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**ADMINISTRATION OF JUSTICE**  
**SUPPORT**  
**PROJECT IDENTIFICATION**  
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## LIST OF ACRONYMS

AOJ	Administration of Justice
BAFO	Best and Final Offer
CDIE	USAID's Center for Information and Evaluation
CPS	Conditions Precedent
FTE	Full Time Equivalent
GOE	Government of Egypt
HRDC	USAID/Cairo's Directorate for Human Resource and Development Cooperation
IDS	USAID/Cairo's Office of Institutional Development and Support
IDSC	Cabinet's Information and Decision Support Center
JIC	Judicial Information Center
LAC	USAID/W's Bureau for Latin American and the Caribbean
MOJ	Ministry of Justice
NASJE	National Association of State Judicial Educators
NCJS	National Center for Judicial Studies
NGO	Non-Governmental Organization
PASA	Participating Agency Services Agreement
PCS	Personal Computers
TEP	Technical Evaluation Panel
UNDP	United Nations Development Program
USG	United States Government
USIS	United States Information Service
WID	Women in Development

## EXECUTIVE SUMMARY

The Administration of Justice Support Project is the first major project undertaken by the Mission in the justice sector to address priority areas in the context of the GOE and USAID strategies. It is consistent with one of the three sub-goals that USAID/Cairo has selected as part of the Mission Strategy: to create an enabling environment for sustainable democracy. In the context of this sub-goal, the Mission has identified the following strategic objective: strengthened democratic institutions contributing to lawful governance. This strategic objective has three distinct program outcomes, one of which relates to the justice sector: the justice sector delivering judicial services in a more timely fashion and applies the rule of law.

A good legal system and efficient administration of justice provide confidence to the general population. Egypt's legal system is not offering today the security and predictability of an efficient and expedient system; it is over-burdened, slow, and unable to respond to the needs of the people. Two of the major causes for this problem appear to be weak court administration and a poorly informed judiciary.

The Project goal is to support the strengthening of democratic institutions which contribute to lawful governance. The Project purpose is to enhance the capability of the justice sector to: (1) deliver judicial services in a more timely fashion and (2) apply the rule of law. Both the Project goal and purpose further the Mission sub-goal of creating an enabling environment for sustainable democracy.

The Project activities were designed to respond to the two major constraints of weak court administration and a poorly informed judiciary.

In the area of "Court Administration Improvement", the project will undertake the following activities in two pilot courts:

- **Automation of the Administration of Pilot Courts** - Through a "process re-engineering" approach, administrative changes within the jurisdiction of the MOJ will be identified. These improved procedures will be automated as appropriate.

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<sup>1</sup> Where the term judiciary is used, the intent is to cover judges, prosecutors, relevant court personnel, and practicing attorneys.

<sup>2</sup> Annex 1 presents a preliminary Logical Framework.

- **Training Programs for Court Personnel** - A number of different types of training will be necessary to support the new automated systems developed under the previous activity.
- **Identification of Regulatory Reforms** - Other procedures that go beyond the MOJ jurisdiction may also require changes. In order to promote these changes, a Procedural and Regulatory Reform Task Force will be created and charged with identifying the specific reforms and initiating the necessary steps to implement the reforms.
- **Training in Use of Automated Database** - The Project will train judges on the use of hardware and existing legal information database. It will also provide software packages such as word processing and appropriate legal software in order to facilitate the judicial workload.

In the area of "Informed Judiciary", the Project will undertake the following activities:

- **Training Programs for Judges** - The Project will provide support to the NCJS which will enable it to provide the judiciary with the necessary training to upgrade its skills. This support consists of: curriculum development and training (for career-long judicial education/training, clinical court training, legal English, and judicial exchanges); research and training materials; assistance to strengthen the administration of training programs.
- **Training Programs for Lawyers** - The Project intends to provide training opportunities (e.g., conferences, workshops, etc.) to lawyers to enhance their skills and acquaint them with new international or specialized legal trends, automation of legal data and legal research trends, etc.

## Summary Project Budget (\$000)

COMPONENT	ESTIMATED FUNDING
Technical Assistance Audit/Evaluation/Assessment USAID (ESF) TOTAL	
Participant Training Air Fare PCs for Judges GOE (FT-800) TOTAL	
PROJECT TOTAL	

USAID Project inputs will consist of Technical Assistance (and associated training and commodities) and Evaluations/Audits/Assessments. The GOE implementing agency will be the Ministry of Justice. Within the MOJ, Project counterparts will be assigned in the National Center for Judicial Studies and in the two pilot court systems.

The Project will improve the judiciary's capability to be more responsive to present and emerging needs. Thus, the target group for Project activities will be judges, court officials, court administrators, court support staff, and lawyers. By the end of the Project, it is expected: that in the pilot courts, judicial processes will be more responsive to the needs of the public; and that in the pilot areas, confidence levels will have risen in the responsiveness and effectiveness of the judiciary. Opinion polls in the pilot areas administered periodically throughout the Project will measure this increased confidence. The direct benefits likely to result from the proposed improvements include reduction in court time and court costs for disputes that are brought to the courts; and fairer and more predictable court outcomes. Indirect benefits would take the form of greater efficiency in carrying out business; this in turn could trigger a higher level of investment due to the greater ease of doing business in Egypt.

## I. PROGRAM FACTORS

### A. Conformity with Recipient Country Strategy/Programs

In its third consecutive Five Year Plan for Economic and Social Development (1992/3 - 1996/7), the GOE has earmarked close to LE 200 million (approximately US\$ 59 million) for the justice sector. GOE developmental priorities in this sector include the following:

- Using modern technology in the logging, filing and collection of cases, documents and other legal material in the Ministry of Justice (MOJ), in order to make the administration of justice more effective. The government's objective is to reduce case backlog and alleviate public suffering, particularly in the courts and bureaus of registration.

In the GOE 1992/93 annual Development Plan, approximately LE 40 million were allocated to implement activities in the justice sector, the most important of which are the following:

- The establishment of new model bureaus of registration on a governorate level, and equipping these centers with modern equipment to facilitate customer service.
- The provision of modern equipment for case filing to the MOJ's governorate offices of the judiciary and prosecution.

The Plan clearly places high priority in making the delivery of justice more efficient and timely. The proposed Project conforms to the GOE's identified needs in the justice sector, and addresses critical constraints related to court management, and technical and legal expertise.

This proposed Project is based on a request prepared and submitted to USAID in early 1993 by the MOJ to create an integrated automated information system. The MOJ began work in this area in 1987, by contracting with a local firm for site preparation for computers, the procurement of computers, and training Ministry staff to operate a management information system (MIS). The MOJ proposal involves four distinct initiatives: (a) the development of an automated legal database for use by judges in researching cases; (b) a plan to place personal computers (PCs) in the homes of judges to allow them to access the database; (c) a plan to automate all aspects of the

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<sup>3</sup> These are all encompassing registration offices, where citizens register ownership of cars, real estate and other kinds of property, and to arrange for power of attorney.

administration of the courts; and (d) the development of a stand-alone database containing personnel information on judges.

This last activity is near completion. In addition, staff of the Ministry of Justice Information Center (JIC), are already entering the key principles of the Court of Cassation from 1931 to 1985. Also, on a test basis, the staff have entered selected decisions from the eight published volumes of the Supreme Constitutional Court. The Information Center has developed a software package for the search and retrieval of information from the database.

Furthermore, the Center hopes to supplement the database with the complete text of existing laws and decrees. The Ministry has been coordinating in this area with the Cabinet Information and Decision Support Center (IDSC), which is in the process of streamlining and automating all existing laws and decrees. The IDSC has plans to consolidate the presently existing 60,000 laws and decrees into approximately 4,000 - 5,000. This initiative is part of a legislative reform program designed to support economic development by eliminating the current confusion in existing legislation. In addition, the People's Assembly/Shura Council, is also in the process of automating Egypt's laws and decrees. Ideally, the IDSC database of 4,000 streamlined laws should be added to the MOJ database at the commencement of this Project.

#### **B. Relationship to the Strategy/Action Plan**

USAID/Washington has adopted the promotion of sustainable democracy as one of its major long term objectives, together with economic growth, health and population, and environment. Sustainable democracy is hereby defined as representative governance within the context of the rule of law. In January 1994, USAID/W drafted a document entitled "Strategies for Sustainable Development", which includes an emphasis on building democracy. While this document has yet to be finalized and approved officially, the Agency's broad parameters for assistance in this sector include, but are not limited to, the following:

- Constitutional mechanisms, including technical and organizational assistance to constitutional conventions and constitution-makers.
- Democratically-elected legislatures, including programs to improve the material, technical, and decision-making capabilities of legislatures.

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<sup>4</sup> Annex 2 provides a schematic which lays out the organizational relationships in the judicial system and the responsibilities of the various courts.

- **Legal systems, including independent judiciaries and civilian-controlled police, and alternative and informal mechanisms for resolving disputes.**

To work towards USAID's goal of the transition to and consolidation of democratic regimes throughout the world, USAID/Cairo has selected as one of its three sub-goals the creation of the enabling environment for sustainable democracy and has identified the following **strategic objective** to be attained: strengthened democratic institutions contributing to lawful governance. This strategic objective has three distinct program outcomes, one of which relates to the justice sector: the justice sector delivering judicial services in a more timely fashion and applies the rule of law. The Mission will support efforts of Egyptian counterparts within the justice sector to improve the timely delivery of justice and to make decisions more responsive to public needs including those of the emerging private sector.

Egypt has an independent judicial sector which is hampered by outmoded administrative procedures and judges, lawyers and other judicial personnel who lack knowledge of new legal trends, making them less than fully responsive to the needs of the emerging private sector. Constraints to the effective administration of justice include the following:

- **Judicial personnel insufficiently prepared in court management and case administration;**
- **Inadequate and outdated court procedures which invite stalling tactics in processing cases;**
- **Ineffective sanctions or other mechanisms to enforce decisions or adherence to procedures;**
- **Lack of alternative dispute resolution mechanisms;**
- **Difficult access to legal information by both the judiciary and the general public;**
- **General lack of familiarity with and responsiveness to needs of the emerging private sector on the part of the judiciary.**

**These inadequacies are creating a lack of confidence in the rule of law within the general public, and particularly among the local and foreign business community. They impose constraints on newer and smaller Egyptian private investors and expatriate trade and investment enterprises who are concerned that contracts entered into might not be enforced, or that justice will not be delivered in a timely and predictable manner.**

Within the USAID/Cairo strategy period (1994 - 2001), the Mission plans to design and implement activities that respond to USAID/W's and USAID/Cairo's strategy in government and democracy. Two interim justice sector activities are already underway (see below), and this first bilateral project will address some of the constraints identified above.

As a precursor to this first bilateral project in the justice sector, USAID/Cairo and Egyptian counterparts are implementing two interim activities: A two-year Participating Agency Services Agreement (PASA) with USIS for legal-judicial training that includes judicial exchanges, provision of American legal materials translated into Arabic and technical assistance from the Institute for the Study and Development of Legal Systems (known as the Mayo Group); and a three-year grant to AMIDEAST for a legal rights training activity. The latter activity funds workshops that raise awareness of participants on various legal rights topics by bringing together leaders in human rights groups, lawyers and academics. This proposed Project thus constitutes the third activity undertaken by the Mission to address priority areas in the justice sector in the context of GOE and USAID strategies.

## II. PROJECT DESCRIPTION

### A. Perceived Problem

A good legal system and efficient administration of justice provide confidence to the general population. Laws and procedures should be clear and impartially applied, so that when courts must be used to resolve conflicts, every citizen can expect expedient and fair resolution of his/her conflicts. A judiciary that is timely and applies to the rule of law is essential to any democratic system, and is doubly important to an emerging private sector as the country embarks on the road to privatization and a market driven economy.

Egypt's legal system is not offering today the security and predictability of an efficient and expedient system; it is overburdened, slow, and unable to respond to the needs of the people. Two of the major causes for this appear to be weak court administration and a poorly informed judiciary.<sup>5</sup>

**Court Administration:** The courts are burdened with unmanageable case loads. The number of accumulated civil cases in the Cairo

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<sup>5</sup> Annex 3 analyzes other constraints currently being faced by the Egyptian judicial sector and provides background on the Mission's decision to use this Project to address the weak court administration and the poorly-informed judiciary.

Court of Appeals alone is 60,000 cases. The approximately 3000 judges are required to review weekly between 200-400 cases each, and must decide at least 24 cases each month. Judges for the most part have no offices; they are assigned to work in different provinces of Egypt to which they commute, working there one to two weeks per month. The remainder of the time is spent reviewing and researching cases working from their homes. They have no secretarial or clerical support and lack funds for even simple paper supplies. Most importantly, their only reference materials are often personal law libraries.

Under current procedures, the judges handwrite their judgements in pencil. In civil cases, the handwritten judgements are given to a court typist; in criminal cases, the judgements usually remain in the case record in handwritten form. In both cases, the process is time consuming. If the handwritten or typed judgements are lost or misplaced, they cannot be replaced since there is no electronic storage system. The judgements are also subject to tampering and to breaches of confidentiality. There is also a high risk of the judgements being misfiled. Finally, retrieval of the judgements is time-consuming and cumbersome.

Every year the Court manages to resolve only 50 percent of its cases. Parties to a suit have great difficulty accessing information on the status of a case and most of the time information is totally inaccessible or hard to get. Systems for case assignment, docketing and tracking are archaic and inadequate, creating a general feeling of judicial unpredictability. While these court administration problems are within the Court's authority to resolve, other court administration problems can be addressed only through legal and regulatory reforms. For example, the fact that the decisions of most cases at the lower level can be appealed automatically by the losing party, adds to the case backlog. Cases can also be delayed almost indefinitely, since the penalties involved for frivolous dilatory tactics range from non-existent to minimal, with fines averaging from LE 1 to LE 20 (maximum of about \$6).

**The Judiciary:** The Egyptian judiciary has long enjoyed a distinguished history as an independent branch of government; however, the socialist regime instituted by Nasser had at least three negative effects on the justice sector: it reduced incentives to enter the legal profession by nationalizing most private enterprise, thereby decreasing demand for legal services and thereby potential income. Secondly, it created at least one generation of judges with little familiarity in international commercial transactions, and also private sector transactions at the domestic level. Thirdly, the quality of legal and judicial education deteriorated rapidly, in part due to the government's emphasis on other professions (the military, engineering and medicine), and in part due to the growth of university enrollments caused by socialist promises of universal free higher

education. Mass lectures and classes provided little opportunity for classroom discussion and none for legal analysis exercises or clinical education.

Created in 1981, the MOJ's National Center for Judicial Studies (NCJS), has been responsible for educating and training the Egyptian judiciary for the last thirteen years (of the approximate 5,000 members of the judiciary, 3,000 are judges). Although it has this formal responsibility for training judges, it does not at present offer any substantial training in this area. The NCJS also: prepares non-judges (such as forensic doctors, experts and notaries) to assist the judiciary competently; serves as a clearinghouse for information, legislation, and legal research; and aids other Islamic and Arab countries in meeting their judicial personnel and legal information needs. Presently, although the NCJS offers a four month course for new entry criminal prosecutors (some of whom eventually become judges) there is no formal training program for judges. The annual budget for the NCJS has remained the same since 1981 at \$180,000 annually. Overall, the NCJS is not meeting its objective of preparing members of the judicial agencies both theoretically and practically for judicial work because of a crippling absence of professional staff. Judicial education today is an indispensable means for enhancing the fair and efficient administration of justice in Egypt. The success or failure of Egyptian courts to protect the public welfare and individual freedoms may well depend, to a great extent, on making the NCJS the top quality judicial school it was intended to be.

There are also at present, no formal mechanisms for upgrading or keeping lawyers and judges up-to-date on new legal trends. This is particularly important given that so many received their training during the socialist years and are not well versed in the emerging needs of the private sector.

Now, as Egypt enters a period of economic re-structuring and privatization, there is pressing need for an efficient, predictable, and timely administration of justice. Solutions need to be found to reduce the court backlogs, to speed up the delivery of justice, and to make the system more responsive to existing and new needs of the nation.

#### B. Project Goal and Purpose

The Project goal is to support the strengthening of democratic institutions which contribute to lawful governance. The Project purpose is to enhance the capability of the justice sector to: (1) deliver judicial services in a more timely fashion and (2) apply the rule of law. Both the Project goal and purpose further the Mission sub-goal of creating an enabling environment for sustainable democracy. Sustainable democracy is defined as representative governance within the context of the rule of law.

The "enabling environment" means the existence of transparent and predictable institutions which represent and express popular opinions, provide pluralistic participation in governance, and respect for the rule of law. An underlying environment which reinforces the rule of law is a necessary condition for a sustainable democracy. New technology and systems will improve the administration of justice by reducing the case backlog and increasing the number of cases resolved per month. Procedures will be streamlined and revised where needed to facilitate delivery of services. Judges and attorneys who are fully conversant with new, improved laws affecting commerce (both domestic and international) will facilitate quicker and better informed decisions on contract disputes or other related matters impeding growth of the private sector. Relief from prolonged delays in the resolution of cases will stimulate private initiative and generally increase public confidence in the rule of law.

In light of the above, the new Project proposes a two pronged approach to the problems besetting the justice sector:

**Improved Court Administration:** The Project will streamline court procedures, increase court efficiency, and reduce court backlogs through reforms, training and automation. These activities will be implemented on a pilot basis and evaluated during the Life of Project.

**Informed Judiciary:** The Project will improve the judiciary's capabilities to be more responsive to present and emerging needs, both through administrative training and through workshops, seminars, and other mechanisms to introduce new and emerging fields of law, particularly as they relate to an open market economy. Substantive training in little known or overlooked subjects such as alternative dispute resolution, commercial law, international contracting, use of databases, etc., will make the judiciary more responsive to the needs of the emerging private sector.

Progress in these two areas towards achievement of the Project purpose will be measured by tracking the following benchmark indicators. Data is being drawn from civil and commercial cases at a sample of three circuits each at the First Instance Court, the Appeals Court, and the High Appeals Court of both North Cairo and Ismailia.

- Case processing time (from docketing to assignment; and from assignment to decision) (1992-93 Baseline data, see annex 7)
- Court Backlog (1992-93 Baseline data see annex 7)

### C. Expected Achievements/Accomplishments

An improved court administration and a more informed judiciary will result in a more efficient and transparent administration of justice which will enhance Egypt's transition to a more democratic society, where conflicts will be resolved in adherence to due process and the rule of law. An improved court administration, and an informed judiciary are essential elements without which democracy will falter and economic growth will be thwarted.

By the end of the Project, it is expected: that in the pilot courts, judicial processes will be more responsive to the needs of the public; and that in the pilot areas, confidence levels will have risen in the responsiveness and effectiveness of the judiciary. Opinion polls in the pilot areas administered periodically throughout the Project will measure this increased confidence. This will be achieved through the outputs indicated below.

In the area of improved court administration, the following will be accomplished:

- (1) Two pilot court systems are fully functioning with judicial, administrative and financial functions streamlined and automated.
- (2) Court personnel are trained in automated administration systems.
- (3) Judges in the pilot areas have received training in the use of the legal database.
- (4) Major structural causes of delays in delivery of justice (requiring regulatory change) have been identified and methods for overcoming them have been proposed.

In the area of enhanced capability of the judiciary to apply the rule of law, the following will be accomplished:

- (1) NCJS offers regular entry-level courses for new judges (inter alia, court administration, trial techniques, etc.) and continued legal education courses for judges already in the system (e.g. new trends in international contracting, commercial law, etc.).
- (2) Judges have improved knowledge and understanding in subjects relevant to the structural adjustment efforts of the GOE (e.g. commercial law, international contracts law, alternative dispute

resolution mechanisms, etc.) as well as other appropriate topics.

- (3) A selected number of lawyers have improved knowledge and understanding of new modern legal trends in such fields as commercial law, international contracts law, alternative dispute resolution mechanisms, etc.

#### D. Project Outline and How It Will Work

This Project will work with the MOJ (including the NCJS), to strengthen key judicial systems, improve judicial administration, and train judges, court personnel and attorneys in both the administrative and substantive skills needed to make justice more responsive to citizens' needs. The activities described in this Project primarily address the institutional capacity of the Court to perform its intended legal functions. One set of changes are under the jurisdiction of regional courts and will be addressed early in the Project for this reason. Technical assistance will be provided early in the Project to assess administrative and management changes that will streamline these procedures and recommend these to the court administration office of the MOJ. The other set, however, are equally critical to improved administration of justice, and involve, inter alia penalties, decision-enforcement mechanisms, appeal procedures. These require reforms in the legal codes and will be much more time consuming to bring about. Most are ultimately subject to approval by the legislature. The Project intends to provide technical assistance to a working group to strengthen its ability to prioritize changes needed and suggest new language to the People's Assembly in critical areas.

In coordination with the MOJ, two pilot areas will be selected, one probably in Cairo and the other in a provincial setting. Each pilot will consist of a system including first instance, commercial, and appellate courts.

The Project will also identify appropriate groups and NGOs to work with lawyers on upgrading their legal knowledge.

Improving the administration of justice in Egypt will be approached in the following manner:

##### 1. Court Administration Improvement

a. Automation of the Administration of Pilot Courts -  
Automation can help to facilitate the research activities of judges, reduce duplication of effort by court personnel, provide litigants with better access to information on their cases, and strengthen administration and accountability. However, automation will only improve the efficiency of the courts and

make it easier to identify and resolve the causes of court delays, if carried out in conjunction with changes in overall court administration and in selected court procedures. The changes in court administration systems and procedures should involve a "process re-engineering" approach to decrease current inefficient and error-prone procedures. The administrative changes to be undertaken under this activity are within the jurisdiction of the MOJ and these changes do not require any National Assembly action which would mean lengthy delays and legislative debate (as is the case with the regulatory changes indicated below). These improved procedures will be automated as appropriate. Ideally, the court automated system should encompass the maximum number of specific processes within the judicial system, and could include:

- Case filing, docketing, and "calendaring".
- Service of subpoenas.
- Court reporting.
- Recording the results of court hearings.
- Processing of cases by experts.
- Recording of judgements.
- Archiving and retrieval of case records.
- Calculation and tracking of court fees and payments.
- Communication of information among different courts.
- Management reporting.
- Personnel administration, payroll, and fiscal reporting.

**b. Training Programs for Court Personnel** - Automation initiatives can only have a major impact in reducing delays in the Egyptian judicial system if they are preceded and/or accompanied by concurrent changes in court administration and procedures. A number of different types of training will be necessary to support the new automated systems described previously. They include:

- Training in the new procedures that are created as a result of "process re-engineering".
- Training programs required to support the automation of court administration at the pilot sites.
- Training in the development and maintenance of new automated applications.

The Project will provide the necessary technical assistance to ensure that all training activities are planned and implemented to maximize acceptance and utilization of new systems as well as any regulatory and procedural changes implemented by the GOE.

**c. Identification of Regulatory Reforms** - Other "non-system" changes are necessary to help eliminate delays in the processing of cases and to address other problems facing the courts. If

these regulatory reforms are implemented in conjunction with those procedural functions that will be automated in the pilot courts, the impact on the efficiency and timeliness of case processing by the courts will be significant; further, it should be possible to reduce court backlogs substantially without increasing the number of judges or other court personnel. Following are a number of "priority areas" for "process re-engineering" that should be emphasized in terms of regulatory reforms. These areas will require changes that go beyond the MOJ jurisdiction. The changes will have to be submitted to the National Assembly for discussion and passage. This is usually a lengthy and complicated process. Some of the priority areas that need to be addressed are:

- Service of process.
- Use of experts.
- Time limits for the submittal of evidence.
- Appeal procedures and fees.
- Post-judgement court fees.
- Deadlines for the Court of Cassation prosecutors.
- Penalties and enforcement procedures.

In order to promote these changes, a Procedural and Regulatory Reform Task Force will be created and charged with identifying the specific reforms and initiating the necessary steps to implement the reforms. The Task Force shall include MOJ officials, selected legislators, a number of judges (both senior and junior), and attorneys. During the Project, a series of short-term technical assistance in specific areas will be provided to the Task Force to help ensure that it meets its objectives of identifying procedural and regulatory reforms for improved administration of justice. There may be other areas that require reforming and they will be identified accordingly. As previously noted, many of the reforms mentioned above will require not only administrative changes but also modifications to legal procedures.

d. Training in Use of Automated Database - The MOJ will provide PCs to approximately eighty judges working in the pilot courts. The Project will provide the required technical assistance and training to maximize utilization of computers and the automated database by these judges. The Project will not only train on the use of the hardware and the database (primarily precedent needed to decide cases), but will also provide software packages such as word processing and appropriate legal software in order to facilitate the judicial workload. The Project will also investigate the feasibility of connecting the judges of the pilot courts into an electronic mail system to allow for conferencing.

## 2. Informed Judiciary

The quality of justice in any nation ultimately depends on the knowledge of its judges. Legal rules and court systems do not operate automatically, nor do cases decide themselves. Even with the best laws and the most modern court system, justice can never be better than the people who administer it. The Project will undertake the following activities to increase the judiciary's capability to apply the rule of law:

a. Training Programs for Judges - The Project will provide support to the NCJS which will enable it to provide the judiciary with the necessary training to upgrade their skills. This support will be in the following manner:

### i) Curriculum Development

- **Career-long Judicial Education and Training.** An upgraded training program will be instituted at NCJS on a phased-in basis. Approaches could include basic judicial education for new judges; in-residence orientation programs for judges newly elevated to primary courts and courts of appeals; continuing education in the form of a series of annual nationwide conferences to assist judges in maintaining their judicial competence by studying recent law changes in their particular areas of judicial expertise; and/or advanced judicial studies to broaden the competence and stimulate the growth of experienced judges.

- **Clinical Court Training.** For both new and sitting judges, the NCJS will present clinical, learning-by-doing courses to provide them with practical skills, techniques, and values that judges need to discharge their judicial functions properly.

- **Legal English Program.** Legal English courses will be made available to judges, especially for those involved with commercial and contracts issues. In many areas of law reform and court modernization, Egypt is moving increasingly closer to the common law system, particularly that of the United States. To benefit from the extensive research and practical examples available in the common law countries, at least the faculty judges and court research staff must be proficient in legal English.

- **Judicial Exchanges.** Faculty-judges from the United States (and other relevant countries) will be invited to teach special courses at the NCJS, particularly in new and developing subject areas and on special topics of major social concern. These judges will also demonstrate and transfer to the NCJS faculty the use of modern teaching-learning methods. A small number of Egyptian faculty-judges

will also travel to the United States and other relevant countries for study and observation.

ii) **Research and Training Materials**

• **CD-ROM and Computers.** The NCJS will be provided with the necessary equipment to place all materials in CD-ROM and computers. All pilot courts selected to participate in the court automation activity and in the use of the legal database will also participate in accessing this CD-ROM information.

• **Library and Clearinghouse.** Technical assistance will be provided to upgrade the functions delivered by the library staff. In addition, a limited number of reference books and materials on selected topics will be provided to up-date the NCJS library's holdings.

• **Central Research.** A central legal research facility will be established in the NCJS. On request by telephone or otherwise from judges, the research staff will be able to perform needed legal research on both substantive and procedural issues.

• **Judicial Publications and Tapes.** Technical assistance will be provided to develop "how to" bench books, bench guides, and journals for judges to use. Also, under the Project, modern audio-visual equipment will be procured in order to develop an ongoing series of videotapes and audiotapes for the judges to use.

iii) **Strengthened Administration of Training Programs**

• **Judicial Planning Committees.** NCJS will be assisted in establishing representative committees of judges to plan, present, and evaluate its judicial education programs.

• **MOJ/NCJS Governing Board.** Technical assistance will be provided to strengthen the existing board in order to better supervise and work with the NCJS, its programs, and staff. The present board will be extended in order to incorporate top officials representing the different court levels. The board itself will appoint special steering committees for judges' training, prosecutors' training, court staff training, etc.

**b. Training Programs for Lawyers** - All the substantive and technical assistance that the judges will receive through the Life of Project will help to produce better informed and technically equipped judges who dispose of cases in a more predictable and faster fashion. However, no work with the justice sector could be complete if it did not include practicing

attorneys. The attorney appearing in front of an upgraded judge needs the same substantive and technical tools to be a good advocate of his/her client and to be able to represent his/her client's interest in the best possible way. In Egypt, as in the United States, an attorney must be admitted to the Bar in order to appear before the Courts. The Lawyers Syndicate fulfills that role in Egypt. Its headquarters are in Cairo with branches in each of the governorates. However, there are other institutions that also represent attorneys, such as the Association of Graduates of the Faculty of Law of Alexandria University, an NGO which is twenty-five years old. This NGO represents all areas of the justice sector including judges and lawyers. Another regional NGO has just begun operating in the Delta (Mansura).

Possible activities to upgrade the skills of practicing attorneys could include yearly conferences to acquaint lawyers with new international legal trends, workshops that promote continued legal education, and specialized courses bringing them up-to-date on specialized legal trends, automated legal data and how to best utilize it, new trends in legal research, streamlined court procedures, etc. It is also expected that a number of lawyers will participate in observational visits outside of Egypt.

### III. FACTORS AFFECTING PROJECT SELECTION AND FURTHER DEVELOPMENT

#### A. Social Considerations

##### 1. Socio-Cultural Context

Judges are appointed by a Supreme Judicial Council which makes all decisions regarding the overall administration of the ordinary courts, including recommendations regarding the appointment, promotion and pay of judges to the President. Although this council is formally a part of the MOJ, judicial independence is guaranteed by a law which provides absolute freedom of speech for judges, allowing them to speak out openly to protect the law or challenge and question actions perceived as unconstitutional or unjust.

Judges enjoy high prestige in Egypt. To qualify, candidates must be at the top of their law classes and come from impeccable backgrounds, with no shadow of scandal or misdoings. Judges begin their careers by serving as prosecutors for some years, then gradually they work their way up the ladder of the court structure. From the beginning of their careers, judges and lawyers follow separate paths; interaction between these groups is strongly discouraged to safeguard the neutrality of the profession. This is especially important in systems such as the one applied in Egypt where the judge renders judgement without the support of a jury.

## 2. Beneficiaries

The Project will improve the judiciary's capability to be more responsive to present and emerging needs, both through administrative training and training in fields of new interest in Egypt such as commercial law. In this regard the Project will provide training for four categories of beneficiaries: selected MOJ officials, senior judges and court officials; judges/court administrators; court support staff; and lawyers.

a. Selected MOJ officials, senior judges and court officials - This group (from the pilot courts) will receive training in administration of courts, and the judges will also receive training (in the form of conferences and workshops) in new fields such as commercial law, arbitration, international issues, or other areas neglected during the socialist years. It is likely that some of these officials may not fully understand all of the advantages and implications of full-scale automation. Such will require the establishment of orientation programs for senior officials and judges to acquaint them with these advantages and implications, since their commitment is critical to the success of automating the courts.

b. Judges/Court Administrators - It should be pointed out that judges and prosecutors perform different roles in the judicial system. Of the 5,000 members of the judiciary, about 3,000 are judges. However, judges often move back and forth between serving as judges and prosecutors until they reach the senior judicial levels. Thus, while 300 prosecutors a year may become judges, 250 sitting judges may return to serve as prosecutors that year, for only a small gain in the total number of judges. No woman has ever been selected as a judge or public prosecutor; a few women now serve as administrative prosecutors.

Like lawyers in civil cases, prosecutors represent the state in prosecuting or presenting criminal cases in courts; judges in turn must hear the evidence and decide the cases. The knowledge, skills, and values of judges are vastly different from those of the prosecutors.

A lack of continuing education and training for judges is perhaps the most significant deficiency in Egypt's justice system. Insufficient background in new areas of law constrains the judges in adjudicating in these areas, thereby making them less than fully responsive to new needs and creating a lack of confidence in the legal system on the part of the private sector. Gaps in education plus the absence of training in court administration and "judging" contribute to slowing the flow of cases through the system. More expeditious rendering of justice from judges who are more informed on the issues is one of the major benefits expected from this Project.

c. Court Support Staff - Training programs will be designed by NCJS to target all court support staff. Priority will be given to developing the capability of the MOJ to train bailiffs, court clerks and other court support staff. They will receive practical training in skills critical to their jobs. As the streamlining occurs, some of these jobs may have to be eliminated; court personnel affected by this need to be retrained in areas either relevant to the automation or other ones.

d. Lawyers - Lawyers are classified into four categories in the general register of lawyers maintained by the Bar:

(i) Lawyers entitled to practice before the Court of Cassation and the Supreme Administrative Court of Council of State,

(ii) Lawyers entitled to practice before the Courts of Appeal and the Court of Administrative Justice,

(iii) Lawyers entitled to practice before courts of first instance and the lower administrative courts, and

(iv) Lawyers serving their apprenticeship.

Completion of apprenticeship which normally lasts for two years, is a condition before a lawyer is entitled to practice before courts of first instance. Three years of practice before the latter are required before a lawyer could practice before a court of appeal. Finally, to be eligible to appear before the Court of Cassation a lawyer must actually have practiced for seven years before the court of appeals and his/her application must also be approved by a special committee.

Registered lawyers have the exclusive right to represent other persons in courts, public prosecutors offices, arbitration proceedings, public headquarters, and all organs conducting criminal, administrative or social investigations. Moreover, court acts with a value of LE 1,500 or more may not be registered at the office of any notary unless they have been signed by a lawyer registered to practice before the court of first instance. Also any private company or joint stock company whose capital exceeds LE 50,000, in addition to whatever legal staff it may employ, must have as a legal advisor a lawyer qualified to practice before the courts of appeal.

In Egypt, the law degree is one of the general first degrees offered at university that do not have stringent entry requirements. It is therefore a very popular degree and the classes are correspondingly overcrowded, with 1,000 students in a huge lecture hall being the norm. Under these circumstances, education is extremely academic, oriented to formal lectures with virtually no give and take, practicums, or opportunities to

debate and question points. Adding to this problem of large lecture-oriented classes is the important fact that at least half the practicing lawyers received their education during the Nasser era when private sector issues and a market-oriented economy did not exist. They therefore lack in-depth training and familiarity with legal issues emerging as the economy undergoes a transition. The Project will work with alumni groups from law schools and other similar organizations to organize workshops at which lawyers can be exposed to new legal areas in a highly-participatory setting, similar to Bar Association meetings in the U.S.

### 3. Participation

All Project activities have been developed and must continue to be developed in a participatory framework. The request for the Project came from the MOJ after six months of discussions. USAID then sponsored two teams of technicians who worked closely with the MOJ to review the proposal and develop it. Both reports were not only prepared in a highly collaborative manner, but were then fully discussed at the Ministry with the consultants present.

The list of persons with whom the technical assessment teams spoke during the course of undertaking these assessments, which preceded PID development, includes MOJ officials, judges and NCJS staff, and officials from the Supreme Constitutional Court, the Court of Cassation, and the State Council.

Potential categories of beneficiaries who could either be adversely affected by the Project or who could oppose it include the following:

- Senior judges who have developed their long experience on the prevailing practices. The introduction of automation methods and systems could leave them lagging behind and not being able to cope with the introduced technologies. The Project will target the younger judges for training in computer use and automation techniques; however, orientation and training will, among other things, aim to convince this group of the value of streamlining and automation to capture their support.
- Court personnel whose jobs might become redundant due to the automation process. All efforts will be made, where feasible, to retrain redundant personnel in new jobs created by automation within the courts.
- Legal or judicial personnel who benefit from the system as it is. This could include attorneys who use delays to increase earnings, as well as court personnel at any level who under present conditions, have rent-seeking opportunities which could be eliminated by streamlining,

automation and the resulting transparency. As Project implementation continues, Project counterparts and technical assistance will identify and work closely with the constituency supporting streamlined and more efficient and responsive judicial processes. It is expected that this group, which includes most of the private sector as well as a large portion of judges and attorneys, will be able to argue effectively for the reforms needed to make this Project succeed.

#### 4. Socio-Cultural Feasibility

Given the strong, stated support for the Project by senior officials of the MOJ and other judicial bodies, i.e. Constitutional Court, State Council, Court of Cassation, and also given the bureaucratic culture of centralized decision-making by such bodies, the PID team considers the overall Project feasible from a broad socio-cultural perspective. Given USAID's commitment to supporting more effective mechanisms for the enhancement of the administration of justice, and the potential for this Project to do so, supporting the MOJ's efforts at incorporating these mechanisms, in a low-key and technically-focussed manner, is appropriate.

Judicial education today is an indispensable means for enhancing the fair and efficient administration of justice in Egypt. The success or failure of Egyptian courts to protect the public welfare and individual freedoms depends on how judges understand the law, and especially new legal issues, and how efficiently the system works. NCJS officials are clearly able and eager to accomplish this objective. With the necessary human resources and technical assistance, there is no doubt they will succeed. It is, however, advisable and practical to focus Project training activities on junior judges rather than senior ones. The former are likely to be more responsive to the automation process and more willing to and capable of using this new technology once they are trained. The latter, however, may find it more difficult to change their mode of work after long years of service doing business manually, i.e., hand writing judgements, keeping paper files, etc.

Another factor to be considered is the incentives that will be needed to stimulate judges and lawyers to attend the training and courses or workshops that will be offered. While professional pride is expected to be a major factor in motivating these professionals to take advantage of these opportunities, several other points will be raised with the Ministry. Initial training for all new judges should be made mandatory by the MOJ and full salary should be provided during the training. For judges eligible for mid-level and annual seminars and other upgrading, attendance at the meetings should at a minimum be considered as work for which full salary is offered. The MOJ should also

consider other incentives such as promotions based on the number of hours of in-service training, eligibility for out-of-country training based on attendance at these courses, etc.

#### 5. WID Considerations

Given the gender structure in the judicial system (Egypt has no women judges) women are likely to have a limited show of participation in Project activities. However, computer-training and data-processing are possible areas for involvement of women in Project activities. The Project should recommend and provide legal and judicial training opportunities for women lawyers and prosecutors in coordination with MOJ.

#### 6. Impact

Introduction of informatics/automation into the judicial system will help increase its efficiency by expediting the flow of cases through the system (i.e. eliminating duplication and error-prone procedures, etc.), thus assisting in decreasing the case backlog in the court system. Over time, a Judicial System capable of improving the administration of justice, through providing a more timely and consistent disposition of cases, particularly commercial cases, should have a positive impact on the structural adjustment process, and thus on the nation's entry into a market economy.

#### B. Economic and Financial Considerations

The proposed Project, if successful, will result in direct benefits and possible indirect benefits as well. The direct benefits likely to result from the proposed improvements include but are not limited to: (a) reduction in court time and court costs for disputes that are brought to the courts; and (b) fairer and more predictable court outcomes.

Indirect benefits of the improved court system could result from greater efficiency in carrying out business. The enforceability of contracts is likely to lead to contracts that are based on competitive offers rather than those that are based on informal relationships. The savings from more competitive procurement are likely to be substantial but cannot be quantified. In addition, there will be a higher percentage of contracts that are completed according to the agreed upon conditions. Another substantial indirect benefit of the Project will be a higher level of investment due to the greater ease of doing business in Egypt. Both foreigners and Egyptians are likely to contribute to this additional investment. The quantity of indirect benefits probably is impossible to calculate. One could in principal estimate the percentage of GDP that is likely to be affected by contractual arrangements and then apply a certain percentage to it to represent the savings from the improved judicial system.

Such a number is likely to be very large regardless of the percentage used. The second indirect benefit of additional investment is essentially impossible to estimate, although it has been pointed out in several studies as a major constraint to investment.

An ex ante economic analysis of the Project is not necessary. Quantification is likely to be pure guesswork and subject to a large, but unknown, error. In any case, the potential benefits appear very significant relative to the cost of the Project. The direct benefits will depend on the system producing quicker and more certain results from court cases filed. If the length of time to resolution does not decrease, the Project impact as well as the benefit will be considerably reduced, even if the judges become more competent and more consistent. Care must be taken to insure that court procedures are improved along with the skills of judges and computerization. The monitoring plan should include measures of the efficiency of the system and a system of indicating progress or lack of it. The indirect benefits are also dependent on improving the efficiency of the judicial system. It is unlikely that a monitoring system will be able to quantify the indirect benefits.

### C. Relevant Experience with Similar Projects

The field of democracy and the rule of law is a relatively new field in USAID's portfolio. In Egypt in particular, and in the Arab world in general, there is no precedent for this type of USG involvement. Initially, the GOE was quite reluctant to either express interest or to accept interventions. However, after lengthy explorations and trust building activities, the MOJ has asked for support in the improvement of the administration of justice. In many respects it has been a mutual learning experience, both for the GOE and the USG.

USAID's involvement in Rule of Law development in other regions began in the 1960s with a focus on transplanting Law and Development programs into developing country law schools. In the 1970s, USAID focused more on human rights, particularly in the areas of free speech and women's rights, but these programs were not considered high priority by many missions. The Ford and Asia Foundations did, however, actively support legal aid, mediation boards, law education, and legal advocacy organizations during this time. The 1980s saw USAID's most concerted effort in legal development when many Latin American missions undertook legal development programs to improve the effectiveness and efficiency of the courts. USAID projects covered activities in modernizing court administration including automating case processing, legal codes, personnel systems, and budget and planning systems; training judges; increasing the number of judges, public defenders, and public prosecutors; expanding and

strengthening the role of public defenders; reforming penal codes; and introducing career and merit appointments for judges and other judicial personnel.

According to a 1994 CDIE assessment of USAIDs' legal development experience, the success of legal strengthening projects (primarily court modernization and judicial training) rests heavily on the presence of three other elements of effective delivery of justice: political commitment to judicial reforms; constitutional provisions and laws that allow for a strong legal structure; and equitable access to the justice system. The assessment maintains that these elements must not necessarily be attained sequentially. CDIE found, however, that USAID efforts to work simultaneously in more than one element have been successful only when the first element, of political commitment to judicial reform, was in place.

The GOE has requested assistance only in the area of legal system strengthening, which the CDIE assessment considers the fourth element of an effective justice system. However, interviews conducted with the private sector during the preliminary justice assessment carried out for the Institutional Development Support Office, as well as other discussions with the Chamber of Commerce and the Cairo Businessmen's Association, all indicate a strong interest and support from the private sector for judicial reforms in procedures and regulations that adversely affect growth of private enterprise. Their comments are a positive indication of political commitment to reform. In addition, the MOJ has on many occasions expressed its willingness to begin the process of procedural reform and to establish a working group for this purpose. Since identification of these reforms is still in early stages, the proposed Project will work on a pilot basis. The success of this effort in bringing about the legal and regulatory reforms necessary to strengthen the country's legal structure, will become more evident during the course of the pilot effort.

#### D. Proposed Borrower/Grantee or Implementing Agency

##### 1. Implementing Agency

The parties selected for the Project are the key players in the judiciary. The MOJ oversees all the judicial and prosecutorial functions. The MOJ will be the Government of Egypt implementing agency that will participate in both the design and the implementation of the Project. The MOJ authorized representative is expected to be the first assistant to the Minister of Justice. He will be supported by the Deputy Director of the legislation department, Ministry of Justice.

##### 2. Counterparts

Within the MOJ, Project counterparts will be assigned in the National Center for Judicial Studies, and in the two pilot court systems. In addition, contact will be maintained with the Judicial Information Center.

a. National Center for Judicial Studies (NCJS) - The NCJS, the MOJ training center, will be the primary institution receiving support in order to improve the substantive legal base of the judiciary. The NCJS has been responsible for educating and training the Egyptian judiciary for the last thirteen years. Its objectives are:

- To prepare members of the judicial agencies both theoretically and practically for judicial work, with well-designed program that enable every agency to meet its needs.
- To prepare, with technical programs and practical standards, those working in departments which assist judicial agencies, such as forensic doctors, experts and notaries.
- To collect, maintain, and publish, as a clearinghouse, the legal documents, laws, research products, and other information relating to the administration of justice.
- To aid other Islamic and Arab countries and judicial agencies in meeting their judicial personnel and legal information needs.

About 1,000 persons participate in NCJS programs annually, including judges, general criminal prosecutors, administrative prosecutors, military judges and prosecutors, state attorneys, and court support personnel. However, the NCJS is having difficulty meeting its objectives because of an absence of professional staff and the inefficient allocation of financial resources. NCJS is housed in a government building in Cairo; it possesses minimal audio-visual equipment, limited library resources; and provides no research assistance for legal questions from judges.

NCJS administration is composed of a Director and a Head of Technical and Administrative Bureaus. They head a forty-person ancillary support staff, approximately one-half of whom have attained a university degree, with the remainder having received a diploma.

b. Selected Courts - Selected courts (and judges) will be identified as pilot sites for implementing automation and regulatory/ procedural changes. A core group will be identified to implement the use of the legal database and other reforms, all developed as part of the effort to reduce case backlog and an overall improvement in the administration of justice. As part of

the design, criteria will be developed for selection of the courts.

c. Lawyers - During the design of the Project mechanisms for working with lawyers will be examined and further defined. Possible organizations through which training could be provided to lawyers are local NGOs such as the Association of Graduates of the Faculty of Law of Alexandria University.

#### E. USAID Support Requirements

The present HRDC/IDS staff time (1 USDH FTE, 1 FSN FTE) currently dedicated to the design of this Project will be transferred to the implementation stage following approval and obligation. As this is the first project to be implemented with the MOJ, it can be expected that the staff assigned to it will dedicate the majority of its time to its implementation, particularly during the early stages. For implementation of this Project, staff will have to build a working relationships with this new implementing agency. Until the various relationships and functions are clarified and made routine, continuous guidance from the Project Officer and the Program Specialist will be required. In addition, substantial input, in the form of oversight, will be required from the Office Director of HRDC/IDS. The Project will also require considerable staff time from DIR/CS and PDS/PS because the Mission is using a new contracting method (see Section III.G below) for design and implementation. If a pre-proposal conference is conducted, this will require even more staff time. The Contracting Officer, along with other relevant support offices, will be a member of the Technical Evaluation Panel. As the majority of the TA, training, and procurement will be incorporated and consolidated within the contract with the single prime contractor, Project management from a procurement standpoint should be relatively straightforward.

#### F. Estimated Costs and Methods of Funding

##### 1. USAID Contribution

The estimated Life of Project (LOP) is five years. USAID inputs to the Project consist mainly of technical assistance (and associated training and commodities) and audit and evaluation.

The technical assistance contract will provide the needed training both in-country and off shore to staff and members of the MOJ and the NCJS. Procurement of computers, computer furniture, office supplies, and vehicles will also be undertaken by the Technical Assistance contractor.

Audits/Evaluations/Assessments as well as a mid-term and final evaluation are estimated during the project.

## 2. GOE Contribution

The major GOE input to the Project will consist of the cost of airline tickets for participants as well as PCs for judges use, both of which will be funded from the Trust Fund account. The GOE implementing agencies will also contribute the salaries of trainees while on training, office space for in-country training, and the necessary modifications for installation and operation of computers in the pilot courts.

USAID estimates of GOE contributions at this time are limited to the FT-800 cash which will pay for participant airfares and the PCs for judges. USAID maintains full control over obligations and disbursements from this account.

There is uncertainty regarding the number of participants, training duration, salary levels and other in-kind inputs such as office or training logistics. There are also possible sensitivities that may arise in requesting access to the GOE judicial premises and records in order to estimate and verify these inputs. It is therefore proposed to include this task under the scope of services of the Technical Assistance contractor who we believe has a better opportunity to observe, estimate and monitor these contributions during the course of the day to day dealings with the implementing agencies. Therefore, the estimates of these contributions will not become part of the Project Agreement illustrative financial plan until they are properly estimated and identified.

Table II below provides estimates of GOE cash contributions from the FT-800 account for funding the participant's airfares and the PCs for Judges.

Table II  
GOE Contribution  
(LE000)

COMPONENT	ESTIMATED FUNDING
Participant Training Air Fare	253.5
PCs for Judges	2,212.0
<b>TOTAL</b>	<b>2,465.5</b>

## 3. Methods of Implementation and Financing

The Project budget consists of two accounting components: Technical Assistance and Audits/Evaluations/Assessments. Both

will be implemented using the USAID direct contracting method. All payments will be made directly to USAID contractors.

A performance based type contract is proposed for the implementation of the Technical Assistance component. The final product or the milestones against which payments may be made under the proposed contract have not been identified at this point of activity development. The proposed contracting method is a new approach whereby the bidders will define these milestones within their proposal for implementation based on the RFP. The proposed milestones and specific payment provisions will be the subject of contract negotiations. The Mission has limited experience with this new approach in design (see the discussion in the following section).

There will be no Host Country Contracting for any activities under this Project.

#### G. Design Strategy

The Project design will be undertaken as an aspect of competition for a Performance Based Implementation Contract. PID Annex 5 outlines the steps proposed in order to initiate implementation of the Administration of Justice Support Project using a Performance Based Contract approach to Design and Implementation.

The SOW in the RFP for the Performance Based Implementation Contract (derived from the PID) will cover the period of implementation only and will not include the design. The RFP will include the desired outputs only; inputs will not be identified. Firms will be invited to compete for the implementation of this Project by proposing their approach to achieving the identified outputs. The proposals will be submitted in a manner that satisfies USAID's design requirements (i.e. a Project Paper) in both format and substance. These requirements will be presented in Section L of the RFP. Section L will also outline both the political and technical considerations and sensitivities of which the proposers must be aware during their proposal preparation. The proposers may also recommend alternative performance standards in describing their technical approach in their proposal. A firm will be selected for negotiation of a contract on the basis of the completed design presented in their proposal. Recognizing the possible need for extended negotiations with firms in the competitive range in order to ensure that the selected proposal meets USAID's requirements, the schedule for selection includes a total of eight weeks for negotiations and "Best and Final Offer". Once a proposal has been selected and meets the approval of the Technical Evaluation Panel, PDS/PS will package the proposal as a "PP-like" document by adding the necessary face-sheet and annexes (e.g., PID approval cable, statutory checklist, certifications, waivers, etc.) and LEG will draft the Project authorization.

Once the final recommendations of the Mission's Executive Committee have been incorporated (through negotiations with the offeror, if necessary), and the "PP-like" document is approved by the Director, the Mission will execute a Project Agreement with the GOE in order to obligate the funds. The contract will be signed with the selected firm once the funds have been obligated. The selected firm is thus under contract only during the period of implementation, not during the period of design.

The Mission is breaking new ground with this new contracting mechanism for which there is no existing formal guidance. USAID/W has indicated an interest in the outcome of this approach. The principle motivation for pursuing this approach is the fact that there are very few organizations with developed expertise in the development of the justice sector. Using them in the design phase could well eliminate the most qualified from implementation.

However, there are a number of potential bottlenecks and pitfalls of which all Mission participants should be aware. Firms not familiar with this type of proposal may feel uncomfortable proposing an approach without guidance from the Mission regarding expectations on inputs. They may also have difficulty in presenting their proposal in the format of a "PP-like" document. This could potentially require a substantial investment of staff time as the Mission may have to undertake some modification of the final proposal submission in order to have it meet the "PP-like" requirements. It may be difficult to have the selected firm identify performance milestones, again because of lack of familiarity with a new approach and particularly given the previous practice of level of effort payment. The mechanism assumes that competing firms will show willingness to continue with repeated negotiations, if necessary.

The Project Team has taken steps to limit these risks, for example, undertaking a series of background studies, planning for a pre-bidders conference, and scheduling in sufficient time to undertake the various steps. Given the limits on the pool of potential bidders imposed by the limited number of experienced firms in the sector, the Project Team supports this design approach as a means to enhance competition and enable the Mission to tap into the largest possible pool of expertise. In addition, given that this is a new sector, it is felt that firms will have a greater incentive to participate in a process that has the potential for getting them in on the ground floor, so to speak.

#### **H. Recommended Environmental Threshold Decision**

This Project has been given a categorical exclusion. (See Annex 6.)

#### **I. USAID Policy Issues**

There have been no major policy issues identified at this time. With respect to waivers, it is anticipated that some of the training undertaken by the Project will take place in third countries and thus will require a waiver. This will be further developed as part of subsequent Project design.

J. Conditions Precedent and Covenants

A condition precedent to disbursement of funds for activities with the NCJS will be that the MOJ provide a cadre of full time professional teachers who will work in the NCJS; without this condition precedent, the activities planned for the NCJS cannot go forward. Ideally the new staff will be experienced judges dedicated full time to teach at the NCJS.

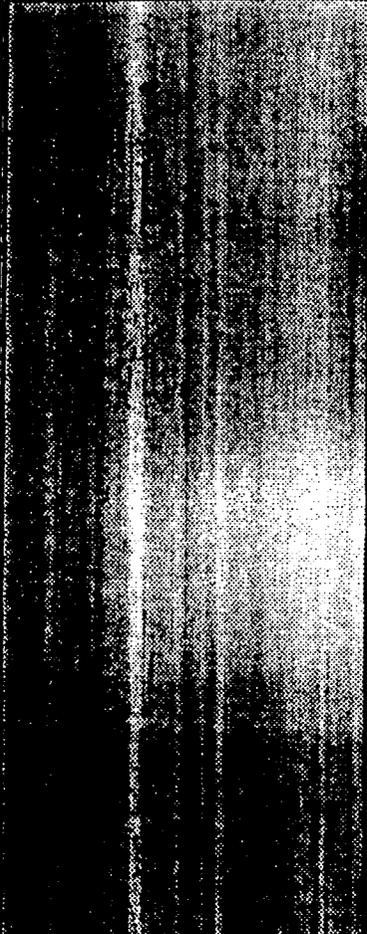
The MOJ will covenant to establish and maintain a reporting system for routine end use verification through maintenance checks and usage monitoring.

**PID Annex 1: Preliminary Logical Framework**

NARRATIVE SUMMARY - PROGRAM	NARRATIVE SUMMARY - PROJECT	OBJ. VERIFIABLE INDICATORS	MEANS OF VERIFICATION	IMPORTANT ASSUMPTIONS
<p><b>MISSION GOAL:</b></p> <p>Enhancement of Egypt's role as a model of stability, democracy, free markets, and prosperity in the region.</p>	<p><b>MISSION SUB-GOAL:</b></p> <p>To create an enabling environment for sustainable democracy.</p>			
<p><b>MISSION SUB-GOAL:</b></p> <p>To create an enabling environment for sustainable democracy.</p>				
<p><b>STRATEGIC OBJ:</b></p> <p>Strengthened democratic institutions are contributing to lawful governance.</p>	<p><b>PROJECT GOAL:</b></p> <p>To support the strengthening of democratic institutions which contribute to lawful governance.</p>	<p>Confidence levels in the pilot areas will have risen in the responsiveness and effectiveness of the judiciary.</p>	<p>Opinion polls administered periodically in the pilot areas.</p>	
<p><b>PROGRAM OUTCOME:</b></p> <p>The justice sector will deliver judicial services in a more timely fashion and apply the rule of law.</p>	<p><b>PROJECT PURPOSE:</b></p> <p>To enhance the capability of the justice sector to: (1) deliver judicial services in a more timely fashion and (2) apply the rule of law.</p>	<p><b>EOPS:</b></p> <p>Justice will be delivered in a more timely manner and in accordance to the rule of law.</p>	<p>Annual surveys administered by the Project using a customized index.</p>	
	<p><b>PROJECT OUTPUTS:</b></p> <p><u>A. Improved Court Administration</u></p> <p>(1) Two pilot court systems are fully functioning with judicial, administrative and financial functions streamlined and automated.</p>	<p>(1) Cases can be readily tracked. Number of separate actions required for each court procedure is reduced. Automated case docketing system is developed and in use:</p> <ul style="list-style-type: none"> <li>• Case filing, docketing, and calendaring.</li> <li>• Service of subpoenas.</li> <li>• Recording the results of court hearing.</li> <li>• Processing of cases by experts.</li> <li>• Recording of judgements.</li> <li>• Archiving and retrieval of case records.</li> <li>• Calculation and tracking of court fees and payments.</li> <li>• Communication of information among different courts.</li> <li>• Management reporting.</li> <li>• Personnel inistrati</li> </ul>	<p>(1) Attempts will be made to track the current status of <u>X</u> number of randomly selected cases. Special studies. Court records.</p>	

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NARRATIVE SUMMARY - PROGRAM	NARRATIVE SUMMARY - PROJECT	OBJ. VERIFIABLE INDICATORS	MEANS OF VERIFICATION	IMPORTANT ASSUMPTIONS
	<p>(2) Court personnel are trained in automated administration systems.</p> <p>(3) Judges in the pilot areas have received training in the use of the legal database.</p> <p>(4) Major structural causes of delays in delivery of justice (requiring regulatory change) have been identified and methods for overcoming them have been proposed.</p> <p><b><u>B. Enhanced Capability of Judiciary to Apply the Rule of Law</u></b></p> <p>(1) NCJS offers regular entry-level courses for new judges and continued legal education courses for judges already in the system.</p> <p>(2) Judiciary have improved knowledge and understanding in subjects relevant to the structural adjustment efforts of the GOE, as well as other appropriate topics.</p> <p>(3) A selected number of practicing lawyers have improved knowledge and understanding of new modern legal trends in such fields as commercial law, international contracts law, alternative dispute resolution mechanisms, etc.</p>	<p>(2) <u>X</u> number of court personnel are using automated systems.</p> <p>(3) <u>X</u> number of judges are using legal database in case decisions.</p> <p>(4) The Task force has been formed, meets regularly and proposed X No. of structural reforms.</p> <p>(1) Curriculum for <u>X</u> number of courses developed. <u>X</u> number of judges trained.</p> <p>(2) Curriculum for <u>X</u> number of courses developed. <u>X</u> number of judges trained.</p> <p>(3) Curriculum for <u>X</u> number of courses developed. <u>X</u> number of lawyers trained.</p>	<p>(2) Project reports.</p> <p>(3) Project reports.</p> <p>(4) Project reports. Task force reports.</p> <p>(1) Project reports.</p> <p>(2) Project reports.</p> <p>(3) Project reports.</p>	<p>Database will be useful and relevant for daily work. The majority of judges who receive training will be receptive to using automated systems.</p>
	<p><b><u>INPUTS:</u></b></p> <p>Technical Assistance Training Commodities</p>			

**Annex 2: Schematic of Judicial System**

**JUDICIAL SYSTEM**

STATE COUNCIL	PROSECUTION	ORDINARY COURTS OF LAW
<ul style="list-style-type: none"> <li>- Independent Judicial Institution</li> <li>- Hears Administrative and disciplinary cases</li> <li>- Has power to overrule erroneous admin. decisions</li> <li>- Considers breach of administrative contracts</li> <li>- Grants compensation in administrative disputes</li> <li>- Provides non-binding legal advice to the government &amp; its agencies</li> </ul>	<ul style="list-style-type: none"> <li>- Jurisdiction over all criminal and certain family disputes with the exception of military cases.</li> </ul>	

COURT OF CASSATION

- Ensures that the other courts have correctly interpreted and applied the law.
- Review final judgements which are challenged.

Courts of Appeal

- Their criminal chambers have first jurisdiction to hear felony cases
- Hear appeals from Courts of the First Instance.

COURTS OF FIRST INSTANCE

- Have jurisdiction over judgements of Courts of Summary Jurisdiction in civil cases in which amount of damages exceed LE 500.
- Decisions are subject to appeal before the Court of Appeal.
- Hear civil and commercial cases in which value exceed LE 5000 or in which value cannot be determined, urgent law suits of whatever value, and criminal cases in certain instances.

COURTS OF SUMMARY JURISDICTION

- Hear cases regarding criminal matters; misdemeanors and violations.
- Hear cases in which value does not exceed LE 5000, cases which involve use and drainage of water, boundaries of land, and urgent cases.
- Decisions are final unless amount of judgement exceeds LE 500

- The Supreme Constitutional Court is part of the Judicial System. Its functions cover the following: Judges the constitutionality of laws and regulations; renders binding interpretations of legislative texts; decides jurisdictional conflicts among other judicial bodies. Judgements are final and not subject to appeal or review.

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**PID Annex 3: Constraints Analysis**

**PID Annex 4: AOJ Detailed Budget and Assumptions**

The following budget represents an exercise to develop a magnitude of Project funding requirements based on one variant of realistic inputs. It represents one scenario with inputs identified by the Project Team that could produce the identified outputs. However, given the design approach adopted for this Project (see Section G), these input assumptions will NOT be provided to bidders as part of the RFP. It can therefore be assumed that the final budget configuration negotiated to implement the Project will reflect the inputs and implementation proposal (identified by the selected firm) that meet the Technical Evaluation Panel's criteria for implementing the Project.

Baseline Data on Selected Courts

Name of Court	No. of Circuits	No. of Judges	No. of Cases 92	No. of cases 93	No. of solved cases 92	No. of solved cases
North Cairo First Instance Court	80	152	1,030,423	678,787	334,260	314,75
Cairo Court of Appeal	104	356	18,569	22,065	2,136	4,45
Ismailia First Instance Court	10	23	46,432	37,966	24,270	15,02
Ismailia Court of Appeal	8	34	11,811	16,415	4,584	3,92

1- The case takes from 1 to 3 years to be decided at the first instance level and from 1 to 2 years at the Appeal level.

2- There are no means for solving disputes outside of the court that are known for the Egyptian Courts, with the exception of arbitration in the civil and commercial cases. Once the case is docketed, it is then assigned to a judge to be heard in no more than 3 months.

3- There is no fixed time for a judge to decide on a case, and any time limits mentioned in the laws are considered optional "not binding on the judge".

4- Court backlog is defined by the number of cases that stay unresolved by the end of the judicial year (June 30) every year.

Source: Ministry of Justice, August' 94

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