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FROM THE AMERICAN PEOPLE

ACTION MEMORANDUM FOR THE MISSION DIRECTOR

FROM: CarolJo Elron, General Development Officer *CJE*
DATE: July 3, 2012
SUBJECT: Close-out Report for Development Objective 525-021, "Ruling Justly: More Responsive, Transparent Governance"

ISSUE: Per Automated Directives System (ADS) Chapter 203, Section 3, "Assessing and Learning," Development Objective (DO) teams must produce a brief close-out report for each DO that is either completed or terminated.

This close-out report summarizes USAID/Panama's overall experience in achieving expected results under DO 525-021, Ruling Justly: More Responsive, Transparent Governance. The intended audience for the report includes USAID development professionals and partner organizations that seek to learn from Agency experience and apply it in planning or assessing other development efforts.

Per Agency guidance, the report will be shared with the Latin America and Caribbean Bureau Program Office and the Development Experience Clearinghouse.

RECOMMENDATION: That you approve the attached close-out report, thereby closing out DO 525-021.

Approved: _____

[Signature]
Daniel M. Smolka, Director

Date: _____

7/9/12

Disapproved: _____

Daniel M. Smolka, Director

Date: _____

Attachment (1)

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CLEARANCE PAGE: Close-out Report for Development Objective 525-021,
"Ruling Justly: More Responsive, Transparent Governance"

Drafted by: Steve Rynecki, DLI on TDY Date: 05/08/2012
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USAID/PANAMA

Close-Out Report for Development Objective 525-021

Ruling Justly: More Responsive, Transparent
Governance

2012

This close-out report summarizes USAID/Panama's overall experience in achieving intended results under Development Objective (DO) 525-021 and provides references to related materials and sources of information.

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I. Development Objective Basic Identifying Information

DO Number: 525-021

DO Name: Ruling Justly: More Responsive, Transparent Governance

Approval Date: July 6, 2004

Geographic Area: Panama; Central America

Total Cost: \$4,635,890 (\$4,215,890 ESF; \$420,000 Andean Counterdrug Initiative funds)

Other Partner Resources: \$1,107,660

Counterpart Contributions: \$1,940,013

II. Principal Implementing Partners

Prime contractor Casals & Associates with a sub-agreement to the Alianza Ciudadana Pro Justicia (Citizens' Alliance for Justice)

III. Program Background and Impact Summary

This USAID/Panama Mission Close Out report pertains to Development Objective (DO) 525-021, "Ruling Justly: More Responsive, Transparent Governance", as approved by USAID/Washington July 2004. The Ruling Justly Program was part of a USAID regional strategy that addressed the need for critical rule of law reforms that assured greater government transparency and public accountability. Panama's Country Plan under the Central American and Mexico Regional Strategy (FY 2004-2008) contemplated \$19 million for this program, subject to the availability of funds. The actual funding was considerably less with funding ending in FY2007 in lieu of FY 2008.

Panama began its transition to democracy in 1989. Since that time, there's been significant progress toward a consolidated democracy. USAID's 'Ruling Justly Program' focused on efforts to reduce executive powers that provided immunity for legislators, judges and other high-ranking government officials and the elimination of press suppression laws and other barriers to freedom of speech and information. The key goal of the activity was for Panama to achieve transparent and accountable democratic institutions, laws, and economic and political processes and practices.

Panama's tradition of strong authority in the executive branch undermined the independence of the legislative and judicial branches. Additionally, the general resistance to decentralization rendered local governments less effective. The Panamanian justice system, from the Supreme Court down to the local level, was widely criticized as slow, inefficient, ineffective and subject to political manipulation and corruption. An overall lack of transparency, accountability and easy access to justice were the three major areas limiting good governance and democracy in Panama.

Corruption, in particular, was and remains a key development challenge facing Panama. At the time 'Ruling Justly' began, official corruption was second only to unemployment as a key concern raised in public opinion polls. In 2004, public perception of government transparency appeared to be more about form than substance, such as the passing of the original Freedom of Information Law that had proven ineffective in practice.

In collaboration with the Government of Panama (GOP), USAID helped strengthen judicial systems by facilitating citizen access to justice and assuring civil society participation in promoting judicial reform. Additionally, the program worked to improve transparency and accountability in the government and supported reform of the legal framework related to transparency in corruption cases. Further efforts were made to mobilize citizen watchdog groups and to strengthen ethical values in public and private institutions.

Since the program was launched, the GOP made modest progress in strengthening its judicial institutions and practices essential to achieving a fully functioning democracy and has made similar strides in stimulating domestic and foreign investment. The program expanded access to justice through more capable institutions, as well as through the new found availability of alternative dispute resolution (ADR) mechanisms. Government accountability and private institutions made modest improvements through more transparent policies and procedures and through increased citizen monitoring. The government also made inroads in its capacity to identify and prosecute official corruption.

These results were achieved through the implementation of a national anti-corruption strategy that improved the capacity of the key public sector entities responsible for preventing, investigating and prosecuting corruption cases and strengthening public sector entities in their understanding of government ethics, values and accountability. The activities led to greater citizen participation in the judicial process by helping civil society organizations improve their capacity to conduct social audits, strengthen the media's capacity to investigate alleged acts of corruption and made early stage enhancements in the capacity of community organizations to develop sound initiatives for promoting reforms and ethical government behavior.

One of the key program impacts of the 'Ruling Justly Program' is the increased capacity of the Panama based implementing partner the Alianza Ciudadana Pro Justicia (Citizens' Alliance for Justice). Through their sub-agreement with Casals & Associates, *Alianza Ciudadana* and its coalition of 22 Panamanian civil society organizations was able to improve their capacity to perform government oversight and to better advocate for justice reforms at the local and national levels.

Alianza Ciudadana made significant strides to improve transparency and reduce judicial corruption by completing social audits which include ground breaking

work in revealing the underlying reasons for injustices in the Panamanian prison system. One of the key criticisms of the justice system was and remains the inordinate amount of time detainees are held in jail, regardless of the severity of their alleged crimes. In many cases the accused languished in detention for durations that exceeded the maximum sentence for their alleged crimes.

Alianza Ciudadana audited local administrative jurisdictions on the quality and efficiency of decisions and conducted surveys to measure the perception of corruption in Panama to encourage policy dialogue. They effectively promoted key judicial reforms and led the push for the resubmission of the Justice of the Peace Bill. Passage of the bill revamped the organizational structures of select districts (corregimientos) to implement Justice of the Peace processes as well as increased access to ADR mechanisms.

Alianza Ciudadana helped advocate for increased municipal budgets to equip new offices, select new judges and train staff. They also played an important leadership role in organizing a national assembly of community service organizations in reactivating the State Pact for Justice Reform, National Consensus Agenda and the Civil Society Participation Bill. They conducted activities that involved program monitoring, workshops, conferences, public media events and other activities in support of effective implementation of judicial reform. These activities were often carried out in partnership with private media companies.

The USAID-sponsored social audits implemented by *Alianza Ciudadana* led to other anticorruption measures, such as training community representatives on social auditing methodologies. Trainees carried out social audits in eight districts at the national level. They polled government officials, users of justice services and community representatives on the efficiency and transparency of the administration of justice at the community level. The *Alianza Ciudadana* also launched, with local counterparts, outreach activities that promoted justice reforms that led to more transparent, accountable and efficient judicial systems. Under *Alianza Ciudadana* leadership, several civic groups participated in the process of selecting two Supreme Court Justices.

Key impacts of the USAID support of *Alianza Ciudadana* resulted in the following:

1. Establishment of the Justice Reform Commission, comprised of the Office of the Solicitor General, the Attorney General and the Judiciary Branch
2. Worked with the President of Panama in establishing an Evaluation Committee composed of both community representatives and Judicial Branch appointees in selecting two new members of the Supreme Court.

Additional impacts of the 'Ruling Justly Program' include the development of a new Code of Criminal Procedure. USAID facilitated discussions between community service organizations and government entities (e.g. the Judicial Branch and Attorney General's Office), leading to improvements in the Criminal

Procedures Code. Asset forfeiture and recovery mechanisms, whistleblower and witness protection, conflict of interest and plea-bargaining were considered in the revised code as a result of USAID. These legal standards facilitate prosecution of corruption and - when used - are instrumental in Panama's transition to a more transparent and just society.

During the period of performance, the GOP enacted the Civil Service Act, which updated recruiting processes in the public sector. USAID worked in conjunction with the Civil Service Directorate in preparing a revised salary scale, job description system and presented recommendations to improve the Civil Service Bill designed to facilitate the implementation of civil service practices across the public sector. As a result, increased stability of career government employees was considered and developed.

The National Tax Directorate restructured its internal organization and strengthened its human resource practices in coordination with technical advisors from the Inter-American Development Bank (IDB). USAID helped design the Directorate's new organizational structure, objectives and functions based on its own strategic plan. With USAID assistance, an Executive Decree awarding financial and administrative autonomy to the Directorate was granted to improve management of a merit-based civil service.

USAID helped to strengthen the Anticorruption Investigations Unit in the Attorney General's Office. This unit is the entity responsible for prosecuting high profile corruption cases in coordination with other government agencies (e.g. Office of the Comptroller General, Financial Investigations Unit, etc.) USAID support was key to improving the internal structure and procedures required to effectively investigate corruption. Advanced training courses on corruption prosecution techniques and methodologies broadened the skills of government officials. A Corruption Investigations Manual and a set of indicators were delivered to assist officials in effectively monitoring and evaluating unit performance.

USAID worked closely with the implementing partners to design and implement the Anticorruption Plan for the Judicial Branch. The plan helped to prevent, detect and penalize corruption at the Judicial Branch level. The plan used standards found in the UN Convention against Corruption and the Inter-American Convention against Corruption. This is the first document of its kind in Latin America.

Alianza Ciudadana carried out four additional social audits which identified institutional shortcomings. Concrete recommendations provided a platform to address and improve government anticorruption practices. The audits include the following:

1. Identification of system weaknesses and obstacles facing the judicial system;

2. Periodic monitoring of the administration of justice in Panama in regard to high profile corruption cases;
3. Tracking agency compliance with the basic elements of the Freedom of Information Act; and
4. A study of the Supreme Court's efficiency in resolving Freedom of Information (Habeas Data) requests, which analyzed rulings and identified trends and obstacles to a citizen's right to request and access public records.

The table below outlines additional program impacts that include **Global Development Alliances** that built public awareness of anticorruption activities fostered by the program. Panamanian private sector partners contributed roughly \$1 million (in-cash/kind). In partnership with the Panamanian Association of Business Executives, some 1 million citizens were educated about anticorruption efforts. Hundreds of government officials were certified in courses aimed at strengthening their capacity to identify, investigate and prosecute fraud and corruption. Employees of the National Tax Directorate (DGI) were trained on institutional changes needed to become more transparent and accountable.

Funding Source	NGOs, Private and Public Sectors								Total GDA Funding
	FETV (Activity 1)	FETV (Activity 2)	APEDE	APC	Fe y Alegría	UNESCPA	Digital Design ANAM/TVN	ADEN	
Activity's Objective	Launching a citizen awareness campaign on TV to tackle corruption,	Promoting a culture of involvement with ethical values for the younger generations	Implementing a media campaign aimed at promoting ethical values	Fostering Transparency and Good Governance by Micro, Small and Medium Enterprises	Teaching Values by Means of Information Technologies	Implementing a Certificate Course on Fraud Auditing and Internal Controls in the Public Sector	Promoting Public Awareness on the Linkages between Corruption and Environmental Offenses	Forging Institutional and Human Resources Development at the National Tax Directorate	\$1,635,896
USAID Committed Funding	\$96,102	\$70,900	\$100,000	\$100,000	\$43,000	\$15,000	\$100,000	\$70,000	(\$595,002)
Local Contribution (% of in-kind or/and cash)	\$104,993 (100% in-kind - air time)	\$71,100 (100% in-kind facilities and instructors)	\$100,000 (100% in-kind - air time)	\$206,100 (85% cash and 15% in-kind - facilities)	\$52,000 (78% cash and 22% in-kind facilities)	\$15,000 (100% in-kind, facilities and instructors)	\$129,700 (27% cash and 73% in-kind - air time)	\$362,000 (ADEN y 206,000 DGI) (57% cash and 43% in-kind, facilities and instructors)	(\$1,040,894)

IV. Prospects for Long-term Sustainability of Impact and Principal Threats to Sustainability

The long-term sustainability of the program was effectively transferred to the Government of Panama at the conclusion of the program. The GoP is expected to own and maintain the processes identified and required for effective, transparent governance. Sustainability in the area of Democracy & Governance can be difficult to measure. Sustainability in the context of 'Ruling Justly' is determined by the anti-corruption reforms, laws and procedures that were modified or enacted and continue to ensure a more transparent judiciary system. The program followed three key assumptions deemed fundamental to program sustainability:

1. GOP continues its commitment to anti-corruption and judicial reform
2. Civil society continues to play a proactive role in promoting transparency and fighting corruption at all levels
3. The justice system actively seeks out injustice and corrects course

Long-term sustainability was designed and implemented through the creation of the National Anticorruption Council (NAC), a body that continues to function. The preparation and enactment of the revised Criminal Code with four bills on anti-corruption measures, continues to make a sustainable contribution to judicial reform. The strengthened Office of the Attorney General and Civil Service Directorate ensures long-term capabilities in preventing, detecting, investigating and prosecuting corruption cases. And, not the least of which, ensuring the long-term operational and organizational capacity of *Alianza Ciudadana* in continuing its role as the internationally recognized watchdog for Panamanian judicial transparency and accountability.

Alianza Ciudadana continues to provide important watchdog services as a result of USAID assistance. The AA 525-002 Judicial Transitions Initiative project is still providing direct support to *Alianza Ciudadana*, which carries on as Panama's leading voice for continued judicial reforms. The program is expected to be managed by USAID's Regional Mission in El Salvador.

These gains are only threatened when the GOP chooses not to use the mechanisms designed and implemented by the 'Ruling Justly Program.' The 2011 Transparency International Index indicates that the GOP is falling short on its commitment to enforce the reforms enacted through the program. The apparent inability or unwillingness to hold officials accountable can and will threaten the long-term sustainability of the 'Ruling Justly Program.'

V. Lessons Learned for Application to other USAID Projects

At the end of the program period of performance in FY 2009, USAID expected that Panama will have progressed substantially in establishing the strong democratic institutions and practices that are essential to achieve a full,

functioning democracy better able to attract domestic and foreign investment. Access to justice will have expanded through more capable justice institutions, as well as through the availability of alternative dispute resolution mechanisms. Accountability of government and private institutions will have improved through more transparent policies and procedures and through increased citizen monitoring. The government will also have an enhanced capacity to identify and prosecute corrupt acts when they occur.

In 2004, the Transparency International Corruption Perceptions Index ranked Panama 62 out of 183 countries surveyed. The 2011 index indicates Panama fell twenty-four points to number 86 out of 183 countries. The Index offers several key lessons learned since 'Ruling Justly' concluded. For example, the Panamanian judicial system continues to pose a problem for domestic and international investors due to poorly trained personnel, case backlogs, and a lack of independence from political influence. Panamanian law provides that only the National Assembly may initiate corruption investigations against Supreme Court judges and that only the Supreme Court can initiate investigations against members of the National Assembly, thereby encouraging, in effect, a "non-aggression pact" between these two branches of government. Supreme Court judges are typically nominated to their 10-year terms on the basis of political and personal considerations.

Although the GOP asserts its commitment to combat corruption as part of its overall agenda of institutional reform, it has not delivered concrete results and was beset by a number of land and influence scandals in 2011. President Martinelli began 2012 by taking a harder rhetorical line on businesses that he said were not paying their taxes. The GOP has not acted to dismantle Panama's dictatorship-era libel and contempt laws, which could be used to punish whistleblowers, while those accused of acts of corruption are seldom prosecuted and almost never jailed.

As a result of USAID's Ruling Justly Program, domestic anticorruption mechanisms exist, such as asset forfeiture, whistleblower and witness protection, and conflict-of-interest rules. However, the general perception is that anticorruption laws are not applied rigorously, and that government enforcement bodies and the courts have lacked effectiveness in pursuing and prosecuting those accused of corruption, particularly in high profile cases. Panama's government still lacks strong systemic checks and balances that incentivize accountability. And despite USAID's earlier gains to train and transform the career civil service workforce in Panama, the perceived lack of official integrity continues to lower perceptions of public trust in government officials.

Through USAID's urging, Panama ratified the United Nations' Anticorruption Convention in 2005 and the Organization of American States' Inter-American Convention against Corruption in 1998. However, there is still the perception that Panama could do more to implement the conventions and respond to

official recommendations. Complaints by American investors about allegedly corrupt judicial and governmental decisions prejudicial to their interests remain common and problematic. However, and despite the allegations of corruption, other than cases involving drug trafficking, GOP officials, judges, and legislators are seldom investigated, much less convicted on corruption charges. There remains much more work to be done in this area and it is incumbent on the GOP to learn from USAID on ways to effectively implement the changes identified by the 'Ruling Justly Program.'

Alianza Ciudadana remains a relatively independent, strong and vocal advocate for reform in Panama's judicial system. The changes to the Criminal Code were rolled out successfully in Veraguas and Coclé provinces and continue to offer more transparent processes and procedures where none existed before. The key lessons learned for future USAID Missions are the importance of identifying a strong local watchdog and making every effort to build their capacity both in terms of operations and their ability to effect long-term change by ensuring continued funding sources.

VI. Summary of Performance Indicators and Usefulness in Performance Management Reporting

USAID analyzed and benchmarked the level of official corruption judged by the World Bank Institute, public polls and surveys published in local newspapers and the Transparency International Index. Performance Indicators were established during the design phase of the program and planning assumptions were made using 2004 data on public perceptions of official corruption in Panama.

In FY 2005, the Results Framework developed in the design of the program contemplated the *Degree to which corruption is perceived to exist in society* as the performance indicator at the Strategic Objective Level: Ruling Justly: More Responsive, Transparent Governance. At the Intermediate Levels, the performance indicator for IR-1 Strengthened Rule of Law was *Citizen Satisfaction with Justice System Services Increased* and *National Anti-Corruption Strategy Implemented* for IR-2 Greater Transparency and Accountability of Government.

Program implementation began in FY 2006, one year later than originally planned. Further, the lack of funds availability forced the Mission to revise the program to focus on select components under IR-2 only. Subsequently, the implementing partner developed a Monitoring and Evaluation Plan of outputs and deliverables summarized in the following table.

PERFORMANCE INDICATORS	
QUANTITATIVE	QUALITATIVE
1. Number of sessions with Supreme Court Justices to design a Anticorruption Commission at the Judicial Branch	1. Perceived degree of presidential power
2. Number of workshops held at the Judicial Branch to train GOP officials on internal auditing techniques	2. Relative power of political parties over legislators and judges
3. Number of GOP officials at the Judicial Branch trained on the implementation of anticorruption measures	3. Existence of checks and balances among the three branches of government
4. Number of people actively involved in facilitating the implementation of the ethics code of the Judicial Branch	4. Perceived accountability of public officials
5. Draft Justice of the Peace Procedural Code	5. Relative immunity from prosecution of high officials in all three branches of government
6. Creation of a Model Unit responsible for the administration of Justice of the Peace procedures	6. Impunity enjoyed by the social elite and privileged
7. Number of civil society organizations (CSO) trained on the execution of social audits	7. Secrecy in government and the judiciary
8. Number of measures in place to prevent and detect corruption by means of training and/or the findings of social audits	8. Freedom of speech and expression
9. Number of outreach activities at the national level to promote reforms to the administration of local justice	9. Public awareness on the costs of corruption and public tolerance of corruption
10. Number of participants trained on justice of the peace procedures, alternative dispute resolution mechanisms, accountability practices and ethics	
11. Percentage implementation of National Anticorruption Strategy	
12. Number of social audits and citizen participatory mechanisms in	
13. Number of social audits conducted over government programs	
14. Number of anticorruption programs funded by the private sector	
15. Number of uniform ethical standards and enforcement mechanisms for public officials	
16. Number of recommendations issued by the Program to key oversight agencies that are accepted and launched	
17. Number of whistleblower protections enacted	

Casals used these indicators as the foundation for progress reports and monitoring deliverables.

Among the quantitative performance indicators listed, *Percentage Implementation of National Anti-Corruption Strategy*, served as one performance measurement for the IR-2. In addition, the *Number of social audits undertaken on selected national government programs and projects* monitored performance of this IR. Program surpassed by completion date (December 2007) performance targets set for these two main performance indicators. Building-on past successes, the program expanded activities in 2008 with Andean Counterdrug Initiative funding and helped maintain momentum.

Performance Indicator	Unit	2005	2006		2007		2008	
		Baseline	Target	Actual	Target	Actual	Target	Actual
Percentage implementation of the Anticorruption Strategy	(percent)	0	5	18	10	12	12	12
Number of social audits undertaken on selected national government programs and projects	(number)	0	2	9	4	5	8	9

VII. Significant Changes in the Results Framework

Early in 2006, USAID/Panama was informed about significant budget reductions to the program. As a result, IR 1.1: Strengthened Rule of Law was discontinued. Following a revised scope of work, a new budget scenario and the ensuing Mission priorities—outlined by Task Order Amendments dated June 2006 (Mod 11), December 2007 (Mod 22) and June 2008 (Mod 27) – the program focused solely on IR 2.1: Greater Government Transparency and Accountability with the following sub-IR's:

- Sub-IR 2.1: More Transparent Systems for Management of Public Resources by the National Government
- Sub-IR 2.3: More Opportunities for Citizen Participation in and Oversight of National Government Decision-Making
- Sub-IR 2.4: Accountability of Elected and Appointed Officials Improved

VIII. Evaluations, Special Studies and Performance Reports

- *Panama Democracy and Governance Assessment*, Democracy International, August, 2010.
- *Panama Performance Plan & Report*, USAID, 2008.

- *Consolidated Monitoring and Evaluation Report Data, Casals & Associates, 2006-2007.*

IX. List of Instrument Close-out Reports for Contracts, Grants and Cooperative Agreements

- Casals & Associates, Inc., *Final Report-Panama, USAID/CAM Anti-Corruption, Transparency and Accountability Program, Task Order Number DFD-I-03-03-00139-00, March 25, 2009.*

X. Contact Details for Individuals Involved in DO 525-021

Names and contact point of individuals who were directly involved in various phases of the DO (planning, achieving, and assessing and learning), and who would be good sources of additional information.

- Greater Transparency and Accountability Activity, Carlos Blandon, Tel. (507) 317-5134 cblandon@usaid.gov
- Nilka Varela (PROG, DO1 Backstop), Tel. (507) 317-5151 nvarela@usaid.gov

Annexes

1. Results Framework for DO 525-021, 2004-2009, April 2005
2. Performance Monitoring Plan for DO 525-021

**Ref. Close-out Report Development Objective 525-021, Ruling Justly: More Responsive,
Transparent Governance**

Drafted by: Steven Rynecki: 5/16/2012; NVarela, PROG revised 7/5/2012

Clearances:

EG: CBlandon Date: 7/5/2012

FMO: SPatino Date: 7/9/2012

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ANNEXES

Results Framework for Strategic Objective (SO 1), 2004-2009

**SO 1 RULING JUSTLY: MORE RESPONSIVE, TRANSPARENT GOVERNANCE****SO Indicator:**

Indicator 1: Perception of Existence of Corruption in Society

Democracy and Governance Development Context:

- Constitution grants strong executive powers and provides immunity for legislators, judges and other high-ranking government officials
- Strong authority of executive branch undermining independence of legislative and judicial branches and effectiveness of local government
- Judicial system widely criticized as slow, inefficient, ineffective, and subject to political manipulation and corruption.
- Lack of transparency, accountability and easy access to justice are major factors limiting good governance and democracy
- Corruption has risen in prominence in public opinion polls, second only to unemployment

Strategic Mechanisms:

State Pact for Justice Reform Commission

National Transparency Anti-Corruption Council

Critical Assumptions:

- GOP continues committed to anti-corruption reforms
- Civil society continues to play a proactive role in promoting transparency and fighting corruption in Panama
- Justice System institutions are committed to judicial reforms

Intermediate Results**Intermediate Result 1**
Strengthened Rule of Law**IR Indicator:**

- Citizen satisfaction with justice system services increased

Key Outcomes

Civil society promoting and growing the political base for justice reform

Justice institutions with greater independence and quality of justice services

Intermediate Result 2
Greater Transparency and Accountability of Government**IR Indicator:**

- National Anti-Corruption Strategy implemented
- Number of social audits undertaken on selected national government programs and projects

More transparent systems for management of public resources by the national government

More opportunities for citizen participation in and oversight of national government decision making

Illustrative Activities

- TA to State Commission on justice reform
- TA & training to enhance civil society, media & private sector capabilities for reform
- TA to improve justice system capacity to coordinate, plan & carry out reforms
- TA to streamline criminal & civil procedures
- TA to strengthen merit selection and accountability of justice personnel
- TA to improve access and quality of administrative justice services
- TA to improve access to public defenders for indigent defendants

- TA to develop a national anti-corruption strategy
- TA and training to improve capacity of key public entities responsible for preventing and investigating corruption
- TA and training to strengthen public sector entities in ethics and accountability

- TA, training and small grants to enhance civil society organizations (CSOs) capacity for social auditing of GOP activities
- TA and training to improve media capacity for investigative reporting on corruption
- TA and training to improve CSOs capacity to develop proposals for ethical behavior



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Strategic Objective 1

**Ruling Justly: More Responsive, Transparent
Governance**

Performance Management Plan (PMP)

April 2005

BACKGROUND

USAID/Panama's five-year Country Plan was approved in July 2004. One of the Strategic Objectives in the new strategy is Ruling Justly: More Responsive, Transparent Governance. The timeframe to finalize the Performance Management Plan (PMP) for each Strategic Objective (SO) is one year from the date of approval of the mission's Country Plan. This PMP complies with this requirement for the Strategic Objective Ruling Justly.

The Performance Management Plan is an internal document for use by the SO Team as a management tool. It facilitates planning and management of assessments and reporting results towards the achievement of the Strategic Objective.

The logical consistency of the results framework provides the context for the PMP. The calendar of performance management tasks summarizes the types of tasks the mission will conduct in CY 2005 and those anticipated during CY 2006-2009. The SO Team will prepare annual updates of the calendar and timelines for the performance of management tasks over the remaining life of the Strategic Objective.

The set of performance indicators in the reference sheets is the core of the PMP and is used to assess progress over the life of the SO. The overall and intermediate results performance indicators selected and the components in the Performance Indicators Reference Sheets follow the ADS guidelines on indicators.

LOGICAL CONSISTENCY OF THE RESULTS FRAMEWORK

The Strategic Objective, Ruling Justly: More Responsive, Transparent Governance, addresses the need for critical reforms in rule of law and the need to assure greater transparency and accountability of government. The results framework contemplates the necessary outcomes for the achievement of two intermediate results: *Strengthened Rule of Law* and *Greater Transparency and Accountability of Government*. The approach is first and foremost to build a base of support for fighting corruption and demanding justice reform through civil society organizations that will work with agents of change. It also encompasses assistance to public sector entities engaged in combating corruption and making public officials accountable.

Improve Justice Sector and Legal Framework

Weak rule of law erodes public confidence in democracy, limits social justice and holds back economic development, all of which undermine progress towards good governance. Two key outcomes will help achieve Intermediate Result 1.1, Strengthened Rule of Law: i) *civil society promoting, and a growing political base for, justice reform* and ii) *justice institutions with greater independence and quality of justice services*. To achieve the first outcome, activities carried out will help the Pact for Justice Reform Commission develop its agenda for critical justice sector reforms and foster improvements in the capacity of civil society, private sector and media to promote critical reforms. The following will lead to achieving the second outcome: improvements in the capacity of the justice system to coordinate, plan, and carry out reforms, strengthening the merit selection and accountability of justice personnel, and streamlining civil and criminal procedures. Civil society organizations (CSOs) have an important role to play in encouraging and supporting justice reforms. The CSOs will also advocate for greater access to prompt, fair, and affordable ways to resolve disputes.

The Pact for Justice Reform identified several critical reforms to the justice sector and legal framework that are necessary to help turn around the current situation in Panama. These include i) a new method for selecting members of the Supreme Court, ii) a strengthened judicial career law, iii) an effective system for holding judges and prosecutors accountable for misconduct, iv) ethics education in law schools, v) ensuring juridical reliability, and vi) reform of criminal law and criminal procedures law as well as civil procedures law. Progress made in these areas of reform will strengthen rule of law by improving access to quality justice and addressing the absence of transparency and accountability in the existing justice system.

Promote and Support Anti-Corruption Reforms

A lack of transparency, accountability and access to justice are the main obstacles confronting good governance and democracy in Panama. Corruption is a major development challenge. Two key outcomes support achievement of Intermediate Result 1.2, Greater Transparency and Accountability of Government: i) *more transparent systems for management of public resources by the national government* and ii) *more opportunities for citizen participation in, and oversight of, national government decision-making*. The following will support achievement of the first outcome: a national anti-corruption strategy, improved capacity in key public sector entities responsible for preventing, investigating, and prosecuting corruption cases, and strengthening public sector entities in ethics and accountability. To achieve the second outcome will require enhancing the capacity of civil society organizations (CSOs) to conduct social auditing of GOP activities, strengthening media capacity to investigate responsibly and report credibly alleged acts of corruption to the public, and improving the capacity of CSOs to develop sound initiatives for promoting reforms and ethical behavior.

In order to promote and support anti-corruption reforms, the focus of planned interventions is twofold. Some activities will support key relevant public sector entities in their efforts to eliminate corruption and hold corrupt officials accountable. Other activities will help civil society organizations advance their advocacy for critical reforms and social oversight of government. Civil society's role in promoting more transparent systems for management of public resources by the national government and in conducting the necessary social oversight of national government actions is crucial to the achievement of the results

anticipated. Its ability to effectively carry out these functions will depend on the institutional strengths of the CSOs and the scope of the activities undertaken.

Strategic Mechanisms

Two strategic mechanisms will facilitate the achievement of this Strategic Objective: the *Pact for Justice Reform Commission* and the *National Anti-Corruption Council*. The establishment of these two mechanisms by the GOP represents positive steps in the direction of legal reforms and anti-corruption measures.

The State Pact for Justice that the Office of the President signed in 2005 with the Supreme Court, the Public Ministry, the National Bar Association and civil society provides a platform to initiate the process leading to major reforms in the justice sector. This Pact puts into action the promise of political will to strengthen rule of law. The Pact for Justice Reform Commission has the mandate to prepare a law reform agenda, a recent development that offers a timely opportunity to help the GOP move forward its rule of law efforts. Also, the signatories (the Executive, Legislative and Judiciary branches of government as well as civil society represented by the "Alianza Ciudadana Pro Justicia" and the Panamanian Bar Association) represent a broad commitment to reforms in the justice sector. Assistance provided to this strategic Commission will foster improvements in the justice sector and legal framework that will support attainment of the strategic objective.

The National Anti-Corruption Council established in 2004 will facilitate the inter-institutional coordination necessary for designing and implementing a National Anti-Corruption Strategy that will advance the GOP's anti-corruption agenda. Partnering with the Council will facilitate not only the development of the strategy for combating corruption, but also the subsequent action plan and future assistance in the implementation of elements of that plan. Working through this mechanism in support of greater transparency and accountability in government will contribute to the achievement of ruling justly in Panama.

CRITICAL ASSUMPTIONS

Three assumptions are fundamental to the success of the Strategic Objective, Ruling Justly: More Responsive, Transparent Governance:

- GOP continues committed to anti-corruption and judicial reforms
- Civil society continues to play a proactive role in promoting transparency and fighting corruption in Panama
- Justice system institutions are committed to judicial reforms

Results Framework for Strategic Objective (SO 1), 2004-2009



SO 1 RULING JUSTLY: MORE RESPONSIVE, TRANSPARENT GOVERNANCE

SO Indicator:
Indicator 1: TBD
Indicator 2: TBD

Democracy and Governance Development Context:

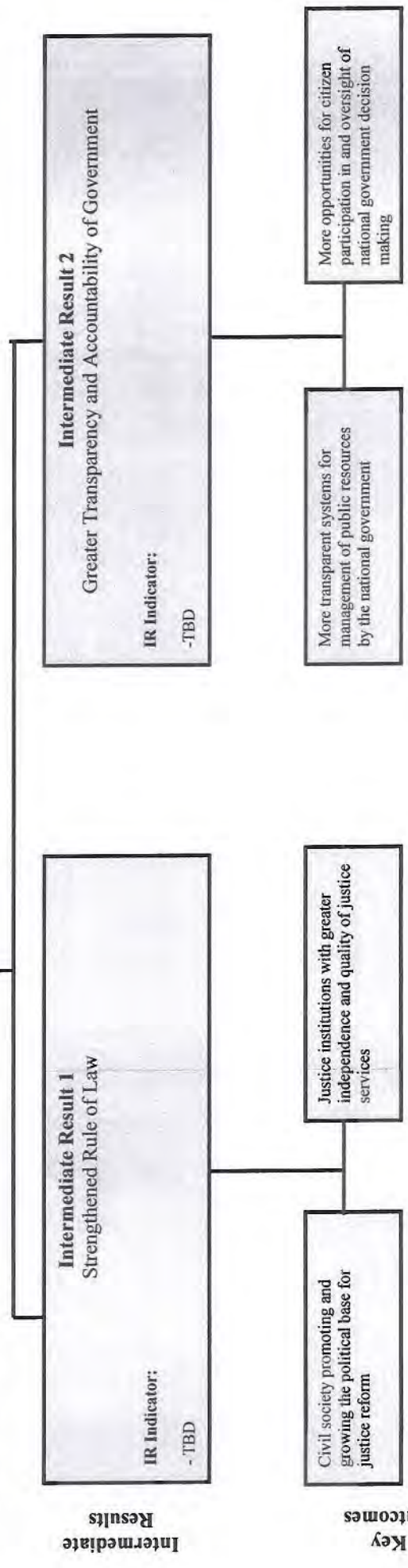
- Constitution grants strong executive powers and provides immunity for legislators, judges and other high-ranking government officials
- Strong authority of executive branch undermining independence of legislative and judicial branches and effectiveness of local government
- Judicial system widely criticized as slow, inefficient, ineffective, and subject to political manipulation and corruption.
- Lack of transparency, accountability and easy access to justice are major factors limiting good governance and democracy
- Corruption has risen in prominence in public opinion polls, second only to unemployment

Strategic Mechanisms:

- State Pact for Justice Reform Commission
- National Transparency Anti-Corruption Council

Critical Assumptions:

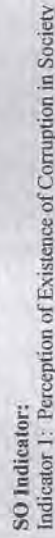
- GOP continues committed to anti-corruption reforms
- Civil society continues to play a proactive role in promoting transparency and fighting corruption in Panama
- Justice System institutions are committed to judicial reforms



Illustrative Activities

- TA to State Commission on justice reform
- TA & training to enhance civil society, media and private sector capabilities for reform
- TA to improve justice system capacity to coordinate, plan & carry out reforms
- TA to streamline criminal & civil procedures
- TA to strengthen merit selection and accountability of justice personnel
- TA to improve access and quality of administrative justice services
- TA to improve access to public defenders for indigent defendants
- TA to develop a national anti-corruption strategy
- TA and training to improve capacity of key public entities responsible for preventing and investigating corruption
- TA and training to strengthen public sector entities in ethics and accountability
- TA, training and small grants to enhance civil society organizations (CSOs) capacity for social auditing of GOP activities
- TA and training to improve media capacity for investigative reporting on corruption
- TA and training to improve CSOs capacity to develop proposals for ethical behavior

SO I RULING JUSTLY; MORE RESPONSIVE, TRANSPARENT GOVERNANCE



Indicator 1: Perception of Existence of Corruption in Society

- Constitution grants strong executive powers and provides immunity for legislators, judges and other high-ranking government officials
- Strong authority of executive branch undermining independence of legislative and judicial branches and effectiveness of local government
- Judicial system widely criticized as slow, inefficient, ineffective, and subject to political manipulation and corruption.
- Lack of transparency, accountability and easy access to justice are major factors limiting good governance and democracy
- Corruption has risen in prominence in public opinion polls, second only to unemployment

National Transparency Anti-Corruption Council

- **GOP continues committed to anti-corruption reforms**
- **Civil society continues to play a proactive role in promoting transparency and fighting corruption in Panama**
- **Justice System institutions are committed to judicial reforms**

- Citizen satisfaction with justice system services increased

National Anti-Corruption Strategy implemented
Number of social audits undertaken on selected national government programs and projects

Justice institutions with greater independence and quality of justice services

More transparent systems for management of public resources by the national government

More opportunities for citizen participation in and oversight of national government decision making

- TA to State Commission on justice reform
- TA & training to enhance civil society, media & private sector capabilities for reform
- TA to improve justice system capacity to coordinate, plan & carry out reforms
- TA to streamline criminal & civil procedures

- TA to strengthen merit selection and accountability of justice personnel
- TA to improve access and quality of administrative justice services
- TA to improve access to public defence for indigent defendants

- TA to develop a national anti-corruption strategy
- TA and training to improve capacity of key public entities responsible for preventing and investigating corruption
- TA and training to strengthen public sector entities in ethics and accountability

- TA, training and small grants to enhance civil society organizations (CSOs) capacity for social auditing of GOP activities
- TA and training to improve media capacity for investigative reporting on corruption
- TA and training to improve CSOs capacity to develop proposals for ethical behavior

Strategic Objective: Ruling Justly: More Responsive, Transparent Governance**SO1 Level Indicator: Degree to which corruption is perceived to exist in society****DESCRIPTION****Precise Definition(s):** Perception of corruption is defined as the view held at a particular point in time by surveyed and interviewed persons.**Unit of Measure:** Degree (of perceived levels of corruption determined by international bodies with expertise and experience in the field; and the number of Panamanians reporting that they have been victims of corruption).**Disaggregated by:** Gender, citizenship, age group.**Criteria for Milestone or Index:** N/A**Justification:** The level of grand corruption judged by World Bank Institute for purposes of making its annual ranking (and in USAID's follow up surveys to The Political Culture of Democracy in Panama, 2004) and the level of administrative or petty corruption reflected in a victimization survey are indicators for whether there is greater transparency and accountability within the GOP. Declining levels of corruption would arguably be the best possible evidence of Panama's progress toward ruling justly with more responsive, transparent governance.**PLAN FOR DATA ACQUISITION BY USAID****Data Collection Method:** Public Polls and surveys published in local newspapers. World Bank, Transparency International and other reports.**Method of Acquisition by USAID:** USAID will receive information from the US contractor doing follow up surveys as well as consult World Bank Institute's annual published ranking of countries on the basis of their levels of corruption.**Data Source(s):** World Bank Institute, national level surveys reflecting actual victims of corruption, and media reporting on corruption.**Frequency/Timing of Data Acquisition:** Annually for the World Bank Institute data, annually for the local newspapers published polls and surveys, and every two years for the follow up surveys to the baseline found in The Political Culture of Democracy in Panama, 2004.**Estimated Cost of Data Acquisition:** Free from the World Bank Institute, the local newspaper publications, and included in the contract with the US contractor for the follow up surveys to The Political Culture of Democracy in Panama, 2004.**Responsible Individual(s) at USAID:** Melva D'Anello, CTO, Team Leader and Activity Manager**DATA QUALITY ISSUES****Date of Initial Data Quality Assessment:** July 2005**Known Data Limitations, Significance, and Actions Planned:** Under unusual circumstances, the ranking of Panama in WBI's annual published report could be inaccurate in terms of whether Panama's corruption is increasing or decreasing. For example, if the countries near Panama in last year's ranking were to suffer sudden and dramatic increases in corruption, Panama could improve its position in this year's ranking even though its levels of corruption were the same or slightly worse. Though this is unlikely to occur, USAID and its contractor will test WBI's annual ranking of Panama by taking into account other reliable sources on corruption in Panama such as the media and civil society organizations as well as Transparency International's annual rankings. Also, USAID will consider what is happening in the countries near Panama in prior year rankings. In addition, the SO Team will be able to compare the results of USAID's own studies in 2006 and 2008 (follow up surveys to The Political Culture of Democracy in Panama, 2004) with WBI published data. Another problem is that general perceptions of corruption can sometimes lag behind actual progress in reducing levels of corruption. In this regard, the SO Team can weigh data on perceptions against known successes in specific USAID-supported activities and actual positive steps taken by the GOP. This will help provide a more balanced assessment of progress.**Date of Future Data Quality Assessments:** December 2006**Procedures for Future Data Quality Assessments:** The same as noted above in Known Data Limitations, Significance, and Actions Planned**PLAN FOR DATA ANALYSIS, REVIEW, & REPORTING****Data Analysis:** The SO1 Team will analyze the data and information to judge whether corruption is increasing or decreasing in Panama.**Presentation of Data:** Summary tables of surveys and poll results.**Review of Data:** Quarterly by SO1 Team and semi-annually with contractor.**Reporting of Data:** Portfolio Reviews and Annual Reports.**OTHER NOTES****Notes on Baselines/Targets:** The SO1 Team has used the World Bank Institute website and the report The Political Culture of Democracy in Panama, 2004 in developing baseline data and targets for this indicator.**Location of Data Storage:** USAID Democracy Office**Other:** None**PERFORMANCE INDICATOR VALUES (CUMMULATIVE)**

Year	Target	Actual	Notes
2004	Baseline	51% (76.2%; 18.9 %)	The first percentage outside the parenthesis is Panama's corruption ranking from the WBI. The percentages inside the parentheses are from The Political Culture of Democracy in Panama, 2004 and are respectively: the percentage of Panamanians who believe corruption among public officials is very or somewhat common; and the percentage of Panamanians who have been victims of corruption at least once.
2005	52% (75%; 17%)		
2006	53% (70%; 16%)		
2007	57%		
2008	62% (65%; 14%)		

THIS SHEET LAST UPDATED ON: 4-12-2005

Strategic Objective: Ruling Justly: More Responsive, Transparent Governance			
Intermediate Result 1.1: Strengthened Rule of Law			
IR 1.1.1 Indicator: Increased citizen satisfaction with justice system services			
DESCRIPTION			
Precise Definition(s): Percentage of citizens responding to survey question that they will be fairly treated if arrested, or if they file a complaint with the court system.			
Unit of Measure: Percentage.			
Disaggregated by: Gender, citizenship, age group.			
Criteria for Milestone or Index: N/A.			
Justification: While perception may not match reality, we assume there is some connection. Furthermore, one rationale for rule of law work is to increase citizen faith in democratic institutions. Increasing levels of citizens' trust in the justice system services would arguably be the best possible evidence of Panama's progress toward strengthened rule of law.			
PLAN FOR DATA ACQUISITION BY USAID			
Data Collection Method: Public surveys and/or focus groups.			
Method of Acquisition by USAID: USAID will receive information from the ROL contractor.			
Data Source(s): National level surveys reflecting citizen's satisfaction with justice system services and media reporting.			
Frequency/Timing of Data Acquisition: Annually			
Estimated Cost of Data Acquisition: \$5,000 to \$10,000 to be included in the contract with the ROL contractor.			
Responsible Individual(s) at USAID: Melva D'Anello, CTO, Team Leader and Activity Manager.			
DATA QUALITY ISSUES			
Date of Initial Data Quality Assessment: December 2005			
Known Data Limitations, Significance, and Actions Planned:.			
Date of Future Data Quality Assessments: December 2006			
Procedures for Future Data Quality Assessments:			
PLAN FOR DATA ANALYSIS, REVIEW, & REPORTING			
Data Analysis:			
Presentation of Data: Bar or line graphs showing targets, actual data, and data disaggregated according to milestone criteria, key issues, and recommendations			
Review of Data: The SO1 team will review the data semi-annually.			
Reporting of Data: Portfolio Reviews and Annual Reports			
OTHER NOTES			
Notes on Baselines/Targets: The baseline will be drawn from a range of policies and conditions, in which USAID has a manageable interest that are conducive to corruption. For example the concentration of political power in the presidency, the power of political parties over legislators and judges, the absence of checks and balances among the three branches of government, the lack of accountability of public officials, lack of uniform ethical standards and enforcement mechanisms for public officials, immunities of high officials in all three branches of government, impunity enjoyed by the social elite and privileged, secrecy in government and the judiciary, excess discretion in decision making, laws that punish those denouncing corruption, limits on free speech, a lack of understanding of the costs of corruption, and public tolerance of corruption.			
Location of Data Storage: USAID Democracy Office			
Other: None			
PERFORMANCE INDICATOR VALUES (CUMMULATIVE)			
Year	Target	Actual	Notes
2004	Baseline		Targets will be reviewed with the contractor, taking into account additional information on the GOP plan for its National Anti-Corruption Strategy, as it becomes available. Targets refer to policies, law reforms and/or specific actions taken.
2005	2		
2006	5		
2007	8		
2008	12		
THIS SHEET LAST UPDATED ON: 4-12-2005			

Strategic Objective: Ruling Justly: More Responsive, Transparent Governance			
Intermediate Result 1.2: Greater Transparency and Accountability of Government			
IR 1.2.1 Indicator: GOP is implementing a National Anti-Corruption Strategy			
DESCRIPTION			
Precise Definition(s): The National Anti-Corruption Strategy includes specific actions (i.e. laws, policies, and regulations) for implementation in the short, medium and long term. Implementation by the GOP refers to adoption of these actions.			
Unit of Measure: Benchmarks achieved in implementing the National Anti-Corruption Strategy. A benchmark may include enacting a specific reform as well as establishing mechanisms for putting reforms into practice.			
Disaggregated by: N/A			
Criteria for Milestone or Index: Enacting or facilitating implementation of genuine reforms that promote greater transparency and accountability. The Torrijos Administration's recent decision to repeal unwieldy regulations that had the effect of nullifying Panama's Transparency (Freedom of Information) Law is an example of a reform that meets the criteria for a milestone.			
Justification: After adoption of a National Strategy (which USAID-funded advisors can assist in developing), then civil society organizations on the Council and others can monitor the GOP's implementation of the Strategy which must focus on concrete measures that lead to greater transparency and accountability in government, particularly the executive branch.			
PLAN FOR DATA ACQUISITION BY USAID			
Data Collection Method: The contractor implementing anticorruption activities in Panama will collect and report quarterly to USAID. In addition, the SO1 team will monitor progress on the National Anti-Corruption Strategy and its implementation in the media.			
Method of Acquisition by USAID: USAID will receive information from the contractor and monitor news media reports.			
Data Source(s): Media reporting on activities of the Council and the Executive Secretariat as well as information provided by the US contractor through its contact with the Executive Secretariat.			
Frequency/Timing of Data Acquisition: The acquisition of data will be ongoing throughout the life of the activity through the media as well as with the US contractor that will report in time for the portfolio reviews.			
Estimated Cost of Data Acquisition: Included in the contract with the US contractor Casals and Associates			
Responsible Individual(s) at USAID: Melva D'Anello, CTO, Team Leader and Activity Manager.			
DATA QUALITY ISSUES			
Date of Initial Data Quality Assessment: July 2005			
Known Data Limitations, Significance, and Actions Planned: The quality of the data and information on the performance of the GOP in carrying out the National Anti-Corruption Strategy should be excellent in that the media and CSOs will be monitoring closely the conduct of the Executive Secretariat and Council with respect to a the National Anti-Corruption Strategy.			
Date of Future Data Quality Assessments: Annually			
Procedures for Future Data Quality Assessments: Some members of the USAID SO1 team will monitor news and other media reports and from time to time contact with persons involved in the work of the Council and the Executive Secretariat in order to ensure that information USAID is receiving from its US contractor accurately reflects the progress or lack thereof toward implementing the National Anti-Corruption Strategy.			
PLAN FOR DATA ANALYSIS, REVIEW, & REPORTING			
Data Analysis: The SO1 team will analyze information received to determine whether the Torrijos Administration is in fact implementing the National Anti-Corruption Strategy.			
Presentation of Data: Bar or line graphs showing targets, actual data, and data disaggregated according to milestone criteria, key issues, and recommendations			
Review of Data: The SO1 team will review the data semi-annually.			
Reporting of Data: Portfolio Reviews and Annual Reports			
OTHER NOTES			
Notes on Baselines/Targets: Baseline will be drawn from a range of policies and conditions, in which USAID has a manageable interest that are conducive to corruption. i.e. concentration of political power in the presidency, power of political parties over legislators and judges, absence of checks and balances among the three branches of government, lack of accountability of public officials, lack of uniform ethical standards and enforcement mechanisms for public officials, immunities of high officials in branches of government, impunity enjoyed by the social elite and privileged, secrecy in government and the judiciary, excess discretion in decision making, laws that punish those denouncing corruption, limits on free speech, a lack of understanding of the costs of corruption, and public tolerance of corruption.			
Location of Data Storage: USAID Democracy Office			
Other: None			
PERFORMANCE INDICATOR VALUES (CUMMULATIVE)			
Year	Target	Actual	Notes
2004	Baseline		Targets will be reviewed with the contractor, taking into account additional information on the GOP plan for its National Anti-Corruption Strategy, as it becomes available. Targets refer to policies, law reforms and/or specific actions taken.
2005	2		
2006	5		
2007	8		
2008	12		
THIS SHEET LAST UPDATED ON: 4-12-2005			