to take on directly. Rather, the current thinking is that these capacity building efforts might be carried out by other donors in a way which is closely coordinated with the MDLF. Based on the current outlook most of the loans would service the communal services sector, although the Fund's credit would be to the city. Given that much of the lending is to be for Vodokanal improvements, the technical assistance capabilities of the staff intended to serve in the UWTC have much to offer. It is conceivable that the AUCROs may be appropriate vehicles to bring information about the MDLF to smaller cities in each oblast and may well be in a good position to facilitate joint loan applications from groups of smaller cities. It is conceivable that the AUCRO could be designated as fiscal agent for a group of cities, but it is more likely that one of the participating cities would play this role. The RTCs could be a prime vehicle through which initial general information as specified is disseminated, and subsequent training of borrowers on the MDLF program is carried out.

b. Canadian Government Programs

According to staff of the Canadian Embassy the main thrust of their programs involves pairing a Canadian Institution with a Ukrainian Institution. The effort with the strongest municipal component is the Small Business and Economic Development Center in Ivanho-Frankivsk (SBEDIF). This program links a consortium of four colleges with the Oblast and City Governments. The program provides services to individuals, governments and the business sector. Training is provided in English and computer skills, it operates a loan fund and is involved in a tourist development effort. It has established a joint venture with the Oblast, City and lead college with the college as the executing agency to provide services on a fee-for-service basis. The Canadians run the Canada Fund and the Gender Fund both of which make grants in the 20-40K range to all types of organizations. The focus of these funds is not on municipalities, rather they make grant in all sectors, with occasional grants to the municipal sector.

Implications for Training Organization Sustainability

There appears to be no immediate need by the Canadian programs for the types of services offered by the training organizations in this assessment. However it might be helpful for the US-Ukraine foundation to assess the “lessons learned” from the IF experience and determine whether these lessons can serve as a basis for training and whether that program has produced experts who can serve as trainers. Such an assessment could result in a new training product(s) for the RTCs. In making such an assessment it may be useful to examine in detail the joint venture and loan fund arrangements.

c. EBRD

According to staff at the EBRD it does not make grants and would not typically consider funding a general skill development program. It’s loan threshold is in the five million dollar range, but higher amounts are preferred. The technical, financial, and institutional aspects of a project are typically managed by a consulting firm. The EBRD has had experience working collaboratively with other donors in the project preparation phase and is willing to have donors pay for the development of bankable projects. The most recent example is the pre feasibility studies for water loans financed by USAID and carried out by the staff of CH2MHill which is to be the core of the envisioned UWTC.

d. The USAID Tariff Reform and Communal Services Enterprise Restructuring Project

This USAID funded project seeks to enhance the financial and management capabilities of CSEs by improving accounting, tariff setting, financial modeling and energy efficiency. It works with the water and heat utilities of two medium sized cities: Khmelnytskyi and Lutsk. It also works closely with the State Committee on Architecture and Communal Services.

A significant component of the work plan involves specific training activities these including:

- ▶ Identifying Best Practices in Payment and Collection;
- ▶ Developing a Capital Finance Model and Training Local Officials in the use of the Model;
- ▶ Developing an Ability to Pay model and Training Local Officials in use of the Model;
- ▶ Training Seminars in Capital Planning and Financing;
- ▶ Technological and Operations and management of CSEs;
- ▶ Publicizing pilot results through written reports and regional Seminars; and
- ▶ Identifying and publicizing pilot results through written reports and regional seminars.

Implications for Training Organization Sustainability

A very significant portion of the PADCO work plan and budget involves training and dissemination activities. Without question the RTCs would be an appropriate vehicle for much of the training and related dissemination effort. Similarly, certain AUCROs, perhaps those representing the pilot cities of Lutsk and Khlmenytsky may be appropriate organizers of training and technical assistance that spread the lessons learned from this project. In addition the web site maintained for the AUCROs by RTI may be the appropriate vehicle for posting best practices which are developed in this project. This would give Vodokanals throughout the country access to project information via the web. This information can be obtained through the AUC ROs internet facilities, if web access is not available directly to the Vodokanals.

USAID has made a significant dollar investment in RTCs and to a lesser extent in the AUC ROs. It should consider requiring its municipal sector contractors to use these vehicles for dissemination so it can both help sustain the organizations, capitalize on its sunk investment, and foster a more coordinated effort by its contractors.

D. LEGAL AND REGULATORY ENVIRONMENT SUMMARY

The full analysis of the legal and regulatory environment is contained in Appendix A. The following summary of the analysis highlights the best legal and regulatory strategies to ensure the long-term sustainability of the UWTC, RTCs and AUCROs.

The current legal and regulatory environment for legal entities such as non-profit organizations, consulting businesses, spin-offs from USAID projects and other organizational forms is unusually complex, often contradictory and fluid. This has an important impact on the long-term sustainability of USAID supported training projects in the municipal sector. While major legislative changes have been proposed to clarify, codify and refine many of the legal issues associated with organizational forms, the process has been slow with many needed changes likely to be two or more years in the future.

One of the major sustainability issues for non-profit organizations is providing fees for such services as training courses and technical assistance. This is a common practice in other nations. Under existing Ukrainian law and practice non-profit organizations may not levy fees for service without risking losing their non-profit status and being subject to taxes on the revenues generated by fee bearing activities. The best solution is to pass legislation to clarify the service providing provision and financing options for non-profit organizations.

Further complicating the matter is the aggressive nature of the State Tax Authority whose major policy objective is to secure as much revenue as possible for national governmental purposes. The existing legal framework and the administrative policies of the State Tax Authority are frequently at cross-purposes causing confusion and frustration for non-profit entities. In addition, there appears to be uneven application of tax laws by the STA.

Based on our analysis of current legal and regulatory conditions, the best short-term approach for a non-profit to provide fee based services is to create a for-profit subsidiary, or “daughter”

company, through which fee generating activities would be organized and administered. VAT and corporate taxes would be levied on those activities. While profits could be generated for return to the non-profit parent organization, this is unlikely in the current environment. Including taxes in the pricing for these services may significantly limit the success of this option.

The team is cognizant that converting USAID non-profits or spin-offs into a for-profit organizational form is ultimately desirable. The largest hurdle is assembling the capitalization necessary to give the for-profit a reasonable chance of success. This reinforces our view that the combination of the non-profit “parent” with a for-profit “daughter” subsidiary should be tested as a preferred model.

E. POTENTIAL MUNICIPAL TRAINING COMPETITORS

The assessment team identified The Ukraine Academy of Public Administration as the only potential competitor to the USAID funded training programs that are the subject of this assessment.

The Ukraine Academy of Public Administration has five main programs that it administers. Its stated mission is to deliver formal education and training programs to civil servants at the national, oblast, region and city levels. The Academy has five regional centers in Lviv, Odessa, Kharkiv, Dnipropetrovsk, in addition to the main office in Kyiv.

The Academy offers a degree program leading to the Master of Public Administration. It also offers a series of short-term courses through its In-service Training Network in the five locations. These courses range in length from one to two weeks. Typically, the topics cover timely issues of importance, in depth analysis of new laws and interpretations, and procedures. The full costs of these training programs are borne by the national government, including, travel, lodging, food, materials, etc.

As the result of a World Bank initiative the Academy is establishing a Distance Learning Network Center. The technology is currently in place. The first program, to be offered in the near future, will provide courses in Urban Management and Intergovernmental Fiscal Relationships.

Implications

The Academy has focused its training activities on national and oblast officials. These activities do not currently conflict with the training activities of the RTC’s or the AUCROs. However, the Distance Learning Network Center indicates that the Academy plans to expand its offerings to the municipal sector. This could provide competition in the future. While there are differences in the approaches used by all these providers, especially on the length and depth of the training opportunities, all should be aware of the others’ dimensions.

F. AUC REGIONAL OFFICES – OBSERVATIONS AND FINDINGS

The AUCROs were created as part of a strategy by the AUC and USAID for strengthening municipal government in Ukraine. In general local self-government is the only general

governmental organization which is legally independent of the central government, although it must operate within the framework of the Law on Self Government and related laws. A major benefit of local self-government in Ukraine is the offset it provides to the very strong tendency to centralism. The main rationale for the AUCROs was to provide smaller cities, generally those which are not oblast capitals or large with:

- ▶ Access to information;
- ▶ A means of discussing and communicating their options to national AUC headquarters;
- ▶ A vehicle through which regional issues can be addressed with Oblast State Administration on a unified basis; and
- ▶ Training and technical assistance.

The development of AUC Regional Offices has resulted in an increase in AUC membership, as Mayors of relatively small cities have become more familiar with the benefits of membership. Ukraine is a big country and travel to Kyiv is not common for Mayors of smaller communities. Bringing the AUC to them makes AUC a more “bottoms up” organization and provides local as well as national benefits.

A typical AUCRO has between 2-4 staff people and sufficient computer and peripheral equipment to link the RO to national AUC headquarters via email and the web. This equipment is intended to serve as a key communication vehicle and as a key resource for municipalities in learning about resources, best practices, national and international experiences.

RO office staff receive training in certain specific topics so they can serve as local training and technical assistance resources. These topics include:

- ▶ Formation of Advisory Committees;
- ▶ Conducting Public Hearings;
- ▶ Strategic Planning for Economic Development;
- ▶ Using the Financial Analysis Model; and
- ▶ Public Procurement.

Significant effort is expended on experience sharing. The main focus of the Training of Trainers program held during the period of this assessment (October 2001) focused on Cluster 1 (Western Ukraine) RO staff training Cluster 3 RO staff.

Cluster 1 ROs have been operating for about two years and Cluster 3 (Eastern Ukraine) are just being launched. A list of the Clusters is included in the Appendix. During their work AUC ROs become familiar with the topic areas on the list. In each of these areas USAID’s contractor, RTI, has developed extensive training materials and has on staff an expert in each of the functional areas mentioned. These staff are available to provide “over the shoulder” TA to each RO and to specific cities if necessary.

The budget for a typical AUC RO is modest. Staff costs in a typical RO do not exceed UAH 1200 per month and facilities are usually donated by the host city. In terms of this assessment it is important to note that the ROs really have two functions:

- ▶ Serving as a secretariat and information provider/communicator to the regional members; and
- ▶ Training city officials.

Based on the information gathered during this assessment it appears that the secretariat role may be barely sustainable on the dues and contribution base. But that without a source of very highly qualified experts serving as a national resource the capability to sustain a training and TA role will subside quickly.

The annual labor budgets for the three AUC ROs the Assessment team visited are as follows:

Location of AUCRO	ANNUAL LABOR COST
Lviv	UAH. 12,000
Chernivtsi	UAH. 9360
Khlmnytsky	UAH 7000

A listing of all AUCRO budgets and other information is included in the Appendix.

There are three germane questions concerning the sustainability of the AUC ROs

1. *Will the dues/contribution base be stable and increase overtime so that current capacity is maintained?* Based on the new budget code and the high quality of services provided by the AUCROs, the study team is cautiously optimistic about this, provided that the AUC ROs understand that stability and growth will derive from providing effective services to the members in each region and sustained efforts are made to increase the dues payment rate. Maintaining the current RO budgets as a floor is important, especially if the country encounters a period of financial difficulty.
2. *How can the present expert central staff capability, provided by RTI through a USAID contract be sustained?* AUC, through it's dues structure cannot support this core staff in the foreseeable future. The main options are 1) formation of a Ukrainian for-profit or non-profit corporation which would have a contract with USAID to continue the current work on an on-going basis or 2) continuation of the current arrangement with RTI or a similar USAID contractor. In either situation this capability can not now be financially supported by Ukrainian cities The current annual direct labor cost of RTI's Kyiv based staff of Ukrainian nationals is approximately USD 12,000 per month or USD 144,000 annually. This plus an appropriate amount for local overhead can provide an approximation of the financial resources necessary to sustain their function as a *Ukrainian* donor supported organization. This, of course does not include resources to continue the program of equipping AUCROs and cities. In any consideration of this option the local cost of a Ukrainian as COP must be considered as well as any technical support required from the RTI home office.
3. *Can the AUCROs serve as training facilities for the donor/lender market?* This appears possible if donors needed to target training to a particular oblast(s) and were targeting their

training to the city staff closest to the ROs – those close to the Mayor. One constraint is that the ROs have little capability to market their services and very limited facilities that they own or control. Any donor, including USAID, would find the ROs particularly useful if the objective was to improve a particular municipal management skill e.g. procurement or citizen participation. The current system of developing training modules, training trainers in the ROs and municipal officials, and then having the capacity to follow up with TA with staff from the RO is appropriate for a donor with a training objective which involves *implementation rather than familiarization alone*. No other general municipal training organization has built-in follow up technical assistance capabilities. (The UWTC is considered a special purpose training organization.)

G. US-UKRAINE FOUNDATION REGIONAL TRAINING CENTERS (RTCs)

The US-Ukraine Foundation operates four Regional Training Centers. The Foundation is executing a major training program for local officials through four Regional Training Centers geographically covering the entire Ukraine. They are located in Lviv, Kherson, Donetsk, and Cherkassy. The available data show impressive numbers of local officials attending seminars and events. In 364 seminars comprising 690 training days, over 8,300 participants attended from 470 cities.

Each of the four centers has modern adult training facilities and a permanent core staff. Training is provided in a wide range of municipal topics including budgeting, public participation and credit union development. (A sample training calendar is listed in the Appendix). The RTCs have supported CH2MHILL programs by providing training facilities and training water engineers as trainers.

The Rutgers University study published in early 2001 showed a number of weaknesses in the RTC effort. In the last six months major steps have been taken to address and correct the weaknesses identified. Program responsibilities have been decentralized to the regions, staff has been strengthened, strategic plans have been completed, priorities established and staff training intensified.

Each region now has a full time professional trainer on its staff and they expect to have additional capability through other donor support. Donor support from the Dutch Government is being negotiated to enable each regional office to prepare 10 case studies on successful solutions of municipal problems during the coming year. These case studies can be the core of training modules for future programming.

The RTC's in their strategic planning process identified the same sustainability issues as the Rutgers study and are consistent with the assessment team's findings on the local market.

The labor budget for a typical RTC is as follows:

Title	Monthly Salary	Annual Salary
Regional Director	\$1,000	\$12,000
Deputy Director	\$750	\$9000
Staff Trainer	\$500	\$6000
Contract Labor	\$100	\$1200

Approximate Total Annual Direct Labor Cost \$29,200

The high labor cost of the RTCs makes the issue of sustainability complex. By all accounts the RTCs are professionally staffed and managed, but there is concern about the long-term sustainability. The RTCs are an expensive operation by Ukrainian standards. As mentioned in the Legal Section, the RTC Director in Lviv is in the process of setting up a for-profit daughter firm so it can charge fees for services. It also appears that he has a goal of using the for-profit to provide training services to non-municipal sector clients, particularly businesses. While the Lviv RTC is most advanced in its thinking, RTC Directors, as a group, advised the assessment team that all the RTCs intended to pursue this approach.

This direction raises a policy issue for USAID and the Foundation. Namely, is it appropriate for USAID funds (e.g. the Director's salary) that are designated to support the municipal sector to be used to develop a for-profit business model which is not intended to serve municipal needs? The assessment team has no specific recommendation on this matter, but we do have concerns that significant management time and energy may be allocated in way that is, at best, tangential to Strategic Objective 2.3.

H. WATER TECHNOLOGY CENTER (UWTC)

The UWTC is not an organization that currently exists. It is the name commonly used to describe the vision of a sustainable Ukrainian organization that would continue the highly regarded work carried out by CH2MHILL with Vodokanal. The assessment team was advised that there is a high level of concern that, in the current context, launching a Ukrainian organization would pose very high risks to the sustainability of the core professional team which USAID through its implementing partner CH2MHILL, has developed in the last six years. USAID's principal concern is sustaining (preserving) the Water Technology training and technical assistance capability over the next several years so that previous successes can be built upon and emulated.

In addition to reviewing options for the establishment of the UWTC as an indigenous NGO, USAID requested the assessment team to evaluate the option of placing the current Ukrainian work force of the UWTC (CH2MHILL employees) and a continuation of its work program under the "umbrella" of either the USAID contract with PADCO for tariff reform or the US-Ukraine Foundations cooperative agreement. The reason for the request is that under USAID procedures additional amendments to CH2MHILL's contract are not possible.

The assessment team visited Lviv and talked with senior officials of the UWTC and discussed the options with COPs of both contractors. These discussions were candid and transparent. In considering the options the assessment team developed several criteria to guide discussion. Following are the criteria and the team’s assessment of how the contractors meet the criteria.

Criteria	PADCO	US-Ukraine
1. Current program has a substantive relationship to the mission of the UWTC	Yes	No
2. Contractor can manage the administration of a field office	Yes	Yes
3. Major enhancements in program effectiveness and efficiency possible	Yes	No
4. Engineering Project Management capability currently available in Contractor staff.	Yes	No
5. Level of Interest by COP	High	Low
6. Opportunity for synergy with contractor’s current program staff.	High	Low – Medium

These criteria guided discussions with senior staff of all three entities. The general view of the assessment team is that while the US Ukraine Foundation could serve as a vehicle to protect the UWTC’s capacity, the programmatic advantages would be minimal and US Ukraine would need to develop the capability to manage a technical project. The US Ukraine COP was candid about her concerns about the Foundation’s capability to manage a technical project. She stated that in her opinion USAID would be better served by using PADCO. In the conversation she did state that the RTCs would be excellent vehicles for the training and dissemination components of the UWTC program and that successful collaborations were already occurring. This was confirmed by the CH2MHILL COP.

In discussion with the CH2MHILL COP he stated that it was his firm belief that Vodokanal improvement projects require three components to succeed: *technical, financial and citizen support* and that without any one of these a project will likely fail. The assessment team concurs with this view and notes that between the Tariff Reform and UWTC programs the capacity to support a Vodokanal secure all of these elements exist. In some cases they are redundant, e.g. both programs possess citizen participation and financial modeling elements. The one thing, in addition to technical tariff reform capabilities that the UWTC does not have is a working relationship with the State Committee on Architecture and Communal Services. This is a relationship that PADCO has nurtured.

Discussions with the PADCO COP evoked immediate interest. In preliminary, but wide ranging conversation, he commented on the efficiencies which could be gained by having the UWTC under the PADCO umbrella , citing the benefits of having the capability to handle all aspects of CSE reform in one project. He noted the advantages of having a unified approach to citizen participation and financial modeling and the practical links between tariff reform at the local level and actual system improvements. His initial view was that if the concept were implemented he would use UWTC staff for much of the engineering work currently assigned to PADCOs US based engineering sub-contractor.

The annual direct costs of UWTC labor are in the \$200-\$220,000 range.

In summary, the assessment team recommends that if USAID chooses to place the UWTC under one of the contractors it choose PADCO. The assessment team recognizes that significant technical and management systems work needs to be accomplished to ensure a smooth transition, but that adequate time is available for this.

The CH2MHILL COP strongly recommended that USAID provide his firm with a six month no-cost extension, citing the need for a smooth transition and the availability of adequate LOE in the current project budget.

V. CONCLUSIONS AND RECOMMENDATIONS

A. MAIN CONCLUSION

There are two overarching themes which frame the assessment team's conclusions and recommendations.

- ▶ First, the rate of macroeconomic, political and social development in Ukraine does not necessarily match the USAID program cycle, so institutions which were envisioned as financially sustainable on their own by this time are not.
- ▶ Second, against this background USAID needs to protect its investments in institutional capacity by continued direct support and by assisting organizations capture opportunities presented by the donor market, including USAID's own programs.

The three principal questions to be addressed by this report are

1. Would indigenous training organizations that operate under current USAID projects survive on their own if American support were to end?
2. Is there a sufficient market for the training services provided by the organizations assessed to provide significant revenues for financial sustainability?
3. Is the existing legal environment conducive for this type of local organizations?

The general answer to all of these questions is *no*. But there are some exceptions and opportunities.

The market for training. The assessment team has defined market as "perceived needs coupled with the ability to pay to meet those needs" While perceived training needs are high, ability to pay is virtually non-existent, with one very modest exception. This is the case of the AUCROs which receive a very small stream of dues income from the AUC members in their regions. This supports a typical Regional Office labor budget of about UAH 10,000 per year. The revenue stream has the potential to grow, but this will be a slow process. Currently these funds provide a minimum base of support for a small, low paid staff.

While no domestic market for training exists, there is a donor market. Lenders and donors, including USAID has interests in training and disseminating information and using effective local organizations to advance their municipal sector policy agendas in Ukraine. The organizations assessed are well positioned to capture a significant segment of this market, and can capture it if 1) they market their capabilities more effectively to the donor market and 2) USAID helps broker these relationships and also uses these organizations for its own training programs, where possible. There is ample opportunity for capitalizing on USAID's training investments by programs throughout the mission.

Ukraine is evolving the fabric of local government. Elections of local officials, broadening citizen involvement and upgraded ethical and professional conduct in public service are all in developmental stages. In addition, cities are securing new authority and financial capacity to address long neglected urban infrastructure problems that directly effect their citizen's quality of life. In this context, it is important to have a continuing stream of professional, technical and leadership training opportunities of the highest quality. The agencies studied in this assessment are fully engaged in providing these opportunities. Yet, there is a need for expansion in the range of training offered.

AUCROS. The Regional Offices could barely survive in the absence of USAID support, but they could function solely as a secretariat to the RO membership, as training capacity would diminish without the high level of technical support currently provided by RTI, especially as staff turn over occurs. Reduction in the services provided would also jeopardize the perceived value members receive from the RO and could result in membership losses.

Legal Environment. The legal environment, particularly the ambiguities in the current law and the history of conflict between the legal basis of non-profit organizations and the STAs administration of tax laws, provide a lack of certainty which makes planning and managing a Ukrainian non-profit organization risky.

The only practical legal option for the organizations assessed is the formation of a Ukrainian non-profit charitable organization. These organizations can accept donor funds but cannot receive fee for service income without jeopardizing their tax exempt status. The preferred approach is for the non-profit to establish a for-profit subsidiary which can carry out activities on a fee for service basis. But these activities are subject to VAT and profits are taxed at the Ukrainian corporate tax rate of 30%. The RTCs are moving in this direction so that at least some of their programs could have the potential to recover costs from participants who have the ability to pay.

B. RECOMMENDATIONS

The recommendations are organized by program and then put in one of three categories below. "*Actions to Protect USAID's Investment*" involves overlapping items which the team believes requires timely implementation. The last section includes cross cutting recommendations.

- ▶ *Actions to protect USAID's investment* –. These recommendations focus on actions that need to be taken now to protect USAID's investment in these entities in the near future (2-5 years) when their sustainability on the Ukrainian economy is virtually impossible. The actual length of this period will be determined by political and economic conditions in Ukraine.
- ▶ *Actions to build these organizations' capacities for sustainability while they are under a near term (2-5 years) USAID protection and support.*
- ▶ *Actions concerning the legal/institutional environment and market.*

1. ASSOCIATION OF UKRAINIAN CITIES REGIONAL OFFICES

a. *Context*

USAID in a cooperative agreement with the Research Triangle Institute has been developing a system of Regional Offices of the Association of Ukrainian Cities. Over the course of the last two years, half of the Regional Offices in the 24 Oblast cities have been organized and equipped with modern technology, computers, fax and the like, The remaining half are in the final stages of developing now. The experience has been highly successful in building a grass roots network of local officials and a system of contacts for communication, information sharing and exchange, and building local democratic government, systems.

One of the strong advantages of the regional office system is the successful development of a revenue stream for the long term. The Association has developed a dues formula of UAH.04 per capita, with 30% of the dues assigned to the Regional Offices. It is a necessary first step on the road to potential revenue sustainability. However, in some regions, it does not generate sufficient funds to cover the minimal cost of an office. Many local governments are members, but are unable to afford dues. Overall membership in the AUC has significantly increased in the past two years as the regional offices have made a major contribution to member recruitment. As membership increases, the AUC appears willing to consider an increase in the 30% annual dues assigned to the Regional Offices to enhance their sustainability.

The typical regional office has a core staff of four persons and a small monthly budget averaging UAH 1,000 – 1,200. Most have to depend on the generosity of the host city mayor for space and support services. Staff salaries are low. Even the most dedicated and competent staff can be persuaded to leave when competitive positions become available at higher salaries. Building a network of highly decentralized regional offices is both time consuming and costly. It is, however, a strategy that will be critical to the development of democratic institutions at the local level. At this stage of development, the investments have been strategic and important, but relatively small. Without more operating experience, it is not possible to estimate the ultimate cost of a typical regional office.

Relatively small additional investments in regional offices *now* can have a huge, long-term payoff in building democratic institutions.

b. *Actions to protect USAID's investment in the near term*

- ▶ *USAID should increase its support for the AUCROs now.* The training capacity of the AUCROs is *secondary* to their main mission of serving as a secretariat for the regional office members, but has potential to have a large impact. Many medium sized and smaller cities have very limited professional staff and expertise and are somewhat isolated. Having a reservoir of technical capacity in high priority areas, e.g. public procurement and citizen participation, in effect gives these cities adjunct staff that they rightly perceive as coming from the AUC. Over time this perceived value can lead to broader and deeper support for the AUCROs and supplemental dues payments to support the RO. Investing modest amounts in building and sustaining this kind of technical

capacity in the ROs will increase their prospects for longevity. USAID should develop a program of grants to AUCROs to support development and strengthening of this capacity. It will be inexpensive and effective and have a high long-term payoff.

- ▶ *USAID should recognize that there is a free rider problem in the AUCROs and develop strategies to mitigate it.* The general approach taken by AUCROS is to allow members who have failed to pay their dues to continue to participate on the same basis as dues paying members. The rationale for this appears to be twofold:
 - It is in the interest of the AUCROS to appear to have very broad membership when negotiating with Oblast Administration Officials; and
 - It recognizes the very limited funds available for discretionary spending by some cities.

The grant strategies proposed below to strengthen AUCROs should include an award criteria which gives heavy weight to having fully paid up membership. A modest incentive like this will strengthen the hand of AUCROs leadership in securing dues revenue from free riders on a permanent basis. This type of incentive structure can enhance the prospects for sustainability very quickly

- ▶ *USAID should adopt incentive strategies similar to the examples, which follow.* They are inexpensive, could be administered via contractor or directly and have a very high probability of success.

One is to allocate a fund of UAH 10,000¹ annually to each regional office to strengthen its core capability. Some of these resources could be used to provide a competitive salary schedule, or just to balance out the short fall in current budgets, provide staff training or renovate substandard facilities.

A second option is to ask each regional office to list its most important priority for the next year, develop a plan for implementing it, determine the cost and fund it. A contractor could be able to assist in the plan development, dispense funds and monitor implementation.

Another option that could be used in combination with either or both of the first two would be for USAID to set aside a fund for RO program development that would be awarded on a competitive basis. An example might look like this:

\$50,000 would be set aside annually for a RO program development fund. A RO could apply for up to \$10,000 to carry out a priority development project. The RO in its application would have to demonstrate broad support from their members for the project, with points awarded where the members are willing to provide some financial support. A peer review process would be established and monitored by the contractor to make the awards.

¹ This approximates the annual dues supported labor budget of a typical AUC RO.

c. *Actions to build these organizations' capacities for sustainability while they are under near term (2-5 years) USAID protection and support.*

- ▶ *USAID should support the development of a Strategic Plan for each AUCRO. This would help focus the energy of the staff and importantly of the Mayors of member municipalities. This kind of effort should be structured so that the actions, resources as well as strategies, which will ensure sustainability, are identified in each AUCRO. This effort would have the additional benefit of exposing a large cross section of Mayors to a Strategic Planning process. It also capitalizes on USAID's investments in training trainers among the AUCRO staff.*

It can be expected that the Strategic Planning processes will identify what each AUCRO requires for sustainability and will provide information for USAID's decision-making. This effort would be consistent with USAID's demand driven approach to assistance.

d. *Actions concerning the legal/institutional environment and market*

- ▶ *USAID should support the development of a Strategic Plan for the AUC. The relationships between the AUCROs and the AUC are complex. The institution of the Regional Office strategy is shifting the balance of power from the center to the periphery of the municipal sector. It is appropriate that the AUC be encouraged to embark on a Strategic Planning process of its own which deals squarely with the evolving relationships between the AUCROs and the AUC with a view toward identifying strategies which will maximize the effectiveness of the municipal community.*

2. US-UKRAINE FOUNDATION REGIONAL TRAINING CENTERS

a. *Context*

The US-Ukraine Foundation is executing a major training program for local officials through four Regional Training Centers geographically covering the entire Ukraine. The available data show impressive numbers of local officials attending seminars and events. In 364 seminars comprising 690 training days, over 8,300 participants attended from 470 cities.

The Rutgers University study published in early 2001 showed a number of weaknesses in the RTC effort. In the last six months major steps have been taken to address and correct the weaknesses identified. Program responsibilities have been decentralized to the regions, staff has been strengthened, strategic plans have been completed, priorities established and staff training intensified.

Each region now has a full time professional trainer on its staff and they expect to have additional capability through other donor support. Donor support will also enable each regional office to prepare ten case studies on successful solutions of municipal problems during the coming year. These case studies can be the core of training modules for future programming.

The current discussions among RTC Directors and Central Office staff indicate that plans are being developed to focus RTC marketing on the business sector, based on its perceived ability to pay. While this may turnout to be a useful strategy, it does not appear consistent with SO 2.3. *USAID should evaluate whether it is in its own policy interest for RTC senior management time and resources, provided by USAID, to be devoted to building a business training practice rather than focusing on municipal government training and development.*

b. Actions to protect USAID's investment in the near term

- ▶ *USAID should more intensively utilize the resources committed to the US-Ukraine Foundation to support its SO 2.3 policy agenda.* Based on our discussions with the Mission's staff, the probability that the RTCs will be supported by USAID in the near term appears high. However, it appears that this well staffed and professional organization can assume a more explicit role in promoting USAID's municipal agenda and supporting complementary programs. Illustrations of the possibilities to consider include:
 - Using the RTCs as the prime dissemination vehicle for the PADCO/UWTC program;
 - Housing a UWTC trained water engineer in each RTC to serve as a missionary for UWTC programs;
 - Using the RTCs as a vehicle to train local officials on implementing local regulatory reform to enhance economic development; and
 - Actions to build these organizations' capacities for sustainability while they are under near term (2-5 years) USAID protection and support.

- ▶ *USAID should monitor carefully the establishment of the daughter for-profit organization that is being planned by the RTC in Lviv.* The organizational model is the one recommended in the legal section of the report. This effort is drawing heavily on Polish experience and the anticipated market for training provided by the daughter for-profit is the business sector. Careful monitoring of the difficulties and successes of this venture will provide current data on:
 - Whether business training can be wholly or partly self-financing;
 - Whether the daughter for-profit effectively insulates the parent non-profit from the STA; and
 - Whether the daughter for-profit supports the parent non-profit in its training agenda or draws management and staff time away from the core mission of training municipal officials.

Lessons learned from this initiative can be applied to a wide range of Mission activities, as well as to the other RTCs.

- ▶ *USAID should obtain information on the impact/influence of RTC training on cities. The present reporting system is largely quantitative rather than qualitative. An outcome oriented reporting system will help refine the RTC's training programs and help market the RTC's to donors because effectiveness will be able to be demonstrated.*

c. *Actions concerning the legal/institutional environment and market*

- ▶ *USAID should encourage the RTCs to develop the donor market. USAID should assist the RTC's develop the donor market by brokering relationships with donors at early stages in program development. This effort should include USAID's programs as well as those of other donors.*

The potential donor market is large and the RTCs organizational, program and financial structure is not oriented toward marketing, but with the expected expansion to eight centers it blankets the country. USAID could assist the RTC in developing relationships with the emerging MDLF and similar programs that require extensive dissemination and training of municipal officials. USAID is in a unique position to secure consideration of the RTCs as trainers in the early stages of donor program development.

3. UKRAINIAN WATER TECHNOLOGY CENTER

a. *Context*

Water service in Ukraine is generally poor. This is the result of system design based on parameters such as cheap state supplied energy, equipment with limited service life, a history of cost sharing among large industrial users and the state with only token payments from residential customers. These parameters are no longer valid and are coupled with a lack of financial resources to support maintenance, repair and rehabilitation. Energy costs of local water systems are high ranging from 30 - 60 %. Based on UWTC analysis, energy cost savings of 20-30 % can be achieved by introducing of energy saving pumping equipment. These saving are relatively easy to achieve and increase service quality.

The Ukraine Water Technology Center² has been funded by USAID for the past 6 years. It has an excellent grasp of these issues and how they can be solved. It has assembled a core staff of over 20 Ukrainians professionals, with demonstrated capacity to improve the quality and reliability of local water systems. They represent a USAID investment in core capacity that can be leveraged to change the system of water system planning and rehabilitation in Ukraine. *This will result in citizens receiving better service and witnessing their local governments taking tangible steps to improve quality of life. This is, perhaps, the single most positive local government confidence building step USAID can engender.*

² This term is used throughout the report to denote the current CH2Mhill staff capacity based in Lviv.

The creation of the World Bank capitalized Municipal Development Loan Fund has the potential to open up special opportunities for the UWTC, since a major element of its portfolio will be communal services. The MLDF is on track to open up additional capital investment opportunities for local water systems in Ukraine. Close linkages between the MDLF's development and emerging agenda need to be forged, resulting in the "lessons learned" by the UWTC being used to help form the development of national standards for water system reform and rehabilitation.

The UWTC staff, working under the PADCO-executed Tariff Reform program in the near term or as an independent indigenous entity later on, can provide fundable water rehabilitation loan packages to MDLF or to any other source of capital funds. Loan package development can occur concurrently with MDLF organization and establishment.

b. *Actions to protect USAID's investment in the near term*

- ▶ *USAID should continue to fund the UWTC and should use the second phase of PADCO-executed Tariff Reform and Communal Services Enterprise Restructuring project as the vehicle to continue the work of the UWTC. The UWTC should be integrated into this project. This has two advantages: a) the Tariff Reform project will be well served by high quality UWTC services needed for its successful implementation; and b) UWTC staff will be protected until chances for its sustainability increase, and will have time to prepare for a more independent operation in the future. Adding the UWTC to the PADCO project as a freestanding entity should be avoided. Thoroughly examining how to reconfigure these valuable efforts into a single unified program will have a big payoff, as the financial, tariff and linkages with the State Committee forged by the PADCO program are linked to the engineering and systems planning capabilities of the UWTC.*

- ▶ *USAID should ensure that the unified project assist Vodokanals and heating companies design and implement "best practices" and capital improvements. This will require diligent effort in removing structural impediments e.g. such as the current tariff rules, at least in pilot cities. Successful project implementation, even of small projects, should become the primary basis for training and dissemination efforts, rather than freestanding training based on discrete elements of system improvement like modeling or citizen participation. More specifically using tangible results and case studies based on them appear to be the training approach that will most effectively increase the prospects for a self-sustaining utility improvement system in which training and technical assistance organizations like the UWTC play a valuable role on a permanent basis. In shifting toward an implementation oriented program the experiences of similar efforts should be considered. Specifically*
 - The DANCEE with its 50/50 matching grant system;
 - System Improvements from self-generated CSE funds and other donor sources; and

- The lessons learned from the USAID Trolley Bus program. The Trolley bus program secured essential spare parts for the country's urban transportation system, some by direct purchase and some by securing licenses for domestic manufacture. This along with technical assistance in developing and licensing private shuttle bus services was one of USAID's success stories in the 1990s. *It reformed an essential urban system and enhanced the quality of service to Ukrainian citizens.*
- ▶ *USAID could consider a capital grant program designed to induce projects in local Vodokanals.* USAID should assess whether funds for direct grants to Vodokanals can be made available through savings which may (but are not certain) develop from the unification of the UWTC and Tariff Reform Programs and whether other funds from USAID's budget can be allocated for this purpose. Similarly USAID should assess how its own Development Credit Authority which can guarantee up to 50% of local bank loans for infrastructure development can be harnessed to the goals of the Water Sector program.

A major emphasis should be on using the unified program to provide the training, technical assistance, and project development required to provide the future MDLF, as well as other possible sources of capital funds, with bankable projects. USAID should maintain close contact with the WB and GoU officials developing the Fund so the lending regime supports USAID's investment in communal services and loans actually improve services to citizens. However, USAID should not rely exclusively on the opening of MDLF as a means to fund project implementation.

- ▶ *USAID should advocate with the nascent Municipal Development Loan Fund for a rule, which includes project preparation costs (planning, design, and construction oversight), in the loans, thus creating a market for skilled engineering services.* These would be advanced to the engineering firm (perhaps a spin off of the UWTC) or paid directly to the firm at the loan's closing. Alternatively the UWTC, once established as a Ukrainian entity in the future, could serve as the Fund's technical arm via contract to prepare technical standards for Vodokanal projects, train the municipal design institutes in applying these standards and perform technical project evaluation for the fund. *This latter approach would provide the USAID and the UWTC with the most leverage, nationwide, from its very large investment in UWTC and provide the greatest assurance of long term sustainability.* For this to occur USAID must be closely involved in the development of the MDLF, not only with World Bank staff and consultants, but with their Ukrainian counterparts who will design and manage the fund which will be a Ukrainian entity established by Ukrainian law.
- c. *Actions to build these organizations' capacities for sustainability while they are under near term (2-5 years) USAID Protection***
- ▶ *USAID should carefully monitor the development of a unified UWTC/Tariff Reform Project to identify actions, which will enhance the prospects for sustainability.* Integrating the two programs will be a complex, but productive effort. In the work plan

for the unified project USAID should consider a sustainability task. This task requires constant monitoring of opportunities for sustainability, investment in preparing the staff/management to operate successfully without the cover of a US consulting firm, and regular reporting on this Task to USAID as a part of the regular reporting system. USAID should recognize that the Ukrainian economic and institutional situation is fluid and not gauge project success by the number of NGO or private sector spin offs. However, as the society develops opportunities for some components of the unified project to become wholly or partly self-sustaining, spin offs will likely arise. The work plan should be designed in a way, which continuously identifies these opportunities and creates readiness to take advantage of them.

- ▶ *USAID should provide business skills training to staff of the UWTC who may become core members of a future indigenous entity.* The UWTC has been under contract to USAID since its inception. Management staff is well equipped to function effectively in a governmental environment, but have limited skills in marketing services and managing an organization which must generate revenue from sales. Training in business principles and skills for these professionals would be a useful investment. In essence, it would enable them to take the knowledge and skills learned at the UWTC into the real economy.

d. *Actions concerning the legal/institutional environment and market*

- ▶ *USAID should support the development of a Ukrainian Vodokanal Association, to serve as a professional development and experience sharing organization.* Chances of sustainability of the UWTC would increase if a Vodokanal Association was formed that would promote dissemination of information about Vodokanal improvements achieved with the UWTC staff's assistance. It could be modeled on the American Water Works Association, the American Public Works Association, or the Public Works Association USAID catalyzed in Slovakia. Professional association development has been a widely used strategy by USAID in CEE and FSU. *It should be an education rather than lobbying organization,* and could become a prime vehicle for dissemination of positive Vodokanal experience. We understand that an organization with a similar name currently exists, but that it is moribund and was historically controlled by the State Committee on Architecture and Communal Services. The assessment team understands that a Task along these lines was previously included in the CH2Mhill contract but was deleted to free up LOE for the EBRD pre feasibility studies.

C. CROSS CUTTING RECOMMENDATIONS

- ▶ *USAID should identify strategies that increase the prospects for sustainability. In the current context, even if macroeconomic conditions steadily improve, the business risks imposed by 1) the practices of the STA and 2) the organizations' lack of business management experience are too high for the successful launch of non-profits. Two approaches are recommended.*

– Use USAID's influence with the GoU to:

- Ensure that the benefits of the current USAID-GoU bilateral agreement apply to Ukrainian organizations funded by USAID; and
 - Advocate for the enactment of the portions of the Civil Code (described in the legal appendix to this report) which definitively clarify the status of non-profits
- Develop interim strategies that build the capacity of potential non-profits to survive in the real economy. This would include
- Identifying, recruiting and training senior Ukrainian staff with business management skills; and
 - Utilizing Ukrainian organizations as subcontractors to US based USAID contractors rather than having all staff directly employed by the US Contractor.
- ▶ *USAID should develop a comprehensive approach to municipal training. As a first step this will require closer collaboration among training providers. A comprehensive approach will contribute to the prospects for sustainability by identifying needs and markets, and prioritizing them. Better communication among training providers and a coordinated training work plan can set the stage for a municipal training needs assessment which can serve as the basis for establishing each organizations' market in a way which is consistent with USAID priorities.*

A well coordinated approach to municipal training programs enhances the prospects for sustainability in the following ways:

- Over time training organizations concentrate on what they do best, both in terms of substantive training and training style, making them more attractive to purchasers of training services.
- Training organizations learn from each other, making them more effective in carrying out their own programs. Effective organizations have better prospects for sustainability
- Coordination can establish a common basis for a municipal training needs assessment would set the stage for identifying both needs and markets by USAID and the training organizations. This can assist in inducing demand from the donor market and improving the understanding of municipal needs. Knowing the current and potential market enhances the prospects for sustainability.

USAID should take initial steps to ensure municipal training efforts are coordinated and complimentary and form the basis for a municipal training system. A widely accepted framework for a municipal training system can engender sustainability as both donors and GoU

organizations will be able to identify which organizations are most appropriate to meet their training needs.

One method to initiate this is to require contractors (US-Ukraine, RTI and UWTC/PADCO) to work together to prepare a comprehensive coordination plan which identifies ways to build mutually reinforcing strategies. With a view toward the longer term, the plan could also establish the parameters for a municipal training needs assessment which could serve as the basis for a major analytical effort by USAID.

APPENDIX A.

ANALYSIS OF LEGAL AND REGULATORY ENVIRONMENT

This Section describes the optional legal forms for spin-offs from USAID projects that are the subject of this assessment in the context of current Ukrainian law and practice. Specifically, the section explores entities such as “charitable”, “for-profit” and “non-profit.”

OVERALL LEGISLATION

The current legal environment in Ukraine is fluid and contradictory, although major changes are in the process of being proposed and implemented. However, the timing of new legislation and its contents are uncertain, particularly in light of Parliamentary elections scheduled for March 2002 and the likely delay associated with such an activity. The Constitution of Ukraine, passed in June 1996, is the highest law in the country and specifically addresses the recognition of and guarantee for local self-governance. The Constitution and other relevant legislation are summarized below.

CONSTITUTION

The Constitution states that local self-governance is the right of a territorial community to independently resolve local issues within the limits of the Constitution and the legislation of Ukraine. According to the Constitution, local self-governance is exercised by a “territorial community”¹ through the procedure established by legislation, both directly and through local self-governments (village, settlements and city councils) and respective executive institutions of local self-governance. The asset and financial bases for local self-governance include movable and immovable property, revenues of local budgets, other funds, land, natural resources owned by territorial communities of villages, settlements, cities, and also jointly-owned property by these territorial communities.

LAW ON SELF-GOVERNANCE

The other most applicable law is the “Law on Self-Governance”, enacted in 1997. In general and in accordance with the Constitution, the Law defines the structure of and guarantees the right of local self-governments (local self-governance institutions). It also defines the main provisions for the organization and permissible activity of institutions, and the legal status and responsibility of institutions and individual officials representing local self-governance institutions.

According to Article 15 of the “Law on Local Self-Governance”, the appropriate local self-governance institutions may establish “associations”, e.g., associations of cities.² Local self-governance institutions are prohibited from delegating their functions and responsibilities to associations. According to Article 32 of the Law, local self-governance institutions are empowered to establish educational (training) entities both for-profit and non-profit.

BUDGET CODE

Enacted in June 2001, the Budget Code, intended to be a comprehensive document and considered a significant positive development, includes provisions on the fundamental principles in determining State, local and intergovernmental budgetary procedures, line items, and in drafting, adopting and completing the budget process. The appropriate governmental authorities, whether local or State, on an annual basis must complete the line item amounts. In accordance with the Code, the appropriate governmental authorities must comply with strict budgetary standards as determined by the State Treasury and the Ministry of Finance.³ Chapter III of the Code discusses in detail the local budgetary process including provisions on revenues, expenses, adoption and completion of the budget document and the subsequent report to the Ministry of Finance. Article 64 delineates the list of revenues guaranteed to be paid exclusively into the local budget.

TAXATION POLICY

The “Law on Taxation of Profit of Enterprises”, enacted in 1994 and subsequent amendments, comprise the primary taxation legislation and address “for-profit” and “non-profit” “establishments and organizations”. Article 1.23 defines “free” (no charge) services as those that are provided by legal entities without payment in cash or property. Article 7.11 states that “non-profit” organizations are not considered to be “for-profit” taxpayers, if their revenues are received in the form of cash or property as “charitable donations” or “non-reimbursable/non-obligatory financial assistance”, “passive revenues”⁴ or both in “cash and property” in carrying out the provisions contained in their Charter.⁵ Thus, financial assistance from any entity that is unencumbered by reciprocal obligations in terms of repayment in cash, goods or services is tax-exempt.

According to the Law, the State Tax Administration (STA) is empowered to certify the status of a “non-profit” organization”, to officially register non-profit organizations as tax exempt, and to terminate such status in the event an organization conducts activities contrary to legislation.^{6,7} The Law states that this termination of the status of a “non-profit” organization may be appealed to a local court that has jurisdiction. If a non-profit organization is liquidated, its bank accounts and property must be delivered to other non-profit organizations or transferred to either a State or local budget.⁸

It must be noted, however, that the STA in various instances issued Orders under its authority that contradict the Law on Taxation of Profit of Enterprises. According to this Law, non-profit entities are not prohibited from carrying out activities for fees, but these fees will result in the entity’s being taxed only on the profits generated by such fee-based activities. However, Order 550 from the STA⁹, that was in a legal force for about two years, stated that if this is the case, such entities engaging in any such fee-based activities will lose their status as being registered as tax-exempt entities, even though only a percentage of their revenues stem from fee-based activities. The Order also dictated that these entities must be expelled from the official Register of Non-Profit Organizations maintained by the STA.

Also, according to the Article 2.1. of the STA Order # 232, the “non-profit” organizations which are profit-tax exempt in terms of provisions of the “Law on Taxation of Profit of Enterprises”, are to be included into the Register. It might lead to removal of those “non-profit” organizations

which are engaged in fee-based activities and pay taxes for profits generated by such fee-based activities, from the Register.

STATUS OF THE CIVIL CODE AND TAX CODE DRAFTS

It should be noted that to date the Verkhovna Rada, referred to as the “Parliament” in this assessment, has not enacted several significant comprehensive Codes. In particular, the draft of the Civil Code was submitted to Parliament for consideration in December 1996. To date it has not been enacted and speculation among legal scholars and practitioners is that it may not meet the Parliament’s scheduled time for complete review and for submission to the President by year-end 2001.¹⁰ The enactment of a comprehensive Civil Code would eliminate confusion, clarify definitions and other legal issues, particularly within the context of this assessment as it would clearly define the rights of “non-entrepreneurial” (“non-profit”) organizations to be engaged in fee-based activities.

Comprehensive tax legislation through a proposed draft Tax Code is under consideration by the Parliament. As the Tax Code has been under consideration in the Parliament for several years, the original draft has been significantly amended. Since the legislation is still pending, additional amendments will likely arise. Thus, at this writing, it is uncertain in which manner a final Tax Code might affect various donor-funded projects.

SPECIFIC LEGISLATION

In general under Ukrainian legislation, legal entities may be structured as “for profit” and “non-profit”. Diagram 1 illustrates different legal entities.

Activities of “for profit” entities are regulated by the following: the “Law on Entrepreneurship” (enacted in 1991 with subsequent amendments), “Law on Enterprises” (enacted in 1991 with subsequent amendments), “Law on Partnerships” (enacted in 1991 with subsequent amendments), “Law on ‘Patent’ on Certain Types of Entrepreneurial [“for-profit”] Activity”¹¹ (enacted in 1996 with subsequent amendments), Law on Licensing on Certain Types of [“for profit” and “non-profit”] Activity (enacted in 2000).

According to provisions in the Constitution and the Law on Property (enacted in 1991 with subsequent amendments), all forms of property are recognized as equal, including state-, communal-, privately-owned and property owned by legal entities. Thus, non-profit entities have the same rights to own and manage property as other organizations. State-owned institutions, local self-governance institutions, legal entities and individuals have the right to establish “for-profit” entities¹² such as joint ventures, various types of partnerships, private entities, communal entities and State enterprises. All of these can perform any activities, if such activities are not in contradiction with current legislation; certain activities require a license issued by the relevant State executive authority. For example, these activities include the production of armaments, the supply of water, medical services, educational services, transportation services, building construction and other services.¹³

The annual profit (after taxes) of a for-profit entity is distributed in accordance with the decision by its Board, the highest management authority of the entity. For example, in a limited

partnership, it is in the General Meeting of Partners. For a joint stock meeting, it is during the Annual Meeting.¹⁴

Under the Law on Education (enacted in 1991 with subsequent amendments), education and continuing education (services), and training may be provided by legal entities created through various ownership structures. This Law stipulates that the educational institutions must be licensed by the Ministry of Education (MOE). Only institutions offering post-graduate and continuing education, and other training that are licensed may issue diplomas or certificates granting the graduate official recognition of his/her qualifications. The requirements in order to get the license are strict and onerous; for example, the Law dictates that educational institutions must have dormitories, cafes and medical services. As State educational institutions have such services already established, it is much less difficult for them to obtain licenses.

Privately-owned entities formed as non-profits are classified as “public” or “charitable” organizations or associations. The term, non-governmental organization (NGO), is not defined by Ukrainian legislation; rather for legal purposes, the terms “non-profit” and “for-profit” are used instead.

The Law on Associations of Citizens (enacted in 1992 with subsequent amendments) defines the legal status of public organizations.¹⁵ The Law states that only individuals may establish such non-profit organizations in order to fulfill and protect their social, economic, national, cultural and sport interests. The status of such organizations is classified as “international”, “all-Ukrainian” or “local”. Although the parent organization is a non-profit, it may establish “for-profit” entities. The Ministry of Justice (MOJ) and local MOJ departments are responsible for the registration [legalization] of public organizations. The procedure and the necessary documents for registration are defined by an Order issued by the Cabinet of Ministers.¹⁶ According to Article 24 of the Law, public organizations may perform commercial activities through establishing for-profit entities.

“Charitable” organizations are addressed by the Law on Charity and Charitable Organizations (enacted in 1997). Activities that the charitable organizations may engage in are listed in Article 4; these include support of development of science and education and related projects, and assistance to teachers and students.

According to Article 5, legal entities and individuals may establish charitable organizations. State- and local self-governance institutions and enterprises are *prohibited* from establishing charitable organizations. Article 6 states that charitable organizations may be established in several legal structures such as those with membership, funds, establishments, foundations, missions, and leagues.¹⁷ These may be international, national (“all-Ukrainian”) or local; international and national charitable organizations must be registered by the central MOJ in Kyiv, while local charitable organizations are registered with local MOJ departments.¹⁸ International charitable organizations, for example, conduct activities in Ukraine and at least one foreign country.

Article 17 defines the management structure of charitable organizations. The Article states that a “collective body” (in the form of a general meeting or “congress” of founders, for example) is the highest management authority. This “body” is authorized to approve and amend the Charter of a charitable organization, elect executive and audit authorities, approve “charitable” programs

of the organization's activity and other functions. The Executive Committee of a charitable organization is tasked with carrying out executive responsibilities. The Board of Supervisors has audit and decision-making responsibilities.

Article 16 of the Law on Charity and Charitable Organizations states that charitable organizations that engage in certain types of activities as listed in the Law on Licensing must obtain a license. Those organizations funded by membership dues and charitable donations are fully tax-exempt; however, the legislation does not define membership dues or the procedure for establishing the amount of such dues. According to Article 20 of the Law, annual administrative expenses of the charitable organization may not exceed twenty (20) percent of their annual budget.

INSTITUTIONAL ANALYSIS

During the assessment period, the team interviewed official representatives of various organizations and projects including the Ukraine Reform Education Program (UMREP), the U.S.-Ukraine Foundation (USUF), the Association of Ukrainian Cities (AUC) and Regional Offices of AUC (AUCRO), the Ukrainian Legal Foundation (ULF), and the Housing and Municipal Reform Support Center (HMRSC). Also interviewed were representatives of the Research Triangle Institute (RTI), Counterpart META Center and CH2MHILL International Services, Inc. Each had encountered varying legal issues in establishing and carrying out their operations.¹⁹ (Diagram 2 illustrates the USAID-funded projects and structures applicable to this assessment.)

In order to clarify the distinction amongst terms, “consulting business” and “non-profit” [referred to “not-for-profit” in the Scope of Work provided by USAID], we have written this assessment with the following understanding of terms. While the term, “NGO” (non-governmental entity), is widely used in the donor community, it is not a defined type of organization in Ukrainian legislation.

The terms “for profit” and “non-profit” are clearly defined.

We use the term “consulting business” with the understanding that both forms of legal entities -- for-profit and non-profit—engage in this activity. Consulting entities, operating as for-profit organizations, provide various types of consulting services for fees, while non-profit organizations (such as “charitable”) provide some types of consulting services free of charge. Generally, the donor community refers to free consulting as technical assistance.

UKRAINIAN LEGAL FOUNDATION

The ULF is one of the oldest of the mentioned organizations, having been established in 1992 as an “all-Ukrainian charitable organization”, and has undergone various changes during the period of its operations in Ukraine. Thus, we will use ULF as the first example in this section.

In 1992, the ULF was initially funded through a grant by the Soros Foundation and subsequently by other international donors. In a joint agreement in 1995, the ULF and Kyiv National University established the Ukrainian Center for Legal Studies whose mission was to provide legal courses in three areas: European, Commercial and Municipal legislation. The Center was

licensed by the Ministry of Education to conduct a LLM (master's degree in law) program; students were obligated to pay only for their lodging. In the past, both the ULF and the Center offered general training courses for which a license was not required; the ULF continues to offer training. The ULF funded, through USAID grants and others, all other expenses for five years. After this period, the ULF funding was terminated and, as a result, the Center was closed.

With the goal to achieve financial sustainability, the ULF also created a for-profit entity in 1999 that publishes and sells legal books and also provides legal translations from Ukrainian or Russian into English; thus far, however, the venture has not generated significant funds to assist the ULF in becoming self-sustaining. The ULF's for-profit entity pays income taxes and VAT on profits generated by such its activities.

UMREP

UMREP, the USAID-funded project that focuses on public education, filed documents during the summer of 2001 in order to become classified as an "international charitable" organization. Since its inception, UMREP has operated as a technical assistance project funded by USAID and registered by the MOE and, thus, has been exempt from taxes. This project has a broad scope that includes publishing educational materials, sponsoring seminars, producing television spots and providing a telephone hotline through which a wide variety of issues are addressed. During our discussions, UMREP representatives indicated that in the future, the organization may create a related for-profit organization in order to ensure its long-term sustainability.

U.S.-UKRAINE FOUNDATION

The U.S.-Ukraine Foundation (USUF) is a representative office of a U.S.-based international organization and carries out its project being registered with the Ministry of Economy in accordance with Ukrainian legislation and through a Memoranda of Understanding whose signatories are the U.S. Government and a number of municipalities the Foundation works with.

USUF established a network of four Regional Training Centers (RTCs) in Lviv (western region), Cherkasy (central region), Donetsk (eastern region), and Kherson (southern region). At this point these centers are not registered as legal entities recognized under Ukrainian legislation.²⁰

During our meeting with the regional director of the RTC in Lviv, he stated that the RTC has prepared a set of documents for registration in order to obtain the status of a legal entity. It is anticipated that a decision on what to register will be made by December 2001. Under the proposed scenario, the RTC will be established as a local charitable organization that will be affiliated with a for-profit entity.²¹ Such a dual structure would allow a non-profit (charitable) entity to provide services free-of-charge to its clients and seek future grants and donor assistance. A for-profit entity would provide services in exchange for fees, make a profit, and support the activity of a non-profit entity. In the opinion of the RTC director, under such a plan, sustainability of a non-profit organization is likely; the for-profit operations would support the non-profit entity through "donations" as defined by the "Law on Charity and Charitable Organizations".

ASSOCIATION OF UKRAINIAN CITIES

AUC REGIONAL OFFICES

The national AUC was created by member cities in accordance with a provision of Article 15 of the Law on Local Self-Governance that specifically gives cities the right to form an association. Except for the fact that its formation is authorized by a specific law, it functions under the same requirements as any other non-profit organization. No special powers or privileges are conferred on the AUC by legislation. Its Charter and Ukrainian legislation define the AUC as a non-governmental, non-profit organization that is distinct from a “public” or a “charitable” organization. Despite its unique legal basis, it falls under the “umbrella” of a non-profit organization, as defined by the Law on Taxation of Profit of Enterprises. Thus, it is under the same tax regime as other non-profits described in this report.

The national AUC’s main function is to advocate the interests of Ukrainian cities in the Parliament. The roles played by the AUC ROs are described earlier in this report.

The Deputy Director of the AUC stated in an interview that the AUC may receive technical assistance from international donors and is allowed to collect membership dues. In addition, there are several examples that indicate that the ROs receive non-obligatory financial assistance from cities in the form of free office space, equipment, telephone services and other utilities. These are legally-acceptable transactions that these non-profit organizations engage in and not be subject to taxation. The AUC is not engaged in any fee-based activities.

The Regional Offices of the AUC are organized as non-profit organizations with a legal identity separate from the national AUC organization headquartered in Kiev. The Charter of the national AUC governs the activities of the ROs; however, the ROs each independently hold non-profit tax status and maintain their own bank account. The only limitations on the actions and policies of the ROs is that they may not contradict the missions and policies of the AUC. The AUC ROs were created by the national AUC in each oblast as part of a strategy to strengthen the national AUC’s grassroots base. As with other non-profits, the ROs may create “daughter” for-profit entities in order to offer services for a fee.

COUNTERPART META CENTER

The Counterpart META Center (CMC) was established in May, 1998 as a “local public organization” by two U.S. citizens and one Ukrainian citizen with an objective “to support the growth of small business in Lviv and the Lviv Oblast”.^{22 23} According to the Charter of the CMC, Counterpart International (CI), the U.S.-based organization, is a “member” of CMC. However, the CMC Charter provides for individual memberships as well. Both types of “members”, organizations and individuals, must pay membership dues, although the amount of dues paid by each differs. Individuals pay a fixed annual amount, while CI as an organization, for example, pays not less than the amount determined by the regular General Meeting of Members that in most cases is held annually, but may be called if special circumstances arise. CMC currently engages in three primary programs:

- ▶ The Loan Program provides guarantees for business loans in the amount of two thousand to twenty thousand US dollars
- ▶ The Consulting Services and Training Program provides instruction on such topics as accounting, marketing, personnel, business negotiations, sales and management.²⁴
- ▶ The Office Space and Services Programs provide access to office space and equipment

The CMC is of particular relevance to this assessment, as from its inception it charged fees for the Consulting and Training services it provided.

The structure of the CMC and its operations are extremely complicated. CMC was created as a “non-profit” entity registered with the STA, however engaged in both non-profit and fee-based activities. Taxes were paid on the profits generated by the fee-based activities. Based on our understanding of discussions with CMC representatives, the CMC created two “for-profit daughter” entities to receive fees generated from services.

The typical loan arrangement is as follows. CI pays “membership dues” to CMC; these funds are used to guarantee bank loans for small businesses that in turn are obligated to repay the loan with interest to the bank. Should the client default on repayment of the loan, CMC is obligated to repay the total sum, e.g., loan plus accrued interest. Diagram 5 below illustrates the process. The funds to support the guarantee capability of CMC come from CI directly and from rental income. This rental income stream was the source of a major issue with STA.

During 2000²⁵, the STA through the Lviv district (raion) office began to more closely examine all of the operations of the CMC, concentrating on rental arrangements that involved CI, CMC, and business clients involved in the Office Space and Services Program. During our discussions with official META representatives, they stated that after USAID funding ended the STA began its scrutiny. Under the rental arrangement the STA questioned, rental premises owned by CI were leased by CMC, acting as CI’s agent. CMC also collected the rent payments from lessees.²⁶ CI in turn classified the payments as “membership dues” owed to CMC and, in no event, received the rental payments.

The district (raion) STA took issue with this arrangement²⁷ and other fee for service functions and decided that the status of CMC activity was “for-profit”. It removed the CMC from the official Registry of non-profit entities. CMC appealed the district STA’s decision to the oblast STA which overturned the district STA’s decision, thus reinstating the CMC’s status as a non-profit entity. This decision was based on procedural grounds as only the STA in Kyiv, as the highest taxation authority in the State, may revoke a non-profit status.

Although this last decision was obviously favorable to the CMC, the district STA continues to claim that accounting irregularities have occurred throughout CMC’s operations. It has levied fines on the CMC that the CMC did not pay, pending appeal to the Oblast STA. CMC officials stated the total amount levied by the STA to be approximately five hundred thousand hryvnia. The STA has requested a legal opinion from the MOJ on the legality of the CMC’s fee for service operations. This opinion has not been written at this time. CMC officials stated that fees generated by the Office Rental Program are now paid to the for-profit daughter companies.

At this point, legal practitioners and scholars are widely split as to possible interpretations and the applications of the “Law on Associations of Citizens” and the “Law on Taxation of Profit of

Enterprises”. To date, there have been no judicial precedents set to determine such interpretations and proper applications; rather, the STA has acted as a policy setting and enforcement agency resulting in extreme confusion and uncertainty.

CH2MHILL INTERNATIONAL SERVICES

Within the framework of a project funded by USAID, CH2MHILL provides training for representatives of municipalities and communal entities. The project was registered at the Ministry of Economy as a tax-exempt entity. The initial view was that the Ukrainian Water Technology Center (UWTC) would be established as a sub-division of the Lviv Municipal Design Institute (LMDI).

The LMDI is a State-run design and consulting establishment. The LMDI provides its clients with municipal planning and consulting services. The UWTC may not be established as a sub-division of the LMDI, because as a state-run entity, the LMDI has very limited authority in its daily operations. In addition, the UWTC as a State-run entity would not be eligible to apply for international donor assistance. During our discussions with CH2MHILL representatives in Lviv, they stated that the project should be continued without establishing a legal entity.

Difficulties with the STA in Lviv have also arisen as to CH2MHILL’s operations. The STA without prior notice arrived at the CH2MHILL office and demanded to see a copy of project contract documents and financial records. An attorney representing CH2MHILL intervened and, the STA, for the time being, has not revisited the Lviv office.

HOUSING AND MUNICIPAL REFORM SUPPORT CENTER (HMRSC)

The HMRSC was established in 1997 as an “international public organization” with three U.S. citizens being founders. According to its Charter, these U.S. citizens represent the interests of the HMRSC in the United States. The HMRSC has a Board and several State executive officials and members of Parliament are on the Board. While this Board continues to exist, in essence, the Board is inactive, given the relative insolvency of the HMRSC.

For the first three years of its existence, the HMRSC operated with funding from USAID that went through the Eurasia Foundation. The focus of the HMRSC project was on housing and communal reform, particularly on issues concerning condominiums, privatization, land, and private housing maintenance management. During the first year, the HMRSC received \$400,000 grant. For the second year it received \$350,000, according to discussions with the President of the HMRSC.

For the last several years, after USAID funding stopped in 1999, the HMRSC has been primarily subsidized by grants provided by the Mott Foundation, but also with small grants provided by other international donors. Despite sponsoring seminars and publishing informational materials, the HMRSC has not received fees for such services at any point. The HMRSC faces the recurring question raised in our assessment as to its future financial sustainability.

ADVANTAGES AND DISADVANTAGES

For-profit and non-profit entities both have distinct advantages and disadvantages. The fundamental difference between the two is the taxation regime that is applicable to each. For-profit entities must pay VAT and profit tax²⁸. Non-profit entities do not pay taxes if their activities do not contradict legislation. If a for-profit entity carries out a project funded by an international donor and this project is registered in the Ministry of Economy, such entity would be tax-exempt on the portion of its work funded by the donor. Although non-profit organizations are tax-exempt, they must report regularly to the State Tax Administration (STA), and provide documents that confirm no profits were generated, e.g. revenues minus expenses equal profits. Both types of entities must file such financial reports with the State Statistics Committee and the State Employment Committee.

The following chart shows the comparative advantages and disadvantages;

LEGAL PROSPECTS PROS & CONS CHART N. 26

CRITERIA	NON-PROFIT	FOR-PROFIT
Pay Government Taxes	No	Yes VAT –20% Profits Tax –30%
Treatment of Donor Grants	Not Taxable	Taxable
Charge Fees For Services	No	Yes
Registration Requirements	Yes State Tax Authority Entered in Official Non- Profit Register	Yes State Tax Authority
Filing Financial Reports	Yes State Tax Authority	Yes State Tax Authority
Government (STA) Audit And Investigative Authority	Yes	Yes

ACCOUNTING ISSUES

Under the current Law on Accounting and Financial Reporting (enacted in January 2000), Ukrainian accounting standards must not contradict International Accounting Standards (IAS) as adopted by most European countries. This is significant because the STA still operates under a different system in its filing requirements as to tax documents. Thus, if the aforementioned entities are to attract international grants, foreign partners or investors, their accounting books should be kept under IAS rather than being kept under two different methods, the general common practice currently.

OPTIONS AND INSTITUTIONAL MODELS

Assuming that USAID is unable to fund the UWTC, AUC Regional Offices and RTCs beyond their current termination dates, it is likely that these entities will not be financially self-sustainable. Should USAID continue to fund these entities for several more years, they might be restructured into one of the legal forms described in this document. In our analysis, we have considered various options and have come to the following conclusions.

The structure of “public organizations” does not appear to be a viable option, because these entities may only be established by individuals in order to fulfill and protect their own social, economic, national, cultural and sport interests.²⁹

Under current legislation, it is possible that the UWTC and the RTCs could be organized as charitable (non-profit) organizations. In this form they could carry out donor funded technical assistance projects. The UWTC and the RTCs, as charitable non-profits, could then establish legally autonomous and independently created for-profit “daughter enterprises” as limited partnerships or joint-stock companies.³⁰ This is a two step process during which the “charitable organization” is created first and then such a “charitable organization” establishes the for-profit “daughter enterprise[s]”. This option appears to be the most effective and, under current legislation, legally recognized. For example, in thoroughly examining options for their own operations, the RTC office in Lviv has chosen this structure. Until the new Civil Code, Tax Code and other related legislation are enacted, this model may serve as a “bridge” or “transitional” structure.

Under its Charter, the AUC may establish for-profit entities. According to an official representative in AUC’s central office in Kyiv with whom the assessment team met, the AUC has established several for-profit entities. It is possible that the AUC RO s could establish for-profit entities in order to move toward sustainability, if the AUC agrees. The RO s are permitted to establish for-profit entities; these for-profit entities must pay taxes including income taxes and VAT. These for-profit entities may support RO s through donations.

The role of daughter for-profit companies in assisting in achieving sustainability for non-profit entities needs clarification. Such “daughter” companies are appropriate in situations when a non-profit company desires to provide a service for fee that offsets the costs of delivering the service, e.g., offering training or publications. Based on the research carried out by the assessment team, it does not appear that such for-profit firms operating in the municipal sector have generated any significant profits at this point. Such an arrangement is appropriate for sustaining services that

could not otherwise be provided given the lack of funds by the parent non-profit, but for which there is a market. This arrangement would not jeopardize the non-profit organization's tax status.

According to Article 5.2.2 of the Law on Taxation of Profit of Enterprises, the amount for-profit organizations may pay as tax exempt "charitable donations" is limited to four percent of its annual profit. If such donations exceed four percent (4%) of the entity's annual net profit, the amount in excess of the 4% limit is taxed. This significantly reduces the potential efficiency of funding non-profit entities with a large portion of the net revenue stream from for-profit entities. It should be noted that there is no limitation on the amount a for-profit daughter company can donate to a non-profit parent, only a limitation on the amount which can be donated on a tax exempt basis.

CONCLUSION AND RECOMMENDATIONS

There are many cases of contradictions in the current legal environment. The most obvious contradiction that applies to non-profit activities or organizations is that between the Law on Charity and Charitable Organizations, Law on Associations of Citizens, and the Law on Taxation of Profit of Enterprises (enacted in 1995 with subsequent amendments). For example, according to the Law on Charity and Charitable Organizations, only those charitable organizations that are funded by "charitable donations" and membership dues are tax-exempt. The Law on Taxation on the Profit of Enterprises, however, expands rights and allows non-profit organizations to accept funds to be used directly for the program operations (e.g., training, consulting, publishing) of these non-profit organizations, but not for administrative expenses, such as rental payments, computer leasing and other related expenses. Such contradiction between these two Laws may lead to the STA's arbitrary imposition of taxes on non-profit entities carrying out fee-based service activities.

As noted earlier, Article 67 of the draft Civil Code³¹, drafted in August 1996 but not yet enacted, provides that "[all] other [non-entrepreneurial] companies may engage in any types of entrepreneurial activity unless otherwise prohibited by legislation". Thus, a company may not "engage" in an activity not listed in its Charter. The enactment of this provision would clearly define the rights for non-profit entities and resolve the ambiguity.

According to provisions of the draft Civil Code, the main difference between entrepreneurial and non-entrepreneurial companies is the manner in which their respective revenues are distributed. Revenues and profits earned from commercial activities from entrepreneurial entities are distributed among the founders (shareholders) of the entity. Non-entrepreneurial company revenues may only be generated on activities as enumerated in the Charter, and are not subject to distribution amongst founders of these organizations. The draft Civil Code would permit non-entrepreneurial companies to provide services for fees subject to taxation, if their revenues are not distributed among its founders³².

The Law on Taxation of Profit of Enterprises might be amended to address and increase the amount of the annual profit that for-profit entities may pay as "charitable donations" under their discretion to non-profit organizations.

DIAGRAM 1.

LEGAL ENTITIES (ORGANIZATIONS)

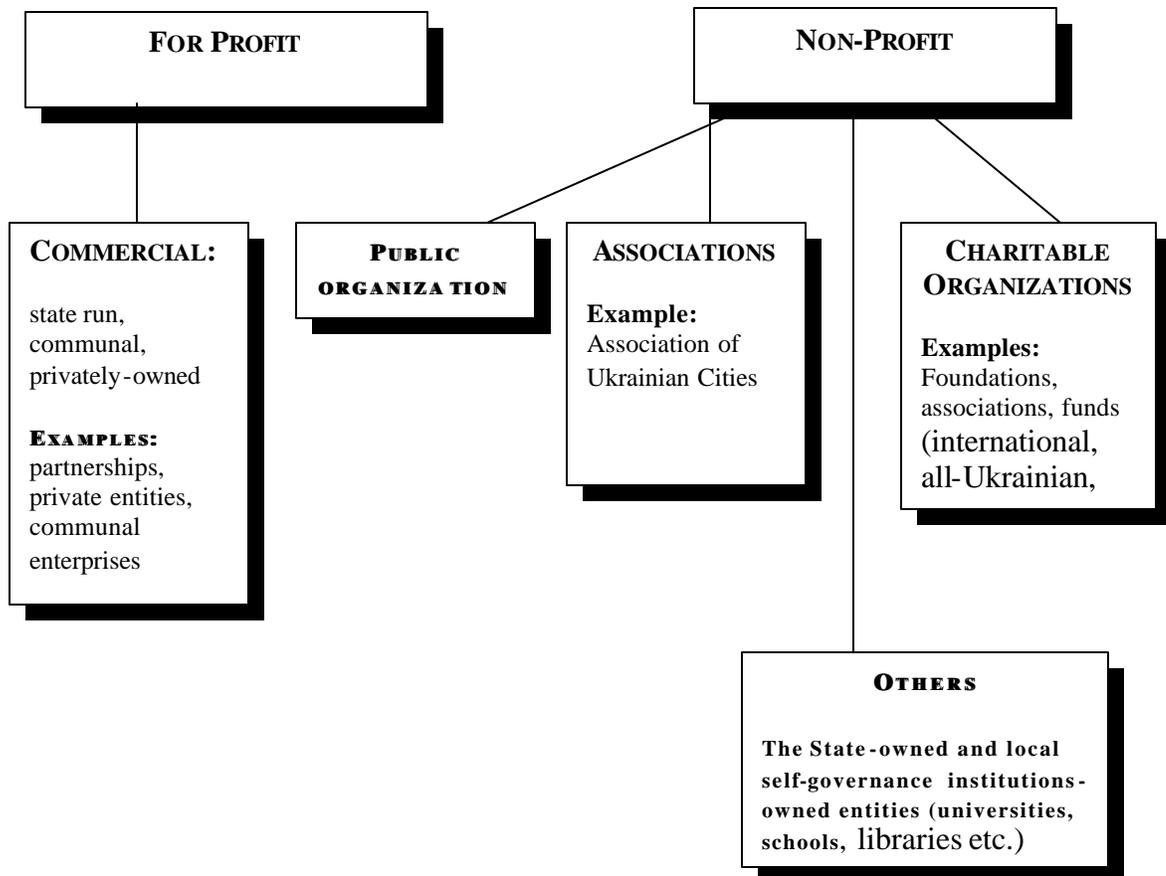
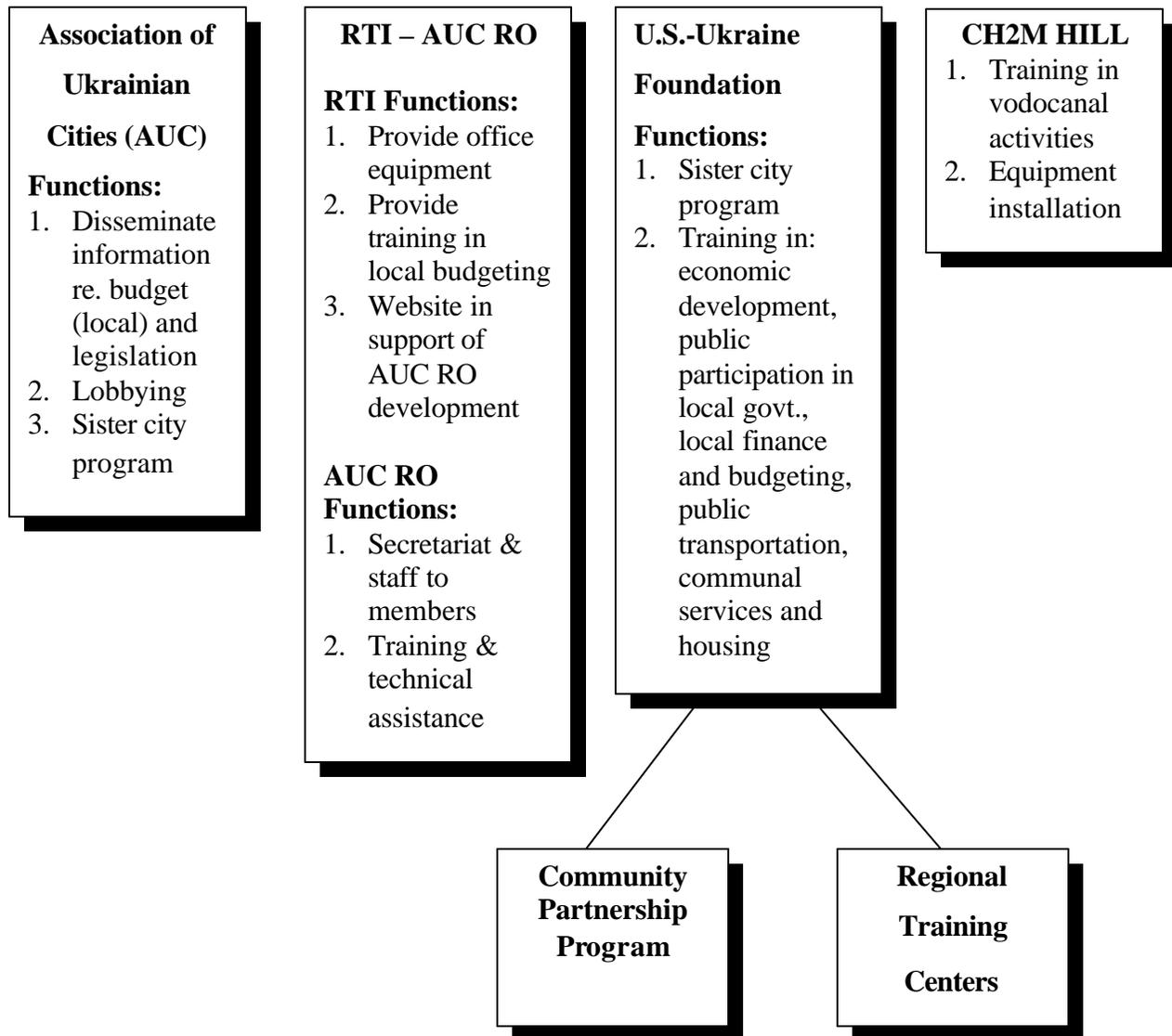


DIAGRAM 2.

USAID - FUNDED PROJECTS AND RELATED STRUCTURES



ENDNOTES

¹ “Territorial communities” are defined as those areas inhabited by populations within the designated boundaries of towns, villages and settlements under the “Law on Self-Governance”, enacted in 1997.

² Although there is no existing legislation that defines “associations”; the commonly acknowledged term refers to non-governmental, non-profit entities to be discussed further within this section.

³ Enacted in 2000, the “Law on Accounting and Financial Reporting”, effective in January 2000 requires that accounting standards used in Ukraine do not contradict International Accounting Standards.

⁴ “Passive revenues” are defined in the “Law on Taxation of Profit of Enterprises” as such revenues as interest payments, dividends, insurance payments and royalties, e.g. copyright payments.

⁵ Under Ukrainian legislation, the Charter is considered a “foundation document” required to be filed upon registration of a legal entity.

⁶ STA Order #355, “Determination of the (Structure) Description of Non-Profit Establishments (Organizations)”, was enacted July 03, 2000. Under the Order, the STA examines the Charter to insure that the organization’s activities comply with legislative provisions. Only the central STA office in Kyiv is empowered to remove the “non-profit” organization form the official Register on request from the Oblast STAs.

⁷ The STA Order #232 enacted July 11, 1997 defines provisions on the Register of Non-Profit Organizations.

⁸ The legislation is unclear as to which budget the assets must be transferred and in which manner property is disposed.

⁹ Order # 550 enacted 17, November 1998. Order # 550 was terminated by the STA Order # 427 enacted August 07, 2000.

¹⁰ The draft Civil Code is comprised of eight books” based on specific issues. These eight books, four of which have undergone three “readings” in Parliament, are as follows: General Provisions, Non-Property Personal (Civil) Rights, Intellectual Property Rights, Property (Land) Law, Inheritance Law, Family Law, Obligation (Contract) Law, International Private (Jurisdiction) Law. Under Ukrainian legislation, all proposed drafts must undergo three readings by the Parliament. To become law it requires approval by the President of the Ukraine.

¹¹ The term, “Patent” is used in this Law as a type of license for some types of services, in particular merchandising.

¹² For-profit entities are registered by the State executive or local self-governance authorities.

¹³ Article 9 of the “Law on Licensing” delineates all of the activities that must be licensed.

¹⁴ The “Law on Partnerships” defines both procedures,, e.g., the general meeting of partners and the joint stock company meeting.

¹⁵ Both individuals and legal entities may comprise the membership of public organizations.

¹⁶ Order Number 140 enacted 26 February 1993.

¹⁷ These terms are arbitrarily chosen by the founders of the organization and are not defined by legislation...

¹⁸ Order Number (Cabinet of Ministers) 382 enacted 30 March 1998.

¹⁹ All directly or indirectly benefit from USAID technical assistance; for example, the ULF has received grants while RTI is a contractor.

²⁰ Payments are made directly to the RTCs by the central USUF office based in Kyiv; these payments include salaries and other expenses.

²¹ The U.S. Ukraine Foundation will be the founder of the affiliate RTC in Lviv.

²² Quote from the “Small Business Support Program” provided to the assessment team during an interview with CMC on 19 October 2001.

²³ The Counterpart Meta Center has been funded in part during its operations by USAID.

²⁴ Sample syllabus provided by CMC during a meeting on 19 October 2001 with members of the assessment team.

²⁵ During 2000, the STA imposed a penalty of 8,000 hryvna due to the CMC’s self-admitted accounting errors; CMC paid the entire amount.

²⁶ As of this writing, CI continues to be the owner of the properties, but is in the process of considering transfer of ownership to CMC, based on an interview between CMC’s representatives and the assessment team on 19 October 2001.

²⁷ In addition to this issue, the STA questioned the classification of CMC’s “passive revenues” in the form of interest payments on bank deposits. This is also under examination by official experts from the MOJ; however, in relation to rental receipts, this appears to be a relatively minor amount of total revenues.

²⁸ Article 10 of the “Law on Taxation of Profit of Enterprises” states that the profit tax is 30 %.

²⁹According to the CMC director, the STA questioned the CMC's structure as a "public organization" in terms of fulfilling objectives under Ukrainian legislation.

³⁰The procedure is governed by the "Law on Enterprises" and the "Law on Partnerships".

³¹"Implementation of Entrepreneurial Activity by Other Companies and Institutions."

³²We spoke with Professor Anatolii Dovgert who is Chairman of Department of International Private Law of Institute of International Relations of Kyiv National University and one of the main drafters of the Draft Civil Code

APPENDIX B.
INFORMATION ON REGIONAL OFFICES OF THE ASSOCIATION OF
UKRAINIAN CITIES
(AS OF JUNE 14, 2001)

#	Name of AUC RO	Head of AUC RO	Executive Director	Address, Phone, fax	E-mail address
CLUSTER I					
1.	Zakarpattya 	Stepan Sember	Oleh Luksha	3 Poshtova Sq., 88000, Uzhgorod, UKRAINE <i>Phone:</i> (380 3122) 3 59 29 <i>Fax:</i> (380 3122) 3 20 83	admin@uacities.uzhgorod.ua
2.	Lviv 	Vasyl Kuibida	Yuriy Baran	5 General Chuprynka St., 79000, Lviv, UKRAINE <i>Phone:</i> (380-322) 35-34-52	ybaran@city-adm.lviv.ua
3.	Ivano-Frankivsk 	Zinoviy Shkutyak	Oleh Vojtychuk	89 Nezalezhnosti St., 76000, Ivano- Frankivsk, UKRAINE <i>Phone/fax:</i> (380- 342) 55 -31- 54, 22- 20-82	ifvamu@il.if.ua
4.	Ternopil 	Anatoliy Kucherenko	Ihor Kovalyk	7 Lystopadova St., 46000, Ternopil, UKRAINE <i>Phone/ Fax:</i> (380-352) 25 -35- 50	admin@rv-amu.gov.te.ua
5.	Khmelnyskyi 	Mykhailo Chekman	Petro Kalynyuk	18 Haharina St., Khmelnyskyi 29000 UKRAINE <i>Phone:</i> (380-382) 76-54-03, 76-45- 02	khregoamu@svitonline.com City Hall e-mail: rada@khmelnytski.com

#	Name of AUC RO	Head of AUC RO	Executive Director	Address, Phone, fax	E-mail address
6.	Chernivtsi 	Mykola Fedoruk	Viorel Savchuk	1 Central Sq. 58000, Chernivtsi UKRAINE Phone: (380-372) 51-56-31 Fax: 51-56-30	mailto:Vio@chv.ukrpack.net
CLUSTER II					
7.	Dnipropetrovsk 	Ivan Kulichemko	Volodymyr Berezynskyi	75 K.Marx St. Dnipropetrovsk (056) 337-66-86 Fax: 744-20-85	auc@giac.dp.ua kudima@hotmail.com
8.	Zaporizzhya 	Olexandr Polyak	Ivan Shcherbakha	3 Zelinskoho St., 69105, Zaporizzhya, UKRAINE Phone: (380-612) 34-72-52 Fax: (380-612) 34-42-92	agu@commit.zp.ua
9.	Kharkiv 	Mykhailo Pylypchuk	Victor Mirosnyk	7 Konstytutsia Sq., 61000, Kharkiv, UKRAINE Phone: (380-572) 23-11-30, 23-21-21	City Hall e-mail: mailto:Strela@citynet.kharkov.ua strela@citynet.kharkov.ua
10.	Kirovohrad 	Olexandr Nikulin	Valentyna Ilyushkina	41 K.Marx St., 25000, Kirovohrad, UKRAINE Phone: (380-522) 24-08-24 Fax: 24- 07- 93	City Hall e-mail: mayor@kw.ukrtel.net elizavet@kw.ukrtel.net
11.	Poltava (Khorol) 	Oleksandr Popov	Oleksandr Beznosyk	59 K.Marx St., 37800, Khorol, UKRAINE Phone: (380-5362) 9-21-84	prvamu@horol.pi.net.ua
12.	Sumy 	Olexandr Andronov	Volodymyr Ahanyans	26 Dzerhynskoho St, 40000, Sumy, UKRAINE (0542) 21- 09-65 22-16-74	mailto:admin@rv-amu.gov.te.ua

#	Name of AUC RO	Head of AUC RO	Executive Director	Address, Phone, fax	E-mail address
CLUSTER III					
13.	Zhytomyr 	Anatoliy Fesenko	Mykola Nakonechny	Zhytomyr (38 0412) 37 50 58	Not available
14.	Kyiv	Volodymyr Udovychenko	Garry Martin	Suite 1003, 1 L.Ukrainka Sq., 01196 Kyiv, UKRAINE <i>Phone:</i> (380-44) 296-85-09 <i>Fax:</i> (380-44) 294-40-03	Not available
15.	Kherson 	Mykola Ordynskyi	Mykola Yarnykh	37 Ushakova Ave., 73000 Kherson UKRAINE <i>Phone:</i> (380-552) 24-05-91 <i>Fax:</i> (380-552) 24-14-72	Not available
16.	Rivne 	Victor Chajka	Andry Hreshchuk	12-A Soborna Sq., 33000 Rivne, UKRAINE <i>Phone:</i> (380-362) 22-00-00 <i>Fax:</i> 26-64-81	Mila@city-adm.rv.ua
17.	Chernihiv	Vitaly Kosykh	Volodymyr Pavlenko	7 Kujbysheva St.,Chernihiv UKRAINE <i>Phone:</i> (380- 4622) 7-48-55 <i>Fax:</i> (380-462) 10-13-13	chvamu@cg.ukrtel.net
18.	Vinnytsya 	Victor Zherebnuyk	Leonid Ocheretny	15-A Soborna St. Vinnytsya Phone: (380-432) 32-55-05	Not available-

Appendix C
AUCRO Data Sheet of Staff

#	Regions	Number of cities /settlements	Number of city/settlement - members	Population of regions up to 01.01. 2001, (thousands)	Population of city-settlement - members of AUC (thousands)	Title of RO of AUC	Addresses	Director of RO	Number of employees	Financial support from AUC (30 %) (1.)	Office premises	Technical (office) equipment
								Telephone / Fax	Full-time employees	Expenses to maintain RO (2.)	own office, rent of premises (sum of rent payment)	under support from RTI
1	Autonomous Republic of Crimea	16/56	11/-	2100,7	1044,3	Crimean RO	18, Karla Marksa St., Ap.430 Simferopol, ARC, 95003	Ms. Zinaida Kolbanenko Tel.:(0652)273772 Fax:(0652)272581	-	-	-	-
2	Vinnytsia	17/30	9/-	1799,1	577,2	Vinnytsia RO	15 A, Soborna St., Vinnytsia 21100	Mr. Leonid Ocheretnyi Tel.(0432)325505 Fax:(04332)21216	-	7696/	rent	Equipment from RTI
3	Volyn	11/22	5/-	1054,2	386,4	Volyn RO	19, Khmenlytskoho St., Lutsk 43000	Mr. Anton Kryvytskyi Tel./Fax:(03322) 70646	-	-	-	-
4	Dnipropetrovsk	21/47	12/-	3678,0	2617,4	Dnipropetrovsk RO	75, Karla Marksa Av., Dnipropetrovsk 49000	Mr. Volodymyr Berezynskyi Tel./Fax:(0567) 441445	3	34898,7/	Office at Mayoral Office	Equipment from RTI
5	Donetsk	51/132	17/1	4893,6	3192,7				-	-	-	-
6	Zhytomyr	9/45	6/-	1420,5	543,8	Zhytomyr RO	4/2, Rad Sq., Zhytomyr 10014	Mr. Mykola Nakonechnyi Tel.:(0412)374485 Fax:(0412)378428	-	7250,7/		Equipment from RTI
7	Zakarpattia	10/20	7/4	1282,0	361,0	Zakarpattia RO	3, Poshtova Sq., Uzhhorod 88000	Mr. Oleh Luksha Tel.:(03122)16175 Fax:(03122)17071	4 / 3,5	3608 / 35120	Office at Mayoral Office	Equipment from RTI
8	Zaporizhzhia	14/23	13/-	1983,9	1381,1	Zaporizhzhia RO	3, Zelinskoho St., Zaporizhzhia 69015	Mr. Ivan Scherbakha Tel.:(0612)347252 Fax:(0612)344292	5 / 3,8	16100 / 38562	Own office	Equipment from RTI
9	Ivano-Frankivsk	15/24	15/-	1453,7	562,8	Ivano-Frankivsk RO	89, Nezalezhnosti St., Ivano-Frankivsk 76000	Mr. Oleksii Votyichuk Tel.:(0342)552000 Fax:(03422)22082	4 /	7000 / 22000	Own office	Equipment from RTI

10	Kyiv	25/29	23/4	1810,5	910,5	Kyiv RO	1, Lesi Ukrainky Sq., Office.1003 Kyiv 01196	Mr. Hari Martin Tel.:(044)2968509 Fax:(044)2944003	4	12140/ 51599,52	Office	Equipment from RTI
11	Kirovohrad	12/26	8/2	1152,9	546,1	Kirovohrad RO	41, Karla Marksa St., Kirovohrad 25000	Ms. Valentyna Iliushkina Tel.:(0522)240824 Fax:(0522)229841	5 / 3,75	6506 / 32530	Office at Mayoral Office	Equipment from RTI
12	Luhansk	37/109	11/-	2607,4	979,2	Luhansk RO	3, Khersonska St., Ap.103, Luhansk 91011	Mr. Viacheslav Kozak Tel./Fax: (0642) 420690	2 / 2	13056/	Office	
13	Lviv	43/35	30/-	2703,3	1478,2	Lviv RO	5, Henerala Chupryny St., Lviv 79000	Mr. Yurii Baran Tel./Fax: (0322) 353452	4 / 3,75	1410 / 3990	Office	Equipment from RTI
14	Mykolaiv	9/17	8/-	1286,8	733,7	Mykolaiv RO	1, Lenina Sq, Mykolaiv 54000	Ms. Tetiana Schedrova Tel./Fax: (0512) 351292	-	-	-	-
15	Odesa	19/33	11/-	2491,7	1342,1				-	-	-	-
16	Poltava	15/21	14/8	1660,2	924,0	Poltava RO	59, Karla Marksa St., Khorol 37800	Mr. Oleksandr Beznosyk Tel./Fax: (05362) 92184	3 /	16426 / 21355	Office	Equipment from RTI
17	Rivne	11/16	11/4	1184,4	505,7	Rivne RO	12 A, Soborna St., Rivne 33000	Mr. Andrii Hreschuk Tel.:(0362)220000 Fax:(0362)266481	4 /	5605 / 38947		Equipment from RTI
18	Sumy	15/20	10/-	1318,8	702,6	Sumy RO	26, Dzerynsko St., Sumy 40000	Mr. Volodymyr Ahanians Tel./Fax: (0542) 210965	5	9368/	Office	Equipment from RTI
19	Ternopil	17/18	16/11	1151,1	479,8	Ternopil RO	7, Lystopadova St., Ap.1 Ternopil 46000	Mr. Ihor Kovalyk Tel.:(0352)259970 Fax:(0352)253550	5 / 4	5500 / 47300	Office	Equipment from RTI
20	Kharkiv	17/61	12/2	2940,7	1913,4	Kharkiv RO	7, Konstytutsii Sq., Kharkiv 61000	Mr. Viktor Miroshnyk Tel.:(0572)231130, 232121 Fax:(0572)274910	3 /	22300 / 78100	Office at Mayoral Office	Equipment from RTI
21	Kherson	9/30	5/-	1213,0	525,0	Kherson RO	37, Ushakova Av., Kherson 73000	Mr. Mykola Yamykh Tel.:(0552)240591 Fax:(0552)241472		7000/	Office at Mayoral Office	Equipment from RTI
22	Khmelnyskyi	13/24	13/9	1447,2	716,2	Khmelnyskyi RO	18, Haharina St, Khmelnyskyi 29000	Mr. Petro Kalyniuk Tel.:(0382)765403, 65544 Fax:(0382)765403	3 / 3	7800 / 17500	Own office	Equipment from RTI

23	Cherkasy	16/15	9/-	1435,2	527,4				-	-	-	-
24	Chernivtsi	11/8	11/7	929,2	392,7	Chernivtsi RO	1, Tsentralna Sq., Chernivtsi 58000	Mr. Viorel Savchuk Tel.: (0372)515631, 515632 Fax:(0372)515630	4 / 3,5	4720 / 82720	Own office	Equipment from RTI
25	Chernihiv	15/30	7/-	1267,6	457,7	Chernihiv RO	7, Kuibysheva St, Chernihiv 14000	Mr. Volodymyr Pavlenko Tel.:(04622)74855 Fax:(04622)101313	3	6102,7/	Office	Equipment from RTI
	Kyiv (city)	1/1	1/-	2637,1	2637,1							
	Sevastopol (city)	2/1	2/-	388,4	388,4							

Footnotes

Column K - Financial Support - Explanation - the 30% is the amount of dues ROs should receive from AUC member dues (1)

Expenses to Maintain RO (2) is the needs of each office (budgeted). This item includes other revenues, donations, etc

Those ROs without entries are new or in their initial stage of development and do not have a budget determined

APPENDIX D .
SURVEY OF REGIONAL OFFICE DIRECTORS — AUC

October 26, 2001

Dear Colleagues!

The purpose of our visit to Ukraine is to assess an opportunity to sustain the activity of the Regional Offices of the Association of Ukrainian Cities (ROAUC) and define possible areas of support this activity might take by the USAID.

The Team Leader is Mr. Alan Beals, who worked as an Executive Director of the U.S. National League Cities for a long period. Also, Mr. Richard Kobayashi is a Team Member. He used to work at the Federal and local governments for about 25 years. Mr. R. Kobayashi cooperated with the AUC in 1997. This is his sixth visit to the Ukraine.

During the past few weeks we have visited ROAUC in Lviv, Khmelnytskyi, and Chernivtsi. Having an opportunity to attend this meeting we would like to discuss with you several issues. In order to save your time and minimize a language barrier, we asked our Ukrainian colleague, Serhii Kalchenko, to lead this discussion.

There are three questions indicated on the separate survey form. We would very much appreciate it if you could express your own opinion over these questions during this meeting. This information will be very helpful for us as we prepare a final report to the USAID on the long-term sustainability of the Regional Offices of the Association of Ukrainian Cities.

Thank you in advance for your cooperation and assistance.

Sincere regards,

Alan Beals,
Richard Kobayashi

1. In your opinion, which further steps in the development of the RO AUC are the most important to be performed during:

- next 12 months;
- next 24 months.

You are requested to select 3 (three) variants from the list of possible answers. You can choose your own variant of answer that you think would be more appropriate. Also, we kindly ask you to indicate a level of importance of each measure according to scheme: a) The most important to be performed during the next 12 months, or b) The most important to be performed during the next 24 months).

The list of possible categories:

- a) professional development of staff of RO (training etc.);
- b) to increase the salary of staff in the RO in order to retain a highly qualified staff;
- c) increase the number of staff of RO (to perform which duties); _____

- d) provide technical assistance to city-members of AUC. Please indicate priorities of that activity; _____

- e) to expand office space or renovate Regional Office. To install or upgrade office equipment (computers, copy machines etc.); _____
- f) other (your own answer); _____

2. What plans and programs in your RO would be the highest priorities if 10,000.00 Hryvnias in additional revenue could be provided. _____

3. Please indicate the annual level of staff salaries in your RO. _____

(We would appreciate it if you could indicate the name of your RO, however it is not obligatory)

Thank you for your assistance!

APPENDIX E

RTC Training Events Data, October 5, 2001

This information is not available electronically. It is submitted in the hard copy reports only.

APPENDIX F

RTC Seminars in September, October - 2001

This information is not available electronically. It is submitted in the hard copy reports only.

APPENDIX G.

STATEMENT OF WORK FOR AN ASSESSMENT OF PROSPECTS FOR SUSTAINABILITY OF UKRAINIAN TRAINING RESOURCES

1. PURPOSE OF THE ASSESSMENT

As described below, under the auspices of the municipal development/local government program of USAID/Kyiv, several institutions have been (or are planned to be) created in the past several years that, to continue to serve the needs of local governments in Ukraine, must become sustainable. However, USAID's goal to encourage sustainability of Ukrainian organizations to help perpetuate USAID's training and technical assistance objectives must be balanced by many factors which make sustainability difficult.

Therefore, the Contractor will assess these factors in relation to several USAID-supported existing and future non-governmental entities that provide training in the local government/municipal development areas in Ukraine — the future Ukraine Water Technology Center (UWTC), the Regional Training Centers (RTCs) created under the Community Partnerships Program for Local Government Training and Education (CPP), and the Regional Offices (ROs) of the Association of Ukrainian Cities (AUC) — in order to provide recommendations to USAID/Kyiv that can guide its efforts to maximize the impact and sustainability of its programs under Strategic Objective 2.3, More Effective, Responsive, and Accountable Local Government.

USAID/Kyiv defines a sustainable institution as one with a mission and a plan to implement it, a viable financial plan and access to financial resources, and the ability and capacity to meet client needs. The contractor will assess these and other relevant factors to determine whether each of the above institutions should or can become sustainable and, if so, how: financial independence; on-going demand for services; possibility of continuation of activities after USAID project ends; leadership; ability to provide services for a period of time; ability to be adaptable and innovative; management skills; and organizational capacity.

2. BACKGROUND ON RELEVANT USAID MUNICIPAL DEVELOPMENT ACTIVITIES

Under the Freedom Support Act of 1992, the United States Government has provided support to efforts to build a democratic society and a market economy in Ukraine. This has included support for efforts designed to result in *more effective, responsive, and accountable local government* (Strategic Objective 2.3). Efforts to support improvement of the management of municipal services and assets, strategic planning, legislative advocacy, citizen participation and improvement of the professional and technical support for governments at the local level have been important components of this assistance strategy.

USAID began providing support to municipal development in Ukraine in 1993. Through its Municipal Finance and Management project, USAID supported efforts in three pilot cities to increase the effectiveness, accountability and openness of local government, and to boost citizen involvement. USAID's initial activities also focused on strengthening the legal basis for local governance by supporting the Association of Ukrainian Cities (AUC). The AUC successfully advocated broad autonomy of local governments as defined by the Law on Local Self-Governance that was enacted in 1997. USAID is continuing its support to AUC through the Dissemination of the AUC Regional Offices Activity, which is assisting the Association to establish its regional offices throughout the country. The Implementing Partner for this activity is the Research Triangle Institute (RTI). By the end of this activity in December 2001, 19 regional offices will be staffed, equipped with modern computer technologies, and will become fully operational. Legislative advocacy, creation of a local government database and the training of municipal officials in several specific areas is part of these offices' mandate as well.

The AUC ROs are legally registered as "structural subdivisions of the AUC", although they have a certain degree of autonomy, including independent budgets and bank accounts, and the right to act independently within their oblasts, as long as their activities do not contradict AUC's mission and statute. The AUC ROs are primarily funded through membership fees – they receive one third of the total amount of fees collected from the AUC member cities within their respective oblasts. The AUC ROs have the right to accept "associate members" which are not cities but companies interested in cooperation with cities through the AUC network. Associate members are viewed by the AUC as a potential source of financial support that will complement the membership fees. The AUC ROs' autonomous status also allows them to seek grant funding from international donors independently of the AUC Head Office. Current Ukrainian legislation does not allow Ukrainian NGOs to charge fees for the services they provide; therefore the AUC ROs do not provide any fee-based services. At the same time, it is possible for Ukrainian NGOs to act as founders of for-profit companies, which can receive revenues from fee-based services and then use part of their profit to sponsor non-profit activities of their NGO founders. Some of the AUC ROs are currently considering this possibility, therefore, the effectiveness of such an option needs to be studied as well.

Another major USAID activity aimed at local government managerial capacity building and citizens' involvement in decision-making is the Community Partnerships for Local Government Training and Education Project (CPP) that paired 18 competitively selected cities in Ukraine and the U.S. The Implementing Partner for this activity is the US-Ukraine Foundation. The CPP is providing training to Ukrainian local government officials through internships to the U.S., in-country training in the cities, and at four Regional Training Centers (RTCs).

The four Regional Training Centers, in Lviv, Cherkasy, Donetsk and Kherson, are providing training to partner and non-partner cities by Ukrainian, Polish, and a few American trainers. Much of the training is concentrated in the five CPP focus areas – transportation, economic development, citizen participation, housing and communal services, and budget, but increasingly the Centers are providing training in other areas as well, primarily based on demand from the RTCs' clients.

The two-year cost extension phase of CPP is through November 2002. The terms of this extension requires that the RTCs focus on the goal of sustainability following the conclusion of USAID funding. Therefore, the US-Ukraine Foundation and the staff of the RTCs have

developed a strategic plan and a sustainability plan, per the requirements of the Cooperative Agreement. In addition, the Council for Russian, Central and East European Studies at Rutgers, the State University of New Jersey, and the Warsaw-based Foundation for Support of Local Democracy are working with the RTCs on staff capacity building. To this end, relevant RTC staff will intern at their partner local government training center in Poland, will consult with the Polish staff on an ongoing basis, and will receive on site mentoring.

In addition, the RTCs will identify a core group of Ukrainian trainers who will undergo Training of Trainers and then provide training. These trainers will also help develop new training materials in conjunction with Polish consultants. Each RTC will also hold periodic regional conferences and roundtables.

Issues of municipal services delivery have been addressed in two other USAID projects: Urban Water Supply Improvement in Lviv; and Urban Public Transportation Improvement. The transportation activity was implemented in nine Ukrainian cities and resulted in the improvement of transportation services in these cities, partly through better trolleybus repairs and the introduction of minibus services. The Lviv Urban Water activity resulted in improvements in water services for citizens and energy savings in the water system, while the Lviv Vodokanal was assisted in its preparation for the World Bank loan that is expected to be granted in 2001. Results and lessons learned from this activity were disseminated to Ivano-Frankivsk and Rivne under the pilot roll-out program in 1998. During these activities USAID provided training and helped to develop the managerial and professional skills of some ten local urban water experts that were involved in the implementation of these projects.

To disseminate the results and lessons learned from the Lviv Urban Water (and Roll-out) and Effective Local Government activities, USAID has begun the three year (1999-2002) Ukraine Municipal Water Roll-out Activity, implemented by CH2M HILL International Services, Inc. The main objectives of this Activity are: "first, to assist a total of eight municipalities to analyze the technical, financial and managerial strengths and weaknesses of their water utility and to develop action plans for improvement; and second, to formalize and to strengthen expertise developed under earlier USAID support so that local experts may become a catalyst to assist other municipalities."

The second objective is to be achieved through the establishment of the Ukraine Water Technology Center comprised of the local urban water experts. The first eighteen months of the Municipal Water Roll-out Activity indicated high interest among Ukrainian municipalities and vodokanals (water utilities) in participation in this Activity, which was reflected in a large number of applications from various cities, and high attendance at the workshops by city/vodokanal representatives who traveled to the workshops at their own cost. These training workshops were particularly attractive to the small cities that have been unable to benefit from the majority of technical assistance projects.

The UWTC has the endorsement of Mr. Semchyk, Deputy Chairman of the State Committee for Construction, Architecture and Housing Policy (State Committee), who supports the creation of a self-sustaining, fiscally independent entity to become a water technology "center of excellence" for technical assistance to the municipal water sector in Ukraine. It was initially assumed that the UWTC would be established as part of the state-owned Lviv Municipal Design Institute (LMDI); therefore, part of the equipment from the Lviv Urban Water activity was transferred (on

paper) to the LMDI for use by the future Center. At present most of this equipment is being used as part of the Municipal Water project, per agreement with the LMDI.

After studying the legal aspects of Center establishment, CH2M HILL concluded, in September 2000, that the possibility to legally establish the Center as part of the LMDI would be difficult and perhaps may not be advisable, due to changed circumstances. In addition, for the Center to survive as an independent unit, it would probably need some bridge funding. However, if the UWTC is established as part of the LMDI, which is fully owned by the state, USAID and/or other donors may not be able to provide financial support to the government-owned institution. CH2M HILL will prepare a Center Business Plan, which will include a summary of the office organization, its technical and business management activities and a marketing strategy.

3. OBJECTIVES AND TASKS OF THE ASSESSMENT

In its report, the team should present an analysis of the factors necessary for the establishment of the UWTC and the future successful operation of the UWTC, RTCs and AUC ROs as local government training and consulting resources that identifies and explains: key constraints and problems; options for their sustainability; likely scenarios for the future; and possible strategies for their support. This analysis should include the factors detailed in Section 1 as well as:

- ▶ An analysis of the legal and regulatory environment in which various legal entities, such as not-for-profit organizations, non-governmental organizations and businesses, establish themselves and operate, including an analysis of the regulatory restrictions that apply to entities that provide training, consulting and design services in the municipal services sector. In particular, this analysis should focus on laws and regulations that govern establishment and operation of various entities, issues of ownership, accounting and taxation, statistical reporting, and licensing of services.
- ▶ A comparative analysis of various options for the establishment of USAID-supported non-governmental entities in municipal development, such as a NGO, a consulting business or a not-for-profit organization, including the identification of disadvantages and benefits from the point of financial viability in the near future and long-term sustainability. This should also include a review of results and lessons learned from past USAID/Kyiv efforts to ensure sustainability of its programs. In particular, lessons learned from the establishment of the International NGO “Housing and Municipal Reform Support Center” in Ukraine should be taken into consideration.
- ▶ A study of the existing market in Ukraine for the training services that the future UWTC, RTCs and AUC ROs can provide to the municipalities, utilities, international donors and international financial institutions. The study should include projections for this market development in the near future and recommendations on a broadening of the range of services that these organizations can provide to better respond to the market demand. This should also include identification of the existing and potential competitors of these non-governmental entities, evaluation of their advantages and weaknesses, an evaluation of the existing staff’s skills and quality of services provided, and an assessment of the local clients’ ability to pay for the training services provided.

- ▶ Recommendations in regard to the possible strategies for the UWTC, RTCs and AUC ROs, including legal options, administrative and financial management, and future training of staff. The team should identify the best strategy that would ensure long-term sustainability of the UWTC, RTCs and AUC ROs, and propose a schedule for its implementation, and provide estimates of the scope, schedule and costs of any necessary USAID or other grant funding.

4. TEAM COMPOSITION

All team members should possess superior written and verbal communication skills. Good command of Russian or Ukrainian of expatriate consultants is desirable, but not required. USAID reserves the right to appoint a USAID and/or other USG employee(s) to act in the capacity of an observer or consultant where appropriate.

The assessment team will consist of no more than three or four members, possessing the following required characteristics:

- (1) A team leader (senior level program & policy/institutional/management/democracy and governance analyst) with a professional background in developmental work, especially in the area of program sustainability, and preferably with experience with USAID in transitional, post-communist settings. This person must also have previous experience in working on assessments;
- (2) One team member (Ukrainian national) should possess adequate knowledge about the legal environment for NGOs and businesses; and
- (3) Team members (senior to mid-level level program and policy/institutional/management/ Democracy and governance analysts) should have experience in municipal development and services, as well as with training institutions.

The Contractor will certify that there is no conflict of interest with respect to the performance of this evaluation on the part of the contractor and the contractor's team members for this assessment.

The Contractor will guarantee that substitutions of staff will not be made for individuals selected as team members without the approval of USAID/Kyiv. If substitutions have to be made and if USAID/Kyiv does not concur in the substitutions, the assessment will be canceled or postponed at USAID/Kyiv's option.

The Contractor will also guarantee that the approved team members will be available for the full period of the assessment. The site visit shall begin no later than October 1, 2001.

5. METHODOLOGY

A. PRIOR TO DEPARTURE:

- (1) Contractor shall review various background documents, including:
 - ▶ USAID assistance strategy for Ukraine (1999-2002)
 - ▶ Relevant USAID publications, especially Maximizing Program Impact and Sustainability: Lessons Learned in Europe and Eurasia (USAID, EE/DG/LGUD, October 1999)
 - ▶ Contract with CH2M HILL International Services, Inc., and its modifications
 - ▶ Cooperative Agreement with U.S.-Ukraine Foundation (USUF), and its modifications, as well as the Training, Sustainability and Strategic Plans for the Regional Training Centers
 - ▶ Cooperative Agreement with Research Triangle Institute (RTI), and its modifications
 - ▶ Relevant sections of quarterly reports submitted by CH2M HILL, USUF and RTI to USAID/Kyiv
- (2) USAID/Kyiv will request country clearances for the team.

B. IN UKRAINE:

- (1) During the field work, the Contractor shall conduct its assessment as described herein through interviews and meetings with appropriate staff of USAID/Kyiv, AUC, Kyiv-based USAID contractors - USUF, RTI, and CH2M HILL/Lviv. Interviews shall also be conducted with the CH2M HILL staff, staff of the RTCs and some AUC Regional Office staff throughout Ukraine, as well as with other relevant Ukrainian counterparts.
- (2) The Contractor shall meet with USAID representatives in the field upon arrival to discuss their approach and work plan. The Contractor shall present a summary of preliminary findings to USAID/Kyiv and field staff of USUF, RTI, and CH2M HILL prior to leaving Ukraine. Copies of the draft report and recommendations shall be left with the Mission for review and further comment.

6. SCHEDULE

The field work shall begin no later than October 1, 2001. Three workdays will be required for collection and review of some of the background documents, interviewing some Kyiv-based individuals, deciding whom to see, scheduling some of the appointments for field meetings, and team-building. The field evaluation will require approximately twenty seven workdays in Ukraine, four of which will be needed to prepare the draft report and debrief USAID/Kyiv. Finally, up to one week (five workdays) will be required in the U.S., after receipt of USAID feedback, to prepare the final report.

7. LOGISTICAL SUPPORT

All logistical support will be provided by the Contractor, including travel, transportation, secretarial and office support, interpretation, report printing and communication, as appropriate.

(2) Workweek

A six-day workweek is authorized, while in Ukraine.

(3) Deliverables

A. THE CONTRACTOR SHALL PRODUCE A FINAL REPORT WHICH WILL INCLUDE:

(1) Executive Summary

A summary, not to exceed three single-spaced pages, should list, in order of priority, the major findings, conclusions, and lessons learned from the evaluation.

(2) Body of the Report (not to exceed 30 pages)

Generally, the report should be organized into “Findings,” “Conclusions,” and “Recommendations.”

(3) Annexes

Additional material should be submitted as Annexes, as appropriate (e.g. Scope of Work, bibliography of documents reviewed, list of agencies and persons interviewed, list of sites visited, etc.)

B. REPORTING PROCEDURES:

(1) Draft report:

A copy of the draft report will be left with USAID/Kyiv at the briefing prior to departure from Ukraine — preferably in electronic as well as hard copy.

(2) Final Report:

Comments on the draft report should be returned to the contractor by USAID within 15 days of receipt.

The contractor’s final report, incorporating responses to any and all comments, shall be submitted to USAID/Kyiv (an electronic copy and five hard copies — four bound and one loose leaf — for distribution) and to PPC/CDIE/DI at USAID/Washington (an electronic and a hard copy). Electronic copies of the draft and final reports will be presented on a diskette in the format “MSWORD 6.0 for Windows.” The report should be no longer than 33 pages (excluding annexes).

APPENDIX H.

UKRAINE CONTACTS LIST

Bill Schlansker, Municipal Development Adviser	USAID	Kiev
Ulian Bilotkach, Project Management Specialist	USAID	Kiev
Feliks Shkliaruk	USAID (former)	Kiev
Iryna Podoliak	USAID (former coordinator)	Lviv
Barbara Lipman	USAID (former)	Kiev
Markian Bilynskyj	USUkraine Foundation	Kiev
Valerie Wright, Project Manager, CPP	USUkraine Foundation	Kievs
Alica Hensen	USUkraine Foundation	Washington,D.C.
Robert Boda, , Chief of Party	Research Triangle Institute	Kiev
Bohdan Radejko, Project Manager	Research Triangle Institute	Washington,D.C.
Marta Kolomayets, Team Leader	Ukraine Market Reform Program	Kiev
Allison Lynch, Deputy Team Leader	Ukraine Market Reform Program	Kiev
Yurii Dimitrov, Legal Advis or	Ukraine Market Reform Program	Kiev
Richard Shepard, Regional Director	The Eurasia Foundation	Kiev
Katerina Petrina, Research Analyst	The World Bank	Kiev
Mark Magaletsky, Associate Banker	European Bank for Reconstruction	Kiev
Valerie Sirois, First Secretary	Canadian Embassy	Kiev
Volodymyr Seniuk, Senior Program Officer	Canadian Embassy	Kiev
Prof. Bohdan Krawchenko, Vice-rector	Academy of Public Administration	Kiev
Robert Alexander, Chief of Party	PADCO	Kiev
Sasha Kucherenko,Deputy Chief of Party	PADCO	Kiev
Oleksandr Kucherenko	PADCO	Kiev
Oleh Makukhin, President	Housing & Municipal Reform Ctr.	Kiev
Anatolii Dovgert, Professor &Ch Dept. of Int. Private Law, Kiev National University		Kiev
Myroslav Pittsyk, Executive Director	Association of Ukrainian Cities	Kiev
Stephan Kleban, Deputy Director	Association of Ukrainian Cities	Kiev
Volodymyr Pavlenko, Regional Director	AUC/RO	Chernihiv
Tetiana Tatarchuk, Program Assistant	AUC/RO	Chernivtsi
Vadym Russy, Attorney	AUC/RO	Chernivtsi
Ihor Delak, Deputy Regional Director	AUC/RO	Zakarpattia
Andry Hreschchuk, Regional Director	AUC/RO	Rivne
Valentyna Ilyushkina, Regional Director	AUC/RO	Kirovohrad
Volodymyr Ahanyans, Regional Director	AUC/RO	Sumy
Mykola Nakonechny, Regional Director	AUC/RO	Zhytomyr
Ihor Kovalyk, Regional Director	AUC/RO	Ternopil
Oleh Vojtychuk, Regional Director	AUC/RO	Ivano-Frankivsk
Oleksandr Beznosyk, Regional Director	AUC/RO	Poltava (Khorol)
Victor Miroshnyk, Regional Director	AUC/RO	Kharkiv
Volodymyr Berezynskyi, Regional Director	AUC/RO	Dnipropetrovsk
Leonid Ocheretny, Regional Director	AUC/RO	Vinntsyia
Ivan Shcherbakha, Regional Director	AUC/RO	Zaporizzhya
Garry Martin, Regional Director	AUC/RO	Kiev
Mykola Yarnykh, Regional Director	AUC/RO	Kherson
Petro Kalynyuk, Regional Director	AUC/RO	Khmelnyskyi
Anatolii Takhtarbaiev, Advisor to Director	AUC/RO	Khmelnyskyi
Mikhailo K. Checkman, Mayor	City of Khmelnytskyi	Khmelnyskyi
Viacheslav Kozak,Regional Director	AUC/RO	Luhansk
Tatiana Aheieva, Deputy Director	AUC/RO	Mykolaiv
Yuriy Baran, Regional Director	AUC/RO	Lviv
Nina M. Zagynay, Mayor	Town of Radekhiv	Radekhiv
Roman Klymenno, Mayor	Town of Mykolaiv	Mykolaiv

Dr. O.K. "Kris" Buros, Vice President	CH2MHill	Lviv
Ihor Slobodenyuk, Program Consultant	CH2MHill	Lviv
Lyubov Lyubyanetska, Legal Counsel	CH2MHill	Lviv
Volodymyr Tunytskyi, Director	Counterpart Meta Center	Lviv
Lyubov Lyubyanetska, Vice Pres.&Legal Consultant	Counterpart Meta Center	Lviv
Petro Mavko, Director	Western Ukraine Reg. Trg. Center	Lviv
Olena Hazizova, Acting Director	Central Ukraine Reg. Trg. Center	Cherkasy
Larysa Olenkovska, Director	Southern Ukraine Reg. Trg. Center	Kherson
Valeriy Kochuyev, Director	Eastern Ukraine Reg. Trg. Center	Donetsk

APPENDIX I.

MATERIALS COLLECTED AND CONSULTED

1. ARD, Inc., Burlington, Vermont, Assessment of Non-governmental and Civil Society Organizations in Ukraine and Moldova, July 26, 2001 (submitted to USAID/Kyiv)
2. CH2MHILL International Services, USAID Contract for Ukraine Municipal Water Roll-out Program, August 1999
3. CH2Mhill International Services, USAID Ukraine Municipal Water Roll-Out Program Quarterly Reports, April, 2000 through July, 2001
4. US-Ukraine Foundation, U.S. -Ukraine Community Partnerships for Local Government Training and Education Project, Regional Training Center Basic Sustainability Plan, December 1, 2000-November 30, 2002, February 28, 2001 and Revision July 1, 2001
5. US-Ukraine Foundation, U.S.-Ukraine Community Partnerships for Local Government Training and Education Project, Quarterly Reports, January 1, 2001 through June 30, 2001
6. USA-Ukraine Foundation, Regional Training Centers PowerPoint Presentation-All Training Staff Retreat, “Strategic Plan for RTCs”, October 3, 2001
7. Center for Russian, Central and East European Studies, Rutgers, The State University of New Jersey, Assessment Report, Regional Training Centers, US Ukraine Foundation, March, 2001
8. Research Triangle Institute, Dissemination of Regional Offices for the Association of Ukrainian Cities, September 24, 1999
9. Research Triangle Institute, Quarterly Performance Reports, February, 2000 through July 31, 2001
10. Association of Ukrainian Cities, Annual Report, 2000
11. Eurasia Foundation, Quarterly Reports, Winter, 2000 through Spring, 2001
12. The World Bank, Planning Document for a Ukraine Municipal Development Loan Program, 2001

APPENDIX J.

ASSESSMENT TEAM COMPOSITION

DEVELOPMENT ASSOCIATES' STAFF

Team Leader — L. Alan Beals

Mr. Beals, a Development Associates' technical specialist, has had an outstanding career in municipal government primarily in the U.S. but abroad as well. As the long-time Executive Director of the National League of Cities and retired President/CEO of the Savannah, GA Chambers of Commerce, Mr. Beals has devoted his impressive 40-year career to the improvement and sustainability of services provided by cities and counties in the United States, and to some extent abroad as well. He has long fostered the professionalism of city/county officials. He also has significant experience in encouraging the development of and interacting with local government- focused civic associations. In 1998 he served as a member of a Development Associates' team evaluating USAID municipal activities in Moldavia. Following completion of the assignment, we received a letter from the project officer thanking us for a job well done and commending Mr. Beals for his exemplary analytic skills and lucid report writing. His work focused on budget, finance and training and the extent to which democratic and decentralization activities can be supported in Moldavia. Since that time Mr. Beals has carried out several assignments for the Inter-American Development Bank in the Caribbean. Prior to his retirement, he was a founding member and long-term board member of Sister Cities International and of the International Union of Local Authorities. He has also served as a consultant to the OECD and UNEP. Mr. Beals' extensive experience in local government management, public policy, civic association relations, legislation, economic development and intergovernmental relations will serve him well as Team Leader. He is recognized in the United States as a pre-eminent local government practitioner and authority.

Municipal Development & Services Specialist — Richard Kobayashi

Mr. Kobayashi has more than 25 years of experience in the management and planning of municipal functions, policy and legislative analysis, training and technical assistance. He has extensive experience working in the E&E Region on municipal projects, including assignments in Ukraine, Russia, Poland, Armenia, Slovakia, and Bosnia. In Ukraine Mr. Koybayashi served as an advisor to the Association of Ukrainian Cities to foster public education on the role of cities. He has a strong background in municipal water and sewer operations.

Ukrainian Legal Environmental Specialist — Olha Anne Holoyda, JD

Ms. Holoyda is the former director of the USAID-funded Legal Section of the agricultural Land Shave Program. Ukraine. She supervised some 20 attorneys and other professional staff in developing legal strategy at the national and local level. Ms. Holoyda is highly knowledgeable about the legal environment for both the NGO and private business sectors. A Ukrainian by nationality, she is an American citizen and holds a law degree from the Catholic University of

America and has done postgraduate studies in international trade law and regulation at Georgetown University.

Ukrainian Legal Environmental Specialist — Serhii Kalchenko

Mr. Kalchenko currently is the Executive Director of the Ukrainian Legal Foundation (ULF) responsible for directing its programs and personnel. He has worked on a wide range of legal issues and projects in Ukraine and is knowledgeable about the laws and regulations affecting the NGO community and the private sector. He has considerable international experience working with international donors on legal and judicial programs. Mr. Kalchenko speaks both Ukrainian and Russian and is fluent in English.