



Report to the Ranking Member,  
Subcommittee on Western Hemisphere,  
Transnational Crime, Civilian Security,  
Democracy, Human Rights, and Global  
Women's Issues, Committee on Foreign  
Relations, U.S. Senate

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November 2020

# RULE OF LAW ASSISTANCE

## State and USAID Could Improve Monitoring Efforts

Accessible Version

# GAO Highlights

Highlights of [GAO-21-14](#), a report to the Ranking Member, Subcommittee on Western Hemisphere, Transnational Crime, Civilian Security, Democracy, Human Rights, and Global Women's Issues, Committee on Foreign Relations, U.S. Senate

## Why GAO Did This Study

Rule of law strengthens protection of fundamental rights and serves as a foundation for democratic governance and economic growth. According to State, strengthening judicial and legal systems in certain countries is vital to U.S. national security interests. State and USAID allocated over \$2.7 billion for rule of law assistance overseas from fiscal years 2014 through 2018.

GAO was asked to review monitoring and evaluation of U.S. rule of law assistance around the world. This report examines, among other objectives, the extent to which the agencies followed key practices for monitoring rule of law projects in selected countries, and processes agencies have in place to use evaluations to inform future rule of law assistance. GAO analyzed relevant laws and agency policies and other documents, and interviewed officials in Washington, D.C., and four countries—Colombia, Kosovo, Liberia, and the Philippines—selected based on funding amounts and other factors.

## What GAO Recommends

GAO recommends that State/INL establish procedures to ensure project goals, objectives, and risks are identified in monitoring plans. GAO also recommends that State/INL establish and USAID enhance procedures to ensure project staff assess and approve monitoring reports. State and USAID concurred with GAO's recommendations.

View [GAO-21-14](#). For more information, contact Chelsea Kenney Gurkin at (202) 512-2964 or [gurkin@gao.gov](mailto:gurkin@gao.gov).

November 2020

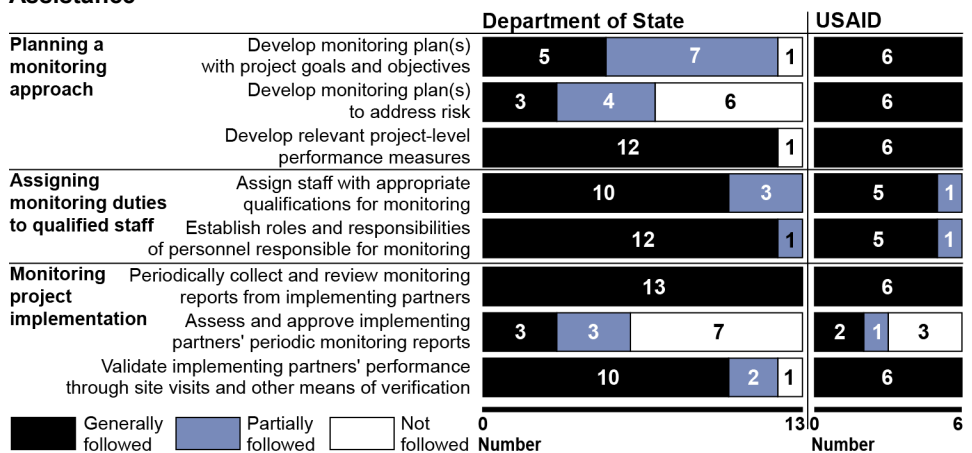
# RULE OF LAW ASSISTANCE

## State and USAID Could Improve Monitoring Efforts

### What GAO Found

The Department of State (State) Bureau of International Narcotics and Law Enforcement Affairs (State/INL) and the U.S. Agency for International Development (USAID) provided sufficient documentation for GAO to conclude that they followed most key practices for monitoring rule of law assistance for the awards we reviewed from selected countries. However, the agencies did not provide sufficient documentation demonstrating that they followed other key practices. Overall, State/INL followed these practices in most cases and USAID did so in almost all cases. Specifically, GAO's review of 19 State/INL and USAID projects found that USAID in all cases, and State/INL in most cases, followed key practices for planning a monitoring approach, such as developing project goals, objectives, and performance indicators. However, State/INL did not consistently demonstrate that project representatives included project goals and objectives in monitoring plans, and did not consistently identify risks in those plans (see fig.). Furthermore, neither agency could demonstrate that project representatives consistently assessed and approved monitoring reports from implementing partners. Following key monitoring practices helps to ensure that agencies stay well-informed of project performance and take corrective action when necessary, and that projects achieve their intended results. Without complete documentation, management cannot be sure that these practices are being followed.

**State/INL and USAID Alignment with Key Practices for Monitoring Rule of Law Assistance**



Source: GAO analysis of Department of State/Bureau of International Narcotics and Law Enforcement Affairs (State/INL) and U.S. Agency for International Development (USAID) documents. | GAO-21-14

State and USAID have various processes to conduct, share, and use rule of law project evaluations to improve future efforts. Both agencies disseminate evaluations through online systems, briefings, and presentations, and have established approaches to track the implementation of evaluation recommendations, such as through spreadsheets or other documentation. The agencies use these evaluations in various ways to inform project design and strategic planning.

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**Abbreviations**

DOD	Department of Defense
DOJ	Department of Justice
DR	Democracy, Human Rights, and Governance
DRG Center	Center of Excellence on Democracy, Human Rights, and Governance
F	Office of Foreign Assistance Resources
INL	Bureau of International Narcotics and Law Enforcement Affairs
OMB	Office of Management and Budget
SPSD	Standardized Program Structure and Definitions
State	Department of State
USAID	U.S. Agency for International Development

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November 9, 2020

The Honorable Benjamin Cardin  
Ranking Member  
Subcommittee on Western Hemisphere,  
Transnational Crime, Civilian Security,  
Democracy, Human Rights,  
and Global Women's Issues  
Committee on Foreign Relations  
United States Senate

Dear Mr. Cardin:

The principle of the rule of law holds that all people are subject to and equal before a nation's laws. Promoting rule of law overseas is a critical component of American foreign and national security policy. Rule of law strengthens protection of fundamental rights, ensures a robust civil society and independent media, and serves as a foundation for democratic governance and economic growth. According to the Department of State (State), strengthening judicial and legal systems in certain countries is vital to U.S. national security interests. A justice sector that provides effective, accountable, and inclusive services for all citizens and respects the rule of law is fundamental to peace and security, crime and violence prevention, and combating extremism. States with instability or weak rule of law can potentially export transnational threats and economic insecurity to neighboring countries and undermine the foreign policy interests of the United States. According to the U.S. Agency for International Development (USAID), the rule of law is an important development outcome in itself, as well as a means to ending poverty, building resiliency, and supporting stability. Ensuring the capacity of the justice sector to effectively investigate and prosecute crime, end impunity, and deliver accountable and responsive services to citizens is critical to supporting partner countries.

As we previously reported, the United States provides assistance to help countries establish their political and justice sectors, strengthen the rule of law, and address such challenges as terrorism and transnational crime,

among others.<sup>1</sup> State and USAID are the primary U.S. agency funders of rule of law assistance and have allocated over \$2.7 billion in rule of law assistance overseas from fiscal years 2014 through 2018. Managing these funds effectively requires reliable monitoring and evaluation systems to assess and help improve program results. Monitoring is the continuous oversight of programs and projects to assess their performance and progress toward achieving objectives and results. Evaluations are systematic studies of the characteristics and outcomes of programs and projects intended to improve effectiveness and inform future programming decisions.

You asked us to review rule of law assistance around the world. This report examines the (1) types of indicators State and USAID use to track the performance of rule of law projects, (2) extent to which agencies followed key practices for monitoring rule of law projects in selected countries, and (3) processes agencies have in place to use evaluations to inform future rule of law assistance.<sup>2</sup> We previously reported on U.S. agencies' funding, planning, and coordination of rule of law assistance in June 2020.<sup>3</sup>

To address our objectives, we examined relevant laws; State and USAID monitoring and evaluation requirements for foreign assistance, including policies, guidelines, and documents; and processes State and USAID have in place to monitor and evaluate rule of law assistance. We reviewed monitoring and evaluation-related data from four selected countries: Colombia, Kosovo, Liberia, and the Philippines. On the basis of our analysis of the data, we determined that the data were sufficiently reliable for the purposes of our reporting objectives. We selected the nongeneralizable sample of four countries because they represented various geographic regions and received significant rule of law assistance

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<sup>1</sup>GAO, *Rule of Law Assistance: Agency Efforts Are Guided by Various Strategies, and Overseas Missions Should Ensure that Programming is Fully Coordinated*, [GAO-20-393](#) (Washington, D.C.: June 9, 2020).

<sup>2</sup>Agencies may use various terms to describe their assistance, including “programs,” “projects,” and “activities.” In this report, we generally use the term “projects” to refer to assistance funded by U.S. agencies that is implemented directly by the agencies or through awards made to implementing partners, including contractors, international organizations, and other awardees. However, in certain instances when we are discussing agency project documentation that uses different terminology, we use the terminology from the documentation.

<sup>3</sup>[GAO-20-393](#).

allocations from multiple U.S. agencies in fiscal years 2014 through 2018. We reviewed State and USAID monitoring plans and evaluations for this 5-year period, the most recent available at the time of our review, and spoke with officials from State, USAID, the Department of Justice (DOJ), the Department of Defense (DOD), and representatives from nongovernmental organizations about the rule of law sector. On the basis of these interviews and our previous work, we focused this review on State and USAID.<sup>4</sup> For our review of State, we focused on its Bureau of International Narcotics and Law Enforcement Affairs (State/INL), State's lead bureau for developing rule of law-related assistance projects.

To describe the types of indicators State/INL and USAID use to track the performance of rule of law projects, we reviewed State and USAID policies, guidelines, and procedures. We also reviewed documents from rule of law projects implemented in our selected countries to examine the types of indicators the agencies used to track project performance. In addition, we interviewed cognizant officials in Washington, D.C., and the four selected countries.

To examine the extent to which the agencies' monitoring practices for our four selected countries adhered to key practices, we selected a nongeneralizable sample of 13 State/INL and six USAID projects, for which the agencies made high-dollar value obligations, that were ongoing from fiscal year 2014 through fiscal year 2018, and represented a range of implementing mechanism types, according to agency data.<sup>5</sup> We assessed monitoring documents from the selected projects against eight key practices for monitoring that we have previously identified, and which we describe in more detail later in this report.<sup>6</sup> For each of these key practices, we categorized the results of our assessment as "generally followed," "partially followed," or "not followed." We also determined the extent to which State/INL and USAID track project performance. Using the same nongeneralizable sample of 19 projects described above, we selected a subset of six projects—four from State/INL and two from USAID—that the agencies indicated were of high-dollar value and

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<sup>4</sup>We previously reported on some of DOD's rule of law-related activities. See GAO, *Rule of Law Assistance: DOD Should Assess Workforce Size of Defense Institute of International Legal Studies*, [GAO-17-118](#) (Washington, D.C.: Dec. 14, 2016).

<sup>5</sup>Based on agency data, we included several types of implementing mechanisms in our sample of awards, including cooperative agreements, contracts, task orders, letters of agreement, grants, and interagency agreements.

<sup>6</sup>GAO, *Foreign Assistance: Selected Agencies' Monitoring and Evaluation Policies Generally Address Leading Practices*, [GAO-16-861R](#) (Washington, D.C.: Sept. 27, 2016).



included a range of implementing mechanism types, to determine the extent to which the agencies tracked project performance reports. We reviewed fiscal year 2018 monitoring reports for these projects to assess the extent to which State/INL and USAID collect data on performance measures in the reports. These performance measures were established in other agency monitoring plans such as monitoring plans and project narratives in accordance with one of our key monitoring practices.

To determine how each agency uses evaluations to inform future rule of law assistance, we collected and analyzed State and USAID evaluation policies, procedures, and other documents and collected the universe of State and USAID performance evaluations for rule of law projects in the four selected countries from fiscal years 2014 through 2018. We analyzed the performance evaluations and interviewed cognizant officials in Washington, D.C., and in the selected countries in order to learn how agencies conduct evaluations, disseminate evaluations, track post-evaluation recommendation follow-up, and use evaluations to inform future efforts.

We conducted this performance audit from May 2019 to November 2020 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

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## Background

Rule of law assistance supports a wide variety of activities, including building effective, transparent, and accountable law enforcement and justice institutions; promoting legal reform; supporting access to justice and information; promoting broader cultural change around the rule of law; and ensuring the fairness and independence of justice institutions (see sidebar).

**Department of State and U.S. Agency for International Development Standardized Definition of Rule of Law**

Rule of law is a principle of governance under which all persons, institutions, and entities, public and private, including the state itself, are accountable to laws that are publicly promulgated, independently adjudicated, and equally applied and enforced, consistent with international treaties and customary law.

Rule of law is demonstrated by adherence to the principles of publicly accepted legitimacy of the law, institutions, and process; checks and balances on structures of power; supremacy of the law; equality before the law; accountability to the law; fairness; effective application of the law; equitable access to justice; participation in decision-making; legal certainty; avoidance of arbitrariness; and procedural and legal transparency.

Activities include support for strengthening of judicial systems, including court administration, management, and operations; judicial proceedings; constitutional and legal reform efforts; judicial independence; access to justice; and legal education and associations.

Source: Department of State. | GAO-21-14

Promoting the rule of law abroad has been a U.S. government priority for decades. Prior to the 1990s, the U.S. government primarily focused its rule of law assistance on activities in the Western Hemisphere, particularly Latin America. With the end of the Cold War and collapse of the Soviet Union, the U.S. government invested resources to support rule of law and justice sector reform in the formerly communist region. Following the September 11, 2001, terrorist attacks, Afghanistan became a primary recipient of U.S. rule of law assistance. The United States continues to support rule of law activities around the world.

**Roles and Responsibilities of Agencies Involved in Rule of Law Assistance**

Within State, several bureaus and offices support rule of law assistance activities. State/INL is the State lead for promoting rule of law programming abroad. State/INL headquarters officials arrange for training for staff and contractors engaged in monitoring and evaluation activities. The officials also work with partner organizations to improve evaluations, and facilitate the use of evaluation findings and recommendations. State's Office of Foreign Assistance Resources (State/F) coordinates policy, planning, and performance management efforts and provides strategic direction for foreign assistance resources.

Within USAID, rule of law programs are designed, supported, and managed from both regional and technical Washington, D.C.-based bureaus and from country-level missions. According to USAID, mission-level officials have the primary responsibility for implementing, monitoring, and evaluating rule of law assistance programs. USAID's Washington, D.C.-based operating units, such as the Center of Excellence on Democracy, Human Rights and Governance (DRG Center), support missions in program and strategy design. The DRG Center also supports rule of law evaluations, assessments, and other data collection efforts meant to promote evidence-based program design and increase the knowledge base at missions.<sup>7</sup>

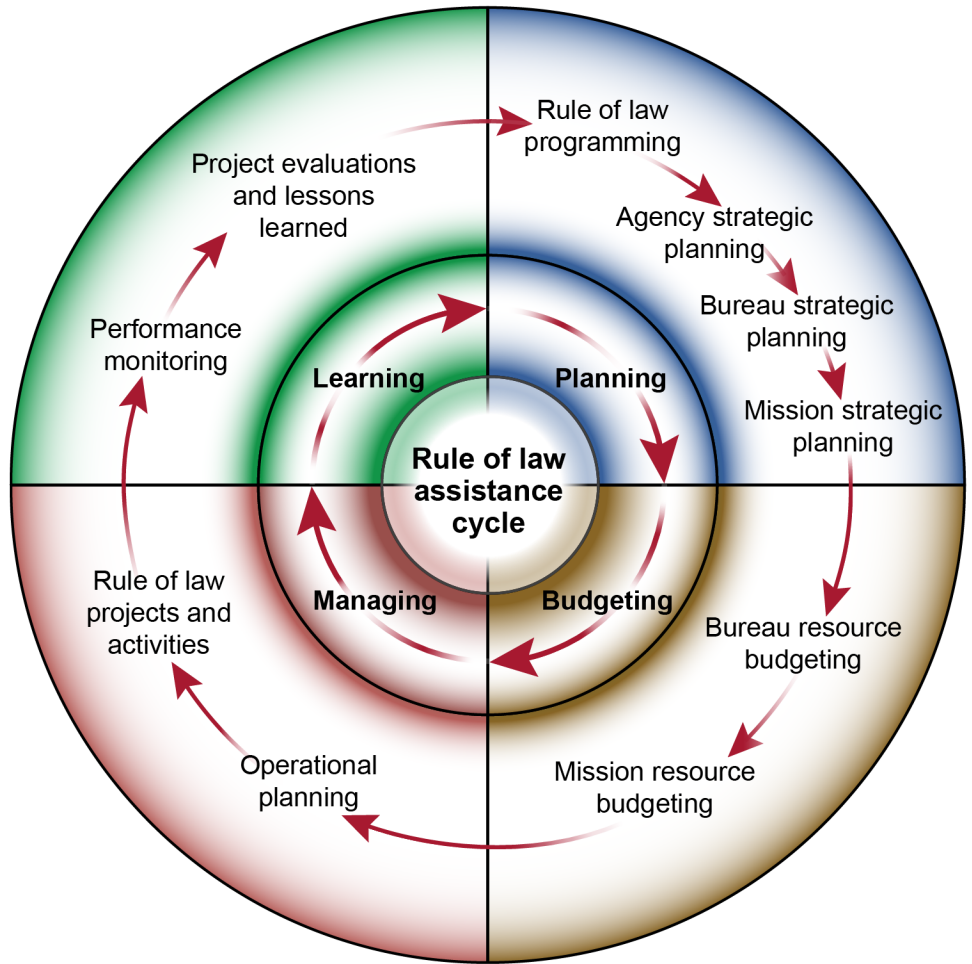
<sup>7</sup>Other agencies and offices, including DOJ, DOD, the Department of Homeland Security, and the Millennium Challenge Corporation, also provide assistance that can be related to improving the rule of law. This report addresses State and USAID rule of law assistance.

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## Foreign Assistance Development, Funding, and Support

Every 4 years, State and USAID release a Joint Strategic Plan that sets forth the direction and priorities for both agencies. Agencies plan performance goals and reporting, which occurs annually in the Annual Performance Plan and Annual Performance Report. These plans inform agency bureau and country-level strategic documents as well as budget requests. State/F and USAID's Bureau of Budget and Planning analyze and assess these requests against State, USAID, and Administration goals. Once the department's budget request is submitted to Congress and approved, agency officials develop operational plans to present how the funding will be distributed among specific bureaus, programs, and priorities. The bureaus and missions ultimately implement the funded programs and projects and are expected to follow monitoring and evaluation policies and procedures to report on progress toward federal assistance award goals. Figure 1 depicts our summary of State's and USAID's process for managing foreign assistance. According to State and USAID officials, the process emphasizes linkages between strategic planning, budgeting, managing, and learning from results to better achieve agency goals.

Figure 1: State and USAID Process for Managing Foreign Assistance



Source: GAO summary of Department of State (State) and U.S. Agency for International Development (USAID) foreign assistance cycles. | GAO-21-14

## Guidelines and Requirements for Monitoring and Evaluation of Foreign Assistance

The Foreign Aid Transparency and Accountability Act of 2016 required the President to set forth guidelines for establishing measurable goals, performance metrics, and monitoring and evaluation plans for U.S. foreign assistance.<sup>8</sup> In January 2018, the Office of Management and

<sup>8</sup>Foreign Aid Transparency and Accountability Act of 2016, Pub. L. No. 114-191, § 3(b) (July 15, 2016).

Budget (OMB) released *Monitoring and Evaluation Guidelines for Federal Departments and Agencies that Administer United States Foreign Assistance* in response to the Foreign Aid Transparency and Accountability Act.<sup>9</sup> The OMB guidelines provide direction to agencies that administer foreign assistance on monitoring the use of resources, evaluating the outcomes and impacts of projects and programs, and applying the findings and conclusions of such evaluations to proposed project and program design. For the purposes of this report, we define monitoring and evaluation as follows:

- **Monitoring** is the ongoing and systematic tracking of data and information relevant to policies, strategies, programs, projects, and activities, and is used to determine whether desired results are occurring as expected during program, project, or activity implementation. Monitoring often relies on indicators, which are quantifiable measures of a characteristic or condition of people, institutions, systems, or processes that may change over time.
- **Evaluation** is the systematic collection and analysis of information about the characteristics and outcomes of the program—including projects conducted under such program—as a basis for making judgments regarding the program, improving program effectiveness, and informing decisions about current and future programming.

State's *Foreign Affairs Manual* and USAID's *Automated Directives System*, as well as associated agency guidance, provide the approach to monitoring and evaluation at State and USAID, respectively. In July 2019, we reported that State's and USAID's monitoring and evaluation policies aligned with the OMB guidelines. In addition, we reported that the OMB guidelines incorporated most of GAO's key practices for monitoring and evaluation.<sup>10</sup>

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<sup>9</sup>Office of Management and Budget (OMB) Memorandum M-18-04, *Monitoring and Evaluation Guidelines for Federal Departments and Agencies that Administer United States Foreign Assistance* (Jan. 11, 2018).

<sup>10</sup>We also found that both State's and USAID's monitoring and evaluation policies and procedures incorporated requirements in the OMB guidelines. See GAO, *Foreign Assistance: Federal Monitoring and Evaluation Guidelines Incorporate Most but Not All Leading Practices*, [GAO-19-466](#) (Washington, D.C.: July 31, 2019).

We previously identified eight key practices for monitoring the performance of foreign assistance projects.<sup>11</sup> For the purposes of this report, we grouped the eight key practices into three categories, which align with distinct steps in the monitoring process: (1) planning a monitoring approach, (2) assigning monitoring duties to qualified staff, and (3) monitoring project implementation. See appendix I for how we identified the eight key practices. We confirmed that these key practices are reflected in State, USAID, and OMB policies and guidance for monitoring foreign assistance. See table 1 for an overview of the eight key practices for monitoring.

**Table 1: Eight Key Practices for Monitoring Foreign Assistance Projects**

Key practice	Definition
<b>Planning a monitoring approach</b>	
Develop monitoring plan(s) with project goals and objectives	Develop agency-wide monitoring plans with defined project goals, objectives, timetables, and requirements for tracking performance information.
Develop monitoring plan(s) to address risk	Develop monitoring plans that identify, assess, and mitigate risk related to achieving program or project objectives.
Develop relevant project-level performance measures	Describe means to assess projects by establishing performance goals and output and outcome measures.
<b>Assigning monitoring duties to qualified staff</b>	
Assign staff with appropriate qualifications for monitoring	Establish requirements for staff responsible for monitoring the program or project to have relevant knowledge, skills, and training.
Establish roles and responsibilities of personnel responsible for monitoring	Establish roles and responsibilities of personnel monitoring the program or project.
<b>Monitoring project implementation</b>	
Periodically collect and review monitoring reports from implementing partners	Develop a process to collect, review, and analyze performance reports.
Assess and approve implementing partners' periodic performance reports	Assess and approve implementing partners' periodic performance reports. Assessments should recommend project adjustments, if necessary.
Validate implementing partners' performance through site visits and other means of verification	Establish procedures to validate implementing partners' performance, through site visits or other means.

Source: GAO, *Foreign Assistance: Federal Monitoring and Evaluation Guidelines Incorporate Most but Not All Leading Practices*, [GAO-19-466](#) (Washington, D.C.: July 31, 2019). | GAO-21-14

<sup>11</sup>We previously assessed State's and USAID's Mérida Initiative in Mexico against selected key practices for monitoring projects. See GAO, *U.S. Assistance to Mexico: State Department Could Improve Its Monitoring of Mérida Initiative Projects*, [GAO-20-388](#) (Washington, D.C.: May 12, 2020).

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## State/INL and USAID Use Standard and Custom Indicators to Track the Performance of Rule of Law Projects

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### State and USAID Policies Require Performance Indicators for Rule of Law Projects

State and USAID policies generally require officials to develop performance indicators for foreign assistance projects, including rule of law projects.<sup>12</sup> Performance indicators are a means to monitor expected outputs and outcomes of strategies, projects, or activities based on project goals and objectives.<sup>13</sup> They are key to monitoring efforts because they help agencies observe progress and measure the actual results of projects compared to expected results. State and USAID policies and guidance outline several criteria for selecting performance indicators. Specifically, guidance documents recommend the following criteria for selecting and developing indicators, among others. An indicator should be

- a direct measurement of the intended result,
- an objective measurement of the intended result,
- practical or feasible to collect in a given time frame and with the given resources,
- able to capture changes that are attributable to project objectives, and
- adequate for capturing all intended results of a project.

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<sup>12</sup>Department of State, *Program and Project Design, Monitoring, and Evaluation Policy* (Washington, D.C.: November 2017); U.S. Agency for International Development, *Automated Directives System*, 201.3.5.7 (Washington, D.C.: June 2017).

<sup>13</sup>The standard foreign assistance indicators for rule of law include a combination of output and outcome indicators. Outcome indicators are used to track more immediate and tangible results that are attributable to a project. An outcome indicator for rule of law, for example, might attempt to capture whether actual project results have brought tangible benefits to the targeted host country's criminal justice institution. An outcome indicator can reflect the immediate, mid-term, or long-term consequences of a project. By contrast, output indicators, also called milestones, are specific, discrete, interim events that convey progress toward a specific intended result. They are distinct from outcome indicators because they are used to describe one-time events or accomplishments, rather than change over time. They include products, goods, and services that result from an assistance-funded intervention.

In addition to these criteria, USAID recommends that indicator data be disaggregated by gender, age, location, or other dimensions that are important for programming.

In selecting indicators, both agencies require that program officers set a baseline—a value for the indicator before project implementation—and targets that reflect the desired results over an award’s period of performance. State/INL and USAID use two types of performance indicators, standard and custom, to track the performance of rule of law projects.<sup>14</sup> Both types of indicators belong to their own State and USAID bureaus and offices, which are responsible for tracking data related to them.

### Standard Performance Indicators

State and USAID use standard foreign assistance indicators to track the progress of their rule of law and other foreign assistance projects. While State and USAID bureaus and offices own and manage particular standard foreign assistance indicators, State/F oversees and provides policy guidance for their development. Both agencies use these indicators to collect and report comparable indicator data across multiple bureaus and offices. The agencies also use standard foreign assistance indicators to measure and illustrate foreign assistance accomplishments.

Each year, all missions and bureaus that provide foreign assistance submit data related to the standard foreign assistance indicators, as well as data related to custom bureau and mission indicators, to State/F and USAID via the Performance Plan and Report, an annual summary report of U.S. government-wide progress toward mission and bureau objectives, including those related to rule of law assistance. The report informs internal learning and decisions related to foreign assistance policy, strategy, budgets, and programs. Data for standard foreign assistance indicators also help State and USAID in Washington comply with external

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<sup>14</sup>In addition to using standard and custom indicators to track progress at the project level, State and USAID use contextual indicators to understand the broader context in which a program operates, to track assumptions, or to examine external factors that may affect a program’s success, failure, or progress. Contextual indicators do not represent program performance because they measure high-level changes at the country or sector level. Examples of contextual indicators for rule of law include criminal justice statistics, such as incarceration rates for minorities or impoverished groups. Data for contextual indicators may also be drawn from secondary sources, including indexes compiled by third-party organizations, including Freedom House and the World Bank.



and agency-level reporting requirements. The majority of indicators used to track foreign assistance are mapped to State's Standardized Program Structure and Definitions (SPSD), a framework used by both State and USAID to categorize types of foreign assistance, including rule of law assistance.<sup>15</sup>

In fiscal year 2016, State/F and USAID's Bureau of Policy, Planning, and Learning—the office within the agency that is responsible for collecting and reporting development statistics on behalf of the U.S. government—worked with bureau stakeholders from State and USAID to revise the standard foreign assistance indicators. According to State officials, the initiative aimed to maximize the accuracy, completeness, consistency, and utility of indicator data. Officials did this by updating a series of standard foreign assistance indicators to identify what was necessary to account for progress toward bureaus' and offices' strategic goals and objectives. As a result, between fiscal years 2014 and 2019, State/F and USAID discontinued some indicators where there was no clear evidence of their use. The agencies cut the number of standard indicators related to rule of law assistance from about 50 in fiscal year 2014 to nine in fiscal year 2019, according to State documents.<sup>16</sup> Table 2 shows the nine indicators related to rule of law that were active in 2019.

State and USAID conduct annual reviews in order to ensure the integrity and utility of standard foreign assistance indicators, according to agency officials. As part of this periodic review, the agencies assess data quality, completeness, and usage to determine whether changes should be made in the next reporting cycle.

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<sup>15</sup>The SPSP helps State and USAID define overall foreign assistance themes and is used to code projects. It divides foreign assistance into a hierarchy of categories, program areas, and program elements. There are seven categories, including Democracy, Human Rights, and Governance (DR), within which rule of law is a specific program area.

<sup>16</sup>According to USAID officials, indicator owners—State and USAID technical bureaus that are responsible for tracking data on a particular standard indicator for foreign assistance—are routinely asked to provide a use case, or a justification for the particular need, for that indicator. Proposals to add new standard indicators also require a clear use case before being approved, according to agency officials.

**Table 2: State’s Standard Foreign Assistance Indicators Related to Rule of Law, Fiscal Year 2019**

Foreign assistance category <sup>a</sup>	Indicator	Indicator type <sup>b</sup>	Linkage to long-term outcomes
Democracy, Human Rights, and Governance (DR) DR.1.3-1 Checks and Balances with Judicial Independence and Supremacy of Law	Number of judicial personnel trained with U.S. government assistance	Output	Training of judicial personnel improves their ability to more effectively carry out their duties, which improves the capacity of the judiciary to act as a check on government power. Training may also instill a sense of the value of and necessity for judicial independence, transparency, and accountability in a democratic society.
DR.1.5-1 Fairness and Access to Justice	Number of U.S. government-assisted courts with improved case management systems	Outcome	Without reliable data, courts cannot deliver timely justice and control, monitor their own operations, or explain their operations to citizens. Lack of information on court operations makes citizens suspicious about the fairness, transparency, and integrity of the rule of law. Closed, secretive justice systems create the perception and often the reality of favoritism, malfeasance, and denial of basic rights.
DR.6.3-1 Equal Rights for Marginalized Communities	Number of individuals from low-income or marginalized communities who received legal aid or victims’ assistance with U.S. government support	Output	Local availability of legal aid or victims’ assistance for low-income or marginalized communities indicates some degree of effectiveness in providing access to justice, a key component of rule of law and human rights. Access to justice for low-income and marginalized groups helps improve the legitimacy of the justice system as a whole because individuals can depend on the justice system to seek relief.
DR.2.1-1 Legislative Authority–Function & Process	Number of executive oversight actions taken by the legislature receiving U.S. government assistance	Output	Oversight actions signify efforts by the legislature to hold the executive branch accountable: a key function of democratic legislatures and a key component of a system of democratic checks and balances.
DR.4.3-1 Civic Education, Citizen Participation and Public Accountability	Number of U.S. government-assisted civil society organizations that participate in legislative proceedings, engage in advocacy with the national legislature and its committees, or both	Output	This indicator implies that civil society organizations have or will have the capacity to substantively participate in democratic policy making and that legislators are open to public participation and actively engage in it. Taken together, civil society participation in democratic policy making improves the transparency and accountability of the legislative process.

Letter

Foreign assistance category <sup>a</sup>	Indicator	Indicator type <sup>b</sup>	Linkage to long-term outcomes
DR.2.4-1 Anti-Corruption Reforms	Number of government officials receiving U.S. government-supported anti-corruption training	Output	Government employees are critical to public administration. While systems can be designed to reduce incentives and opportunities for corruption and provide checks and safeguards against waste, fraud, and abuse, individuals must have the skills to manage those systems and processes, have the capacity to take action against corrupt acts, and be aware of the ethical norms related to their roles.
DR.2.4-2 Anti-Corruption Reforms	Number of mechanisms for external oversight of public resource use supported by U.S. government assistance	Output	Public resources are a critical source of funding for a country's overall development, security, health, and welfare. External oversight of the use of public resources, and funding therefrom, is necessary to ensure that those resources are utilized effectively and are not subject to waste, fraud, and abuse.
DR.2.4-3 Anti-Corruption Reforms	Number of people affiliated with nongovernmental organizations receiving U.S. government-supported anti-corruption training	Output	Non-state actors play a key role in discovering fraud, waste, or abuse in public administration. While public systems can provide checks and safeguards against waste, fraud, and abuse, individuals outside of government can deter corruption by monitoring performance and serving in a watchdog role. In order to perform that function, individuals affiliated with nongovernmental organizations must have the skills and understanding of public financial management to be able to uncover abuse and use those skills effectively to hold public officials accountable.
DR.2.4-4 Anti-Corruption Reforms	Number of anti-corruption measures proposed, adopted, or implemented as a result of U.S. government assistance, to include laws, policies, or procedures	Output	The indicator's long-term outcome of increased commitment and capacity to mitigate corruption demonstrates political will to carry out efforts against corruption. A framework of laws, policies, or procedures focused on corruption, when coupled with political will, better enables countries to prevent and respond to corruption. These institutional or cultural changes create or foster an environment that protects U.S. economic interests and businesses, and spurs economic growth.

Source: Department of State (State). | GAO-21-14

<sup>a</sup>Under the State Office of Foreign Assistance Standardized Program Structure and Definitions (SPSD) framework, Democracy, Human Rights, and Governance (DR) is a category of foreign assistance within which the Rule of Law assistance resides. Of the nine standard foreign assistance indicators listed in this table, only the first two—DR 1.3-1 and DR 1.5-1—explicitly align with State's SPSP category for Rule of Law. The other seven indicators do not fall under the Rule of Law program area in the SPSP, but nonetheless relate more broadly to rule of law assistance, according to agency

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officials; therefore, we include them here for illustrative purposes. The seven indicators fall under other program areas within the DR foreign assistance category of the SPSP, including the Good Governance, Civil Society, and Human Rights program areas.

<sup>b</sup>The standard foreign assistance indicators for rule of law include a combination of output and outcome indicators. Outcome indicators are used to track more immediate and tangible results that are attributable to a project. An outcome indicator for rule of law, for example, might attempt to capture whether actual project results have brought tangible benefits to the targeted host country's criminal justice institution. An outcome indicator can reflect the immediate, mid-term, or long-term consequences of a project. By contrast, output indicators, also called milestones, are specific, discrete, interim events that convey progress toward a specific intended result. They are distinct from outcome indicators because they are used to describe one-time events or accomplishments, rather than change over time. They include products, goods, and services that result from an assistance-funded intervention.

### Custom Performance Indicators

Custom indicators are performance indicators that reflect progress within a country or program context. State/INL and USAID bureaus and missions use these indicators in combination with standard foreign assistance indicators to monitor progress on project and activity objectives. Unlike standard indicators, they often cannot be aggregated across a number of programs. See appendix II for additional examples of custom performance indicators.

State and USAID support the use of custom indicators for rule of law projects to track project performance and for reporting in annual performance reports. USAID encourages the use of custom indicators in cases where no standard indicator exists or, in combination with standard indicators, where a single standard foreign assistance indicator may not be adequate for assessing progress toward intended results.<sup>17</sup>

In addition to project-specific custom indicators, USAID missions also create mission-wide custom indicators for their own use. USAID mission-wide custom indicators are often designed to reflect a mission's particular development objectives or an area of interest that is significant to USAID's assistance efforts in the country. In 2013, for example, as part of its strategic planning, USAID's mission in Kosovo identified improving the rule of law and governance as a key development objective for the country and designed a performance indicator to assess that objective. The indicator involved tracking the percentage of citizens who believed that certain government institutions were addressing their priorities. The mission also identified a sub-objective of strengthening effective and

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<sup>17</sup>USAID emphasizes the importance of developing indicators for development objectives outlined in the mission's Country Development Cooperation Strategy that are feasible and affordable for the mission to track.

accountable election processes and designed a performance indicator to align with this sub-objective. The indicator involved tracking the degree to which international election monitors assessed the electoral processes as credible and fair.

Performance indicators for projects include a combination of standard and custom indicators. Table 3 provides examples of various types of performance indicators developed for an ongoing USAID project in Colombia called Justice for a Sustainable Peace, which seeks to provide increased access to justice services in local municipalities throughout Colombia and to strengthen judicial responses and services for victims of the country's armed conflict.

**Table 3: Examples of Performance Indicators Developed for USAID's Justice for a Sustainable Peace (JSP) Project in Colombia, by Indicator Type**

Indicator type	Indicator name
State/F standard foreign assistance indicator	Number of judicial personnel trained with U.S. government assistance
State/F standard foreign assistance indicator	Number of individuals from low-income or marginalized communities who received legal aid or victims' assistance with U.S. government support
Custom indicator	Number of disputes resolved by U.S. government-trained alternative dispute resolution providers in target areas
Custom indicator	Number of people served during mobile justice sessions carried out with JSP support, outside urban areas
Custom indicator	Number of criminal or disciplinary cases supported by the U.S. government, in the Attorney General's Office and the Inspector General's Office, respectively, related to allegations of abuse against human rights defenders and social leaders, which have progressed in at least one procedural step
USAID/Colombia Mission custom indicator	Value of leveraged funds

Legend: State/F = Department of State, Office of Foreign Assistance

Source: GAO analysis of U.S. Agency for International Development (USAID) documents. | GAO-21-14

## State and USAID Change Performance Indicators during Project Implementation as Necessary

Both State and USAID change performance indicators for foreign assistance projects during project implementation as needed. USAID policy outlines a process for such changes and notes that program officials may need to change, drop, or add indicators during project

implementation.<sup>18</sup> Changes in performance indicators must be documented and the mission or operating unit must note the rationale for any changes. According to State officials, State does not have a policy that specifically permits changes to performance indicators during project implementation, though we found such changes do occur. State/INL guidance, however, recommends that program officers update project monitoring plans to reflect changes to performance indicators. Both State/INL and USAID officials said that program officers are cautious about changing performance indicators during a project because doing so compromises the comparability of performance data over time.

According to USAID policy, indicators may need to be adjusted to match changes in the scope or direction of projects, to address problems with the cost or practicality of data collection, or to take advantage of new monitoring opportunities that become available during implementation. In the case of a USAID project in the Philippines called Judicial Strengthening to Improve Court Effectiveness, agency officials told us that program officers changed an indicator they had initially chosen to track the project's progress toward improving judicial efficiency: clearance rate (i.e., the number of cases disposed for a particular year over the number of cases filed in that given year). Program officers switched to using other indicators because the onset of the Philippine government's anti-drug campaign in 2016 led to a significant increase in the number of cases filed against drug users and sellers. The increase in the number of case files affected the number of cases disposed of by courts in that year and diminished the extent to which the indicator accurately reflected results attributable to U.S. government assistance. As a result, the agency switched to tracking trial duration and case processing time in Philippine courts as measures for judicial efficiency instead.

According to State/INL officials, changes to performance indicators are project-specific and depend on numerous factors, including the stability of the operating environment, continued availability of data sources, the type of implementing mechanism, and the degree to which the project has evolved over time. Project indicators are negotiated between State/INL and the implementing partner at the outset of the project and any amendments to indicators must be agreed upon by both parties and recorded in monitoring plans, according to State/INL officials. Some projects also include an assessment during the project design phase that

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<sup>18</sup>U.S. Agency for International Development, *Automated Directives System*, 201.3.5.7 (Washington, D.C.: June 2017).

may result in refinements to performance indicators. For example, as part of State/INL's Support for Colombian Judicial Education Project, the implementing partner, the American Bar Association, assessed a judicial training school's operational strengths and weaknesses, the capacity of its staff, and physical facilities and resources. This review helped inform the development of the project's work plan, including performance indicators.

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## State/INL and USAID Demonstrated that They Consistently Followed Most Key Practices for Monitoring Rule of Law Projects in Selected Countries

State/INL and USAID provided documentation for us to conclude that they consistently followed most of the eight established key practices for monitoring rule of law assistance for the awards we reviewed from selected countries; however, the agencies did not provide sufficient documentation for all projects in our sample for some of the key practices (see fig. 2).<sup>19</sup> For the majority of 19 State/INL and USAID projects in our sample,<sup>20</sup> we found that the agencies developed goals, objectives, and indicators. However, State/INL did not consistently demonstrate that project representatives included project goals and objectives in monitoring plans, and did not consistently identify, assess, or mitigate risk in those plans. State/INL and USAID almost always followed key practices when assigning qualified staff to monitoring duties, but neither agency provided sufficient documentation for all projects. Furthermore, in most cases, both State/INL and USAID monitored project implementation by conducting site visits and collecting implementing partners' periodic

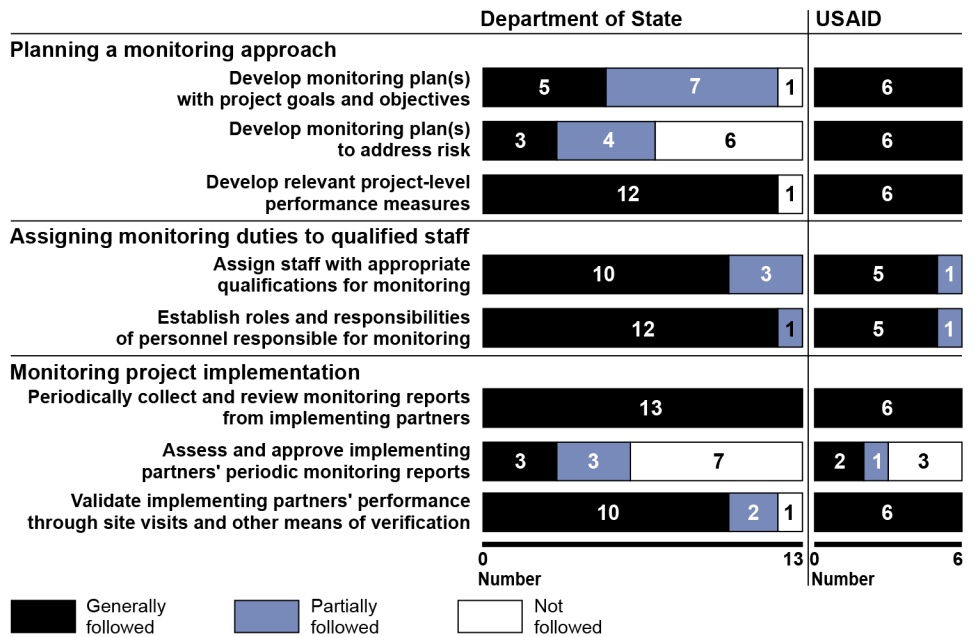
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<sup>19</sup>We derived these key eight key practices from the 14 previously identified key practices for monitoring foreign assistance. [GAO-16-861R](#). To derive the eight key monitoring practices, we identified those practices that relate to monitoring ongoing projects, consolidated some of the practices, and omitted others that were not directly relevant to our review.

<sup>20</sup>Our assessment included a nongeneralizable sample of 13 State/INL and six USAID projects that were based on high-dollar value and implementing mechanism type from our four case study countries: Colombia, Kosovo, Liberia, and the Philippines. We reviewed documentation for these selected projects to determine the extent to which agencies' monitoring of the projects followed eight established key monitoring practices in three categories: planning a monitoring approach, assigning monitoring duties to qualified staff, and monitoring project implementation during fiscal year 2018. See appendix I for details on the methodology and appendix III for a list of these projects.

monitoring reports, but did not provide documentation demonstrating that they consistently assessed those reports for all projects in our sample.

**Figure 2: Extent to Which State/INL and USAID Followed Key Practices in Monitoring for Selected Rule of Law Projects, Fiscal Years 2014 through 2018**



Source: GAO analysis of Department of State/Bureau of International Narcotics and Law Enforcement Affairs (State/INL) and U.S. Agency for International Development (USAID) documents. | GAO-21-14



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	State/INL			USAID		
	Generally followed	Partially followed	Not followed	Generally followed	Partially followed	Not followed
<b>Planning a monitoring approach</b>						
Develop monitoring plan(s) with project goals and objectives	5	7	1	6	0	0
Develop monitoring plan(s) to address risk	3	4	6	6	0	0
Develop relevant project-level performance measures	12	0	1	6	0	0
<b>Assigning monitoring duties to qualified staff</b>						
Assign staff with appropriate qualifications for monitoring	10	3	0	5	1	0
Establish roles and responsibilities of personnel responsible for monitoring	12	1	0	5	1	0
<b>Monitoring project implementation</b>						
Periodically collect and review monitoring reports from implementing partners	13	0	0	6	0	0
Assess and approve implementing partners' periodic monitoring reports	3	3	7	2	1	3
Validate implementing partners' performance through site visits and other means of verification	10	2	1	6	0	0

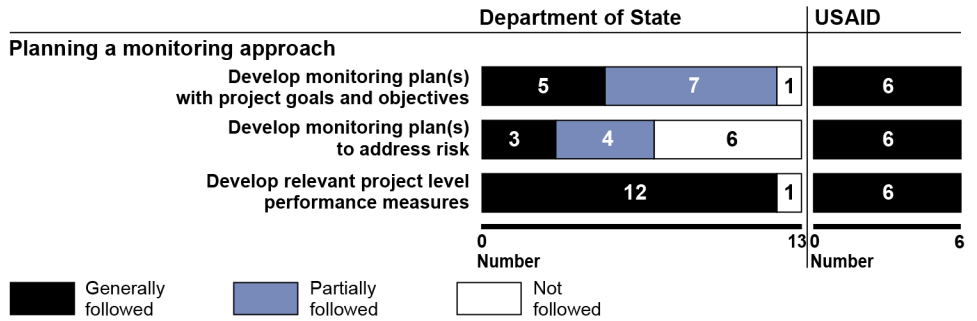
Note: Our assessment included a nongeneralizable sample of 13 State/INL and six USAID projects that were based on high-dollar value and implementing mechanism type from our four case study countries: Colombia, Kosovo, Liberia, and the Philippines. We reviewed documentation for these selected projects to determine the extent to which agencies' monitoring of them followed eight established key monitoring practices in three categories: planning a monitoring approach, assigning monitoring duties to qualified staff, and monitoring project implementation. For each project, we rated the extent to which the agency followed each key practice as generally followed if we received evidence that all critical elements of the key practice were conducted and documented to a large or full extent; partially followed if we received evidence that some, but not all, critical elements of the key practice were conducted and documented; and not followed if we did not receive evidence that any of the critical elements of the key practice were conducted and documented.

### State/INL Followed Some Key Practices for Planning a Monitoring Approach but Did Not Consistently Address Risk; USAID Followed These Practices

State/INL provided documentation showing that it followed some key practices for planning a monitoring approach, but did not provide sufficient documentation demonstrating that project representatives included project goals and objectives, and identified risks in monitoring plans for all projects in our sample. USAID provided documentation that it followed these key practices for all of its projects in our sample (see fig.

3). Documentation is a necessary part of an effective internal control system and allows management to evaluate ongoing monitoring efforts to identify any internal control issues and take action if needed.<sup>21</sup> Key practices for planning a monitoring approach include developing monitoring plans that include project goals and objectives, developing monitoring plans to address risks, and developing project-level performance indicators. Consistently following these key monitoring practices allows agencies to focus monitoring efforts on assessing outcomes through a project’s life cycle and on those aspects of the project most likely to threaten its ability to meet goals.

**Figure 3: Extent to Which State/INL and USAID Followed Key Practices for Planning a Monitoring Approach for Selected Rule of Law Projects, Fiscal Years 2014–2018**



Source: GAO analysis of Department of State/Bureau of International Narcotics and Law Enforcement Affairs (State/INL) and U.S. Agency for International Development (USAID) documents. | GAO-21-14

Planning a monitoring approach	State/INL			USAID		
	Generally followed	Partially followed	Not followed	Generally followed	Partially followed	Not followed
Develop monitoring plan(s) with project goals and objectives	5	7	1	6	0	0
Develop monitoring plan(s) to address risk	3	4	6	6	0	0
Develop relevant project-level performance measures	12	0	1	6	0	0

Note: Our assessment included a nongeneralizable sample of 13 State/INL and six USAID projects that were based on high-dollar value and implementing mechanism type from our four case study countries: Colombia, Kosovo, Liberia, and the Philippines. We reviewed documentation for these selected projects to determine the extent to which agencies’ monitoring of them followed eight established key monitoring practices in three categories: planning a monitoring approach, assigning monitoring duties to qualified staff, and monitoring project implementation. For each project, we rated the extent to which the agency followed each key practice as generally followed if we received evidence that all critical elements of the key practice were conducted and documented to a large or full extent; partially followed if we received evidence that some, but not all, critical elements of the key

<sup>21</sup>GAO, *Standards for Internal Control in the Federal Government*, [GAO-14-704G](#) (Washington, D.C.: September 2014).

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practice were conducted and documented; and not followed if we did not receive evidence that any of the critical elements of the key practice were conducted and documented.

### Develop Monitoring Plans with Project Goals and Objectives

State/INL provided documentation showing that it developed goals and objectives for most of the projects in our sample. However, for more than half of the projects, State/INL did not create a monitoring plan that included this information. USAID followed this key practice for all projects in our sample.<sup>22</sup> Specifically, we determined that State/INL partially followed this key practice for seven of its 13 projects in our sample because project goals and objectives were identified in the award documents but not in a monitoring plan.<sup>23</sup> State/INL did develop a monitoring plan that included project goals and objectives for five of the 13 projects. For one of the 13 projects, State/INL did not provide an approved work plan that identified project goals and objectives for the period of our review. USAID followed this key practice for all six of its projects in our sample; each included project goals and objectives in a monitoring plan.<sup>24</sup> Creating a monitoring plan that includes the project's goals and objectives is a key practice, as doing so can help to focus monitoring efforts on assessing project outcomes. A monitoring plan provides monitoring officials with a framework to determine whether rule of law projects are meeting their intended goals.

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<sup>22</sup>To assess the extent to which State/INL and USAID had developed monitoring approaches that included project goals and objectives, we reviewed the agencies' monitoring plans or award documents. For each project, we rated the extent to which the agency had followed this key practice as generally followed when project goals and objectives were included in the monitoring plan; partially followed when this information was included in award documents, but not in a monitoring plan; and not followed when project goals and objectives were not included in the monitoring plan or award documents.

<sup>23</sup>During program design, State guidance requires bureaus, such as INL, to clearly state project goals and objectives. In addition, all bureaus must develop a monitoring plan for their projects and incorporate its use into project management. Department of State, *Program and Project Design, Monitoring, and Evaluation Policy* (November 2017). However, according to State/INL, project goals and objectives are not always required to be documented in a monitoring plan.

<sup>24</sup>USAID guidance requires that missions develop performance management plans that include a monitoring plan related to each development objective. U.S. Agency for International Development, *Automated Directives System*, 201.

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### Develop Monitoring Plans to Address Risk

State/INL did not provide documentation demonstrating that it followed the key practice of identifying, assessing, and mitigating risk in monitoring plans for nearly half of its projects in our sample. USAID provided sufficient documentation indicating that it followed this key practice.<sup>25</sup> Specifically, we determined that State/INL did not follow this key practice for six of its 13 projects in our sample. For these six projects, State/INL did not have sufficient documentation showing that it identified, assessed, or mitigated risk in either the award documents or the monitoring plan.<sup>26</sup> State/INL partially followed this key practice for four of the 13 projects because it considered some risks in award documents or quarterly reports but did not include the risk assessment in a monitoring plan. State/INL generally followed this key practice for three of the 13 projects because it did consider the risks associated with projects and included the risk assessment as part of the monitoring plan. USAID followed this key practice for all six of its projects in our sample; each had a monitoring plan that considered project risks.<sup>27</sup>

Key practices state that monitoring plans should consider risk associated with the project during the planning process. Identifying and assessing

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<sup>25</sup>To assess the extent to which State/INL and USAID had developed monitoring approaches that addressed risk, we reviewed whether implementation and monitoring risks and risk mitigation strategies were identified in the agencies' monitoring plans or award documents. For each project, we rated the extent to which the agency had followed this key practice as generally followed when the agency included this information in the monitoring plan; partially followed when (1) risks were identified in the monitoring plan but no mitigation strategies were discussed, or (2) risks were identified in other documents, such as award documents, but not in a monitoring plan; and not followed when project goals and objectives were not included in the monitoring plan or award documents.

<sup>26</sup>State guidance indicates that it is important to consider risk throughout the entire program design and performance management process. Department of State, *Program Design and Performance Management Toolkit*. In addition, guidance in State's *Foreign Affairs Manual* notes the importance of identifying, evaluating, integrating, and mitigating risks, including risks to project effectiveness.

<sup>27</sup>USAID guidance states that monitoring plans should capture contextual conditions relevant to development objectives, including a list of any risks that may affect their progress. USAID officials said the agency addresses ongoing monitoring of risk through several other processes, such as project design, procurement actions, financial management, award management and administration, semiannual project portfolio reviews, and annual risk-based assessments. USAID policy requires missions to create monitoring plans for each development objective, which may include, among other things, context indicators for monitoring risks that could affect progress toward the development objective.

risks in the monitoring plan can help ensure that monitoring staff are aware of potential impediments to project success. It can also help agencies focus monitoring efforts on those aspects of project implementation that are most likely to threaten the success of the project in meeting its goals. Additionally, determining which projects warrant greater oversight can help agencies manage monitoring resources cost-effectively.

### Develop Project-Level Performance Measures

State/INL provided documentation showing that they developed performance measures for nearly all of the projects in our sample, and USAID provided documentation showing that they followed this key practice for all the projects in our sample.<sup>28</sup> State/INL generally followed this key practice for 12 of its 13 projects in our sample by developing performance indicators in the monitoring plan or award documents. For one of the 13 projects, State/INL did not provide an approved work plan identifying project indicators prior to the implementation of the project. USAID followed this key practice for all six of its projects in our sample.

Key practices for planning a monitoring approach state that monitoring documents should include relevant performance indicators to measure project performance. As mentioned earlier, performance indicators are key to monitoring efforts because they help agencies observe and track progress through a project's life cycle.

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### State/INL and USAID Followed Key Practices When Assigning Monitoring Duties to Qualified Staff for Most Projects

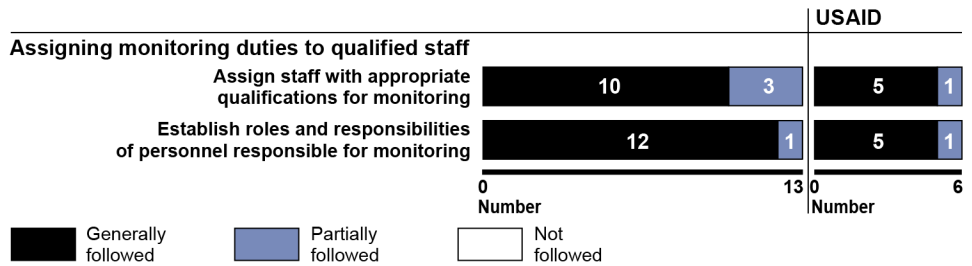
State/INL and USAID provided documentation that they followed key practices for assigning monitoring duties to qualified staff for most projects in our sample, though neither agency provided sufficient

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<sup>28</sup>To assess the extent to which State/INL and USAID had developed monitoring approaches that included performance indicators, we reviewed the agencies' monitoring plans or award documents. For each project, we rated the extent to which the agency had followed this key practice as generally followed when indicator information was included in either the monitoring plan or award documents; partially followed when indicators were identified for some project goals, but were incomplete; and not followed when little to no indicator information was included in the monitoring plan or award documents. For this assessment, we generally did not analyze the quality of these performance indicators.

documentation for all projects (see fig. 4). These key practices highlight the importance of assigning staff with the appropriate certification to ensure that monitoring officials have the necessary knowledge and skills to perform those duties. Establishing roles and responsibilities helps ensure that the assigned monitoring staff are aware of their monitoring duties.

**Figure 4: Extent to Which State/INL and USAID Followed Key Practices for Assigning Monitoring Duties to Qualified Staff for Selected Rule of Law Projects, Fiscal Years 2014–2018**



Source: GAO analysis of Department of State/Bureau of International Narcotics and Law Enforcement Affairs (State/INL) and U.S. Agency for International Development (USAID) documents. | GAO-21-14

Planning a monitoring approach	State/INL			USAID		
	Generally followed	Partially followed	Not followed	Generally followed	Partially followed	Not followed
Assign staff with appropriate qualifications for monitoring	10	3	0	5	1	0
Establish roles and responsibilities of personnel responsible for monitoring	12	1	0	5	1	0

Note: Our assessment included a nongeneralizable sample of 13 State/INL and six USAID projects that were based on high-dollar value and implementing mechanism type from our four case study countries: Colombia, Kosovo, Liberia, and the Philippines. We reviewed documentation for these selected projects to determine the extent to which agencies' monitoring of them followed eight established key monitoring practices in three categories: planning a monitoring approach, assigning monitoring duties to qualified staff, and monitoring project implementation. For each project, we rated the extent to which the agency followed each key practice as generally followed if we received evidence that all critical elements of the key practice were conducted and documented to a large or full extent; partially followed if we received evidence that some, but not all, critical elements of the key practice were conducted and documented; and not followed if we did not receive evidence that any of the critical elements of the key practice were conducted and documented.

### Assign Staff with Appropriate Qualifications for Monitoring

State/INL and USAID provided documentation showing that they assigned staff who were trained to conduct monitoring duties for most

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projects in our sample.<sup>29</sup> State/INL generally followed this key practice for 10 of its 13 projects; however, the remaining three projects did not have sufficient documentation showing that all staff who were assigned to monitor projects had completed training. USAID generally followed this key practice for five of its six projects in our sample. One USAID project did not have complete documentation. Ensuring that staff assigned to monitor foreign assistance awards are trained to perform their duties—and maintaining sufficient documentation of such staffing qualifications—is important for ensuring continuous monitoring of projects, by qualified personnel, over the life cycle of awards.

### Establish Roles and Responsibilities of Personnel Responsible for Monitoring

State/INL and USAID provided documentation showing that they established roles and responsibilities of staff responsible for monitoring the projects for most projects in our sample.<sup>30</sup> State/INL generally followed this key practice for 12 of its 13 projects in our sample; these 12 projects had sufficient documentation showing that State/INL had designation letters that established roles and responsibilities for personnel responsible for monitoring projects. One project had incomplete documentation.

USAID generally followed this key practice for five of its six projects in our sample; these five projects had sufficient documentation indicating that

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<sup>29</sup>To assess the extent to which State/INL and USAID had assigned monitoring duties to qualified staff, we reviewed the agencies' training certifications for monitoring staff. For each project, we rated the extent to which the agency had followed this key practice as generally followed when the agency provided documents showing that (1) all of the staff assigned to monitor awards had been trained in monitoring duties and (2) staff were trained before, not after, they were assigned to monitor awards; partially followed when the agency provided (1) some, but not all, documentation showing that all monitoring staff had been trained and (2) training certifications for staff, but these certificates showed that staff were only trained after having been assigned to monitor awards; and not followed when agencies provided little to no documentation showing that staff assigned to monitor awards had been trained to conduct monitoring.

<sup>30</sup>To assess the extent to which State/INL and USAID had established roles and responsibilities for monitoring, we reviewed the agencies' project designation letters to determine whether the projects had assigned staff and established their roles and responsibilities for monitoring. For each project, we rated the extent to which the agency had followed this key practice as generally followed when the agency could provide documentation indicating that a project representative was assigned to monitor the project for its entire period of performance; partially followed when the agency provided some, but not all, documentation attesting to this; and not followed when the agency provided little to no documentation showing the designation of monitoring staff.

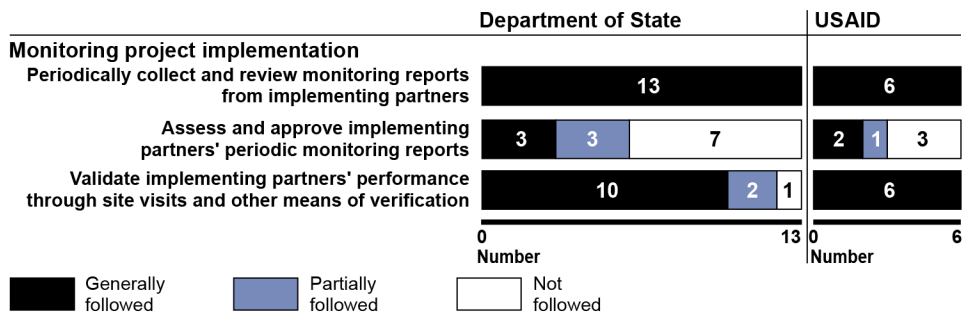
USAID designated an individual to monitor the project and established roles and responsibilities. The remaining project had incomplete documentation to demonstrate adherence to this key practice.

Establishing and documenting roles and responsibilities helps to ensure that assigned monitoring staff are aware of their monitoring duties, which can help agencies meet their foreign assistance goals for rule of law projects. Ensuring proper documentation of monitoring roles and responsibilities is important because projects may last several years and monitoring staff may change throughout the duration of a project.

### State/INL and USAID Followed Certain Key Practices for Monitoring Project Implementation, but Did Not Consistently Assess Monitoring Reports

State/INL and USAID provided documentation showing that they followed certain key practices for monitoring project implementation by collecting periodic monitoring reports and validating performance; however, neither agency provided sufficient documentation showing that they followed the key practice of assessing or approving the periodic monitoring reports for all projects in our sample (see fig. 5). These key practices include collecting periodic monitoring reports, assessing and approving those reports, and validating implementing partners' performance. Monitoring project implementation helps ensure that projects are meeting their objectives, so that any necessary adjustments or corrective actions can be taken in a timely manner.

**Figure 5: Extent to Which State/INL and USAID Followed Key Practices for Monitoring Project Implementation for Selected Rule of Law Projects, Fiscal Years 2014–2018**



Source: GAO analysis of Department of State/Bureau of International Narcotics and Law Enforcement Affairs (State/INL) and U.S. Agency for International Development (USAID) documents. | GAO-21-14



Letter

Planning a monitoring approach	State/INL			USAID		
	Generally followed	Partially followed	Not followed	Generally followed	Partially followed	Not followed
Periodically collect and review monitoring reports from implementing partners	13	0	0	6	0	0
Assess and approve implementing partners' periodic monitoring reports	3	3	7	2	1	3
Validate implementing partners' performance through site visits and other means of verification	10	2	1	6	0	0

Note: Our assessment included a nongeneralizable sample of 13 State/INL and six USAID projects that were based on high-dollar value and implementing mechanism type from our four case study countries: Colombia, Kosovo, Liberia, and the Philippines. We reviewed documentation for these selected projects to determine the extent to which agencies' monitoring of them followed eight established key monitoring practices in three categories: planning a monitoring approach, assigning monitoring duties to qualified staff, and monitoring project implementation. For each project, we rated the extent to which the agency followed each key practice as generally followed if we received evidence that all critical elements of the key practice were conducted and documented to a large or full extent; partially followed if we received evidence that some, but not all, critical elements of the key practice were conducted and documented; and not followed if we did not receive evidence that any of the critical elements of the key practice were conducted and documented.

Periodically Collect and Review Monitoring Reports from Implementing Partners

State/INL and USAID provided documentation showing that they collected periodic monitoring reports—typically collected as quarterly reports from the implementing partner—for all projects in our sample.<sup>31</sup> State/INL followed this key practice for all 13 of its projects in our sample. USAID followed this key practice for all six of its projects.

Key practices for monitoring project implementation state that agencies should collect periodic monitoring reports to track the implementation of foreign assistance projects, including rule of law projects. Maintaining complete documentation of monitoring reports ensures that monitoring

<sup>31</sup>To assess the extent to which State/INL and USAID had created a process for periodically collecting monitoring reports, we reviewed a fiscal year's worth of monitoring reports, including quarterly reports, for each project in our sample. For each project, we rated the extent to which the agency had followed this key practice as generally followed when the agency provided at least one monitoring report per quarter that the project was active; partially followed when the agency was able to provide some, but not all, monitoring reports; and not followed when the agency provided little to no monitoring reports for the full fiscal year.

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staff are aware of completed, ongoing, and upcoming activities, challenges, and successes.

### Assess and Approve Implementing Partners' Periodic Monitoring Reports

State/INL and USAID did not provide sufficient documentation showing that they followed the key practice of assessing and approving monitoring reports by implementing partners for all projects in our sample.<sup>32</sup> We determined that State/INL did not follow this key practice for seven of its 13 projects in our sample. For these seven projects, State/INL did not have sufficient documentation showing that monitoring staff had assessed and approved monitoring reports by implementing partners. State/INL generally followed this key practice for three of its 13 projects, and partially followed it for the remaining three projects.

Two of the six USAID projects in our sample had complete documentation showing that progress reports were assessed and approved. USAID did not provide sufficient documentation showing adherence to this key practice for three of the six projects, and provided partial documentation for the remaining project.

According to State/INL, project representatives should be in continual communication with their implementing partners to ensure compliance with the conditions of the award, but there is no current requirement for monitoring staff to document this process. According to USAID, project representatives are required to review and approve all monitoring reports; however, the agency did not consistently demonstrate that this occurs and is documented. Without sufficient documentation of the assessment and approval of performance reports from implementing partners, neither the agencies nor we can determine if these reviews occurred. Establishing such procedures would help ensure that monitoring staff, consistent with the key practices, assess and approve implementing

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<sup>32</sup>To assess the extent to which State/INL and USAID had assessed and approved periodic monitoring reports, we reviewed documentation showing that monitoring staff had assessed and approved monitoring reports from implementing partners for each quarter of fiscal year 2018 for each project in our sample. For each project, we rated the extent to which the agency had followed this key practice as generally followed when the agency provided documentation showing that monitoring officials assessed and approved the periodic monitoring reports for each quarter of fiscal year 2018; partially followed when we received documentation for some of fiscal year 2018; and not followed when the agency was unable to provide any documentation showing that periodic monitoring reports were assessed and approved for fiscal year 2018.

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partners' performance. Ensuring that these reviews occurred would also enable agencies to determine whether corrective actions are needed.

### Validate Implementing Partners' Performance through Site Visits and Other Means of Verification

State/INL provided sufficient documentation showing that it validated implementing partners' performance through site visits or other means of verification for most projects in our sample; USAID did so for all projects in our sample.<sup>33</sup> State/INL generally followed this key practice for 10 of its 13 projects in our sample. For these 10 projects, State/INL provided sufficient documentation showing that the agency verified project implementation through site visits and other means. Two of the 13 State/INL projects had some missing or incomplete documentation showing alignment with this key practice, while one State/INL project had little to no documentation.

All six USAID projects in our sample had sufficient documentation showing that monitoring staff tracked project implementation through site visits and other means of verification. According to USAID, monitoring staff must track project implementation and monitor the quantity, quality, and timeliness of activity outputs by conducting site visits along with other methods of verification.

State/INL and USAID officials in selected countries said that, in addition to formal mechanisms for monitoring rule of law projects—such as periodic monitoring reports and site visits—monitoring occurs through a variety of other, less formal mechanisms. For example, an interagency working group for rule of law in Kosovo helps State/INL and USAID identify potential challenges with project implementation, according to field staff we interviewed. According to State officials, INL monitoring representatives are in continual communication with implementing partners to ensure compliance, and hold regular status meetings.

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<sup>33</sup>To assess the extent to which State/INL and USAID had validated implementing partner performance through site visits or other means of verification, we reviewed agency documents that showed that project staff had conducted site visits or, through other means, attempted to verify project implementation. Other means of verification included meeting agendas, notes from routine calls between monitoring staff and implementing partners, or other documents prepared by State/INL or USAID that showed agency oversight and monitoring of a project. For each project, we rated the extent to which the agency had followed this key practice as generally followed when the agency was able to provide such documentation; partially followed when documents included some mention of a site visit, but by non-agency staff; and not followed when the agency did not provide any relevant documentation.

Regularly verifying project implementation is a key component of an agency's ability to ensure adequate, continuous monitoring of foreign assistance projects.

### State/INL and USAID Consistently Collected Performance Indicators When Monitoring Rule of Law Projects

State/INL and USAID demonstrated that they had consistently collected monitoring reports that contained performance indicators for the projects in our sample (see table 4).<sup>34</sup> Of the 19 State/INL and USAID projects in our sample we selected a subset of six projects—four from State/INL and two from USAID—to determine the extent to which the agencies collected these projects' performance through monitoring reports for fiscal year 2018. We reviewed monitoring reports for these projects to determine the extent to which they included performance indicators that were consistent with the monitoring plan, and the extent to which they described planned or ongoing activities.

**Table 4: Extent to Which State/INL and USAID Monitoring Reports Included Monitoring of Project Implementation for Fiscal Year 2018**

Agency	Project	Country of implementation	Monitoring reports included established performance indicators <sup>a</sup>	Monitoring reports included discussion of activities
State/INL	Criminal Justice Program Support Project	Liberia	Y	Y
State/INL	Support to the Liberia Justice Sector Program	Liberia	Y	Y
State/INL	Colombo Plan	Philippines	Y	Y
State/INL	Enhancing the Institutional Capacity of Prosecutors in the Philippines	Philippines	Y	Y
USAID	Judicial Strengthening to Improve Court Effectiveness Project	Philippines	Y	Y
USAID	Justice for a Sustainable Peace	Colombia	Y	Y

Source: GAO analysis of Department of State Bureau of International Narcotics and Law Enforcement Affairs (State/INL) and U.S. Agency for International Development (USAID) documents. | GAO-21-14

Note: To determine the extent to which State/INL and USAID tracked project performance, we chose a subset of six projects from our original nongeneralizable sample of 19 projects from our four case study countries: Colombia, Kosovo, Liberia, and the Philippines. The subset included four State/INL

<sup>34</sup>To determine whether State/INL and USAID projects in our sample collected performance indicators that were established in project awards, we selected six projects for a comprehensive review of monitoring during the most recent period of our review, fiscal year 2018.

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and two USAID projects, selected primarily because of their high-dollar values and because they represented a diversity of implementing mechanisms, according to agency data.

<sup>a</sup>For this subset of awards, we assessed the extent to which the monitoring reports we received for each award provided data and tracked progress against the performance indicators established in the award documents or monitoring plan.

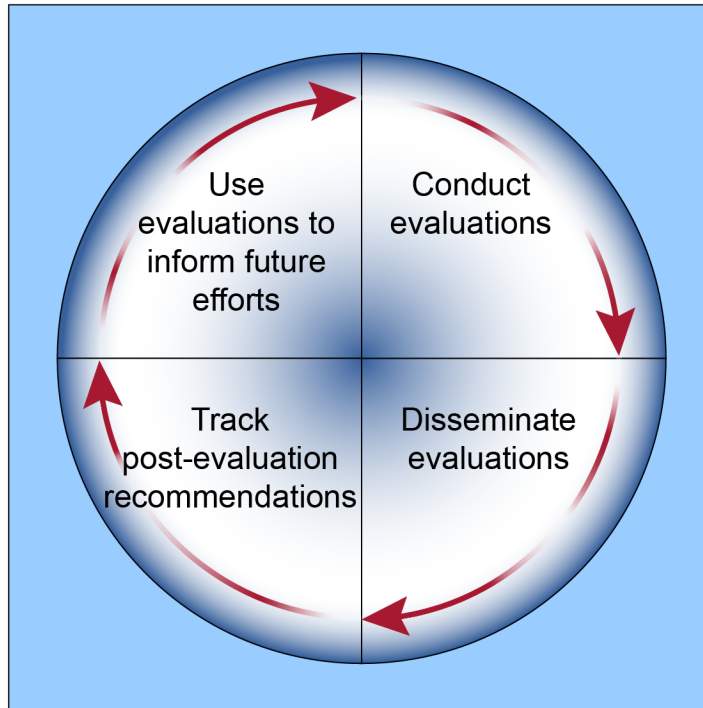
We found that State/INL's and USAID's quarterly reports included performance indicators that were consistent with the indicators included in the award documents or monitoring plan. The performance indicators were used to collect progress on project activities—those that were completed, ongoing, or planned for future quarters. Further, changes made to project implementation were documented in the quarterly reports and in updated work plans. Of the six projects in our sample, one—a State/INL project—did not provide a work plan for fiscal year 2018. However, although the work plan was not approved until after the project had already begun, the quarterly reports for this project included performance indicators and discussion of the activities completed and planned for each quarter.

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## State and USAID Have Various Processes to Conduct, Share, and Use Rule of Law Evaluations to Improve Projects and Inform Strategic Planning

State and USAID have established policies and procedures to conduct and disseminate rule of law evaluations, and to track post-evaluation recommendations. The agencies use evaluations to improve project design and implementation and to inform strategic planning. Figure 6 shows key processes that support State/INL's and USAID's use of evaluations.

**Figure 6: Key Processes That Support the Department of State and the U.S. Agency for International Development’s Use of Evaluations**



Source: GAO. | GAO-21-14

### State’s and USAID’s Requirements for Conducting Rule of Law Evaluations Differ

Both State and USAID have developed policies for conducting rule of law evaluations. During the period from fiscal years 2014 through 2018, State/INL conducted two rule of law evaluations and USAID conducted seven rule of law evaluations in the four selected countries from our sample.

State requires all bureaus and independent offices that receive and directly manage foreign assistance program funds to conduct evaluations once in the life cycle of large programs or once every 5 years for ongoing programs. During the period reviewed, State defined a large program as one whose cost meets or exceeds the median cost of programs, projects, or processes for a given bureau or independent office<sup>35</sup>—for INL in 2018,

<sup>35</sup>Department of State, *Foreign Affairs Manual*, 18.301.4-4(b).

this was about \$10 million, according to State officials. State/INL officials we interviewed told us that rule of law projects make up a small portion of State/INL's entire programming portfolio and, therefore, do not generate many evaluations. State/INL conducted 12 performance evaluations for its foreign assistance programs and projects from fiscal years 2014 through 2018.<sup>36</sup> Of these 12 evaluations, five were for global rule of law-related projects. Of the five rule of law evaluations, two were from two of our four selected countries: Colombia and the Philippines. (See app. III for more detail on these evaluations.)

USAID guidance requires each mission and Washington, D.C.-based operating unit to conduct at least one performance evaluation during the life cycle of a project and requires missions to conduct at least one "whole-of-project" performance evaluation during the Country Development Cooperation Strategy cycle of a project.<sup>37</sup> USAID officials said that although USAID does not have a project cost requirement tied to evaluations, rule of law makes up a significant portion of total USAID assistance and involves a higher-dollar value than other types of foreign assistance. USAID officials told us that the agency conducted 861 performance evaluations for its foreign assistance programs and projects from fiscal years 2014 through 2018. Of these, 53 (about 6 percent) were for global rule of law-related projects. Seven of the 53 rule of law evaluations (13 percent) were from three of our four selected countries: Colombia, Kosovo, and Liberia.

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<sup>36</sup>According to agency officials, State and USAID policies and guidance for monitoring and evaluations are revised regularly. Enacted in July 2016, the Foreign Aid Transparency and Accountability Act of 2016, Pub. L. No. 114-191, § 3(b) (July 15, 2016) required the President to create new guidelines, within 18 months of its enactment, for the establishment of measurable goals, performance metrics, and monitoring and evaluation plans for U.S. foreign assistance. As a result of the recent changes in monitoring and evaluation guidelines and the complications related to evaluating project evaluations given their multi-year life cycles, we did not review agencies' compliance with their own guidance in conducting evaluations.

<sup>37</sup>U.S. Agency for International Development, *Automated Directives System*, 201.3.5.13. Whole-of-project performance evaluations examine an entire project, including all of its constituent activities and progress toward the achievement of the project's purpose. A whole-of-project evaluation may count as one of the required evaluations. Further, USAID develops a 5-year Country Development Cooperation Strategy to plan agency goals and objectives, which are achieved by meeting intermediate and sub-intermediate results for its work in a specific country.

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## State and USAID Disseminate Rule of Law Evaluations through Online Systems, Briefings, and Presentations

State officials said INL submits completed evaluations, including of rule of law assistance, to the online Evaluation Registry data collection and reporting system and disseminates evaluation results through briefings or presentations.<sup>38</sup> The Evaluation Registry is the main source for evaluation reporting and data. State's guidance requires evaluation dissemination plans that delineate all interested stakeholders and ensure that potential users receive copies or have ready access to them. The guidance also requires that evaluation reports that are neither sensitive nor classified be posted publicly within 3 months of the report's publication.<sup>39</sup> To ensure a more consistent approach to sharing evaluations, State/INL is developing an evaluation dissemination plan template and incorporating it into its evaluation planning processes, according to State/INL officials.

According to agency officials, USAID also disseminates non-sensitive evaluations, including of rule of law assistance, through online systems, briefings, and presentations. We found that USAID shares completed evaluations in the Evaluation Registry and requires that evaluations be posted to USAID's Development Experience Clearinghouse within 3 months of the evaluation's conclusion, unless they are politically sensitive or classified.<sup>40</sup> Among other things, the Evaluation Registry tracks the number of evaluations completed by USAID each year. Officials also stated that USAID disseminates its evaluation findings to State and Congress upon request through briefings and presentations. USAID officials also said that project managers share evaluations with U.S. partners at the mission level by working with other embassy officials,

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<sup>38</sup>Evaluation reports are posted to the web-based, customized Evaluation Registry data collection and reporting system that State and USAID jointly maintain for planned, ongoing, and completed evaluations unless the reports are politically sensitive or classified. Sensitive evaluations are not uploaded to the Evaluation Registry for public posting, but are instead summarized and posted on the Office of U.S. Foreign Assistance Evaluations page of State's website; however, this occurs only in rare cases. For example, an evaluation performed in a country that seeks State's assistance but does not want to be perceived as cooperating with the United States might be sensitive if published.

<sup>39</sup>State evaluation guidance differentiates between foreign assistance-funded evaluations and diplomatic engagement-funded evaluations, with bureaus required to make the latter available only internally to State bureaus and offices. Our engagement focuses only on foreign assistance-funded evaluations. Department of State, *Guidance for the Design, Monitoring and Evaluation Policy at the Department of State* (January 2018).

<sup>40</sup>The Development Experience Clearinghouse is USAID's online resource for USAID-funded technical and program documentation.



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USAID-hosted rule of law working group members, and through other means, which vary by mission. We found that evaluation dissemination efforts vary by mission.

For example, officials from USAID's mission in Liberia said that upon completion of their assessment, third-party evaluators present the findings to mission staff, the Program Office, the Contracting Office, and the relevant Technical Office, which review the evaluation findings and make adjustments as necessary. Some evaluations are shared with other agency officials, donors, or government of Liberia officials when there is strategic interest to do so, and when the evaluation contains no proprietary or sensitive information. Officials from the USAID mission in Kosovo said that because of political sensitivities in the country as it tries to improve its rule of law, mission officials have opted to share final evaluation results with host government officials and other stakeholders in private meetings. Like State's, USAID's guidance recommends that performance evaluations be disseminated to agency staff and partners, and requires that evaluations be made publicly available by being submitted to the Development Experience Clearinghouse within 3 months of completion, unless politically sensitive or classified.

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### State and USAID Have Established Ways to Track the Implementation of Post-Evaluation Recommendations

State has established a mechanism to track the implementation of post-evaluation recommendations for rule of law projects. State/INL has generated a spreadsheet that documents the actions taken to implement recommendations, the point of contact for each action, and the time frame goals for the completion of the actions. State/INL officials said that this information is tracked for 12 months and shared with relevant parties. State/INL officials also said that when making decisions on which evaluation recommendations to implement, the leadership considers various factors, including resource costs and constraints, the time it would take to implement certain recommendations, and whether the recommendations are realistic and politically feasible. State's guidance requires bureaus to monitor progress on the recommendations through a document such as a recommendation tracker. The guidance outlines steps for responding to and tracking the implementation of post-evaluation recommendations. It recommends that the bureau respond to the recommendations with a written summary to bureau or office leadership so that management can discuss them, reach concurrence,

create a plan for implementation, designate a point of contact, and generate time frames for each recommendation to be implemented.

USAID also established requirements for tracking the implementation of post-evaluation recommendations, although approaches can vary by mission. USAID requires each mission to track post-evaluation recommendations by developing a post-evaluation action plan upon completion of each evaluation, which includes documentation of whether the mission accepts or supports each conclusion or recommendation, the expected actions taken in response, anticipated time frames, and completion of actions. Our review of selected countries found that missions track these efforts, but do so in different ways.<sup>41</sup> Examples from the four countries we reviewed follow.

- *Colombia*: Officials from USAID’s mission in Colombia told us that they track post-evaluation recommendations through an Excel spreadsheet, similar to the spreadsheets used by the State/INL team in Colombia, which tracks the evaluation’s findings, conclusions, and recommendations for learning purposes. The mission uses two templates to track post-evaluation responses and actions as established by USAID’s Washington Bureau for Policy, Planning, and Learning Office in June 2019.
- *Kosovo*: Officials from USAID’s mission in Kosovo said the mission’s evaluation specialist holds multiple discussions within the mission to determine the recommendations that are more feasible for implementation and in line with the mission’s goals. The evaluation specialist uses an evaluation tracker that lists actions taken from the evaluation recommendations, such as short descriptions of the follow-up actions.
- *Liberia*: According to USAID officials, in the summer of 2020, Liberia’s Program Office formalized a master document for tracking post-evaluation recommendations. This tracker is now being used on a quarterly basis and will be used in annual and semi-annual portfolio reviews. According to USAID officials, before that, since 2017, the mission staff in the technical, program, financial, and contracting offices had systematically, but less formally, tracked the resolution of evaluation recommendations with assistance from an institutional services contractor. The mission’s Program Office (with support from the contractor) had facilitated the informal tracking of individual

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<sup>41</sup>Most of the nine evaluations we reviewed contained over 15 recommendations.

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evaluation recommendations from all technical sectors across the mission's portfolio.

- *Philippines*: Officials from USAID's mission in the Philippines said the mission had not tracked post-evaluation recommendations for the rule of law projects, in part because the mission did not contract an external third-party evaluation. However, according to USAID officials, rule of law projects were subjected to internal mid-term and final evaluations, as well as the mission's action plans (or annual work plans), which are submitted at the beginning of each fiscal year and contain the results of these evaluations. In addition, officials said the mission has developed progress reports that track achievements and challenges. For instance, from 2016 through 2018, the mission faced challenges related to the change of administration in the Philippines and the war on drugs.

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## State and USAID Used Rule of Law Evaluations to Improve Project Design and Inform Strategic Planning

### Improving Project Design

According to State and USAID policies and agency officials, evaluations are intended to improve project design. State policy recommends that all bureaus and independent offices—in consultation with posts when applicable—analyze evaluation data to inform ongoing progress and future project implementation. USAID's policy requires that, prior to launching project design and implementation, missions review previous plans and analytical work, including lessons learned from evaluations. State/INL and USAID officials told us that it is standard practice to use evaluation results, in addition to other sources, to identify technical issues when designing and implementing future projects and making course corrections. For example:

- State/INL's 2016 final evaluation of the Criminal Justice Program in the Philippines assessed interventions related to the Justice Sector Reform project and two other projects to determine those that would likely benefit from additional funding. The evaluation ultimately reported that the Justice Sector Reform project should not be considered by State/INL for additional funding. The evaluation concluded that the project lacked focus and effectiveness because of its large scope and demonstrated little institutionalization, though it was designed to make legislative reforms and changes to the training system of prosecutors in the Philippines. The evaluation ultimately

**Strengthening the Criminal Justice System: Example of a State/INL Evaluation of a Rule of Law Project in Colombia**



State/INL's 2013 final evaluation of its Rule of Law Program in Colombia found that progress had been made in the broad goals of improving the effectiveness of the criminal justice system and the implementation of the accusatory system in Colombia. The evaluation concluded that significant progress had been achieved in outcomes related to strengthening the country's capacity to investigate and prosecute different types of crimes and to provide aid to victims, but that the specific interventions had uneven effectiveness and sustainability. For example, the evaluation showed positive outcomes in training for prosecutors and investigators, but less positive outcomes for judges. The evaluation also assessed the status of the newly established Victims' Assistance Centers and found that in the first 3 years of operation, 80 percent of the users were women, many of whom were victims of domestic violence and sex crimes.

Source: Department of State Bureau of International Narcotics and Law Enforcement Affairs (State/INL). | GAO-21-14

concluded that the project should consider its goals, along with ways to achieve them, if it is to benefit from additional funding.

- The USAID Kosovo mission's 2018 midterm performance evaluation of its Property Rights Program was, in part, intended to inform its management of identified issues that would increase project effectiveness and impact, and ultimately, future project design. The evaluation found that more than half of the planned measures had already been implemented and the project had improved the speed of the case management system by, in part, shifting administrative work from civil law judges to legislative assistants, thus speeding up property rights cases. Of the evaluation's 18 recommendations, six were aimed at strengthening the project's design and performance. Specifically, the evaluation recommended that the implementing partner and the government of Kosovo work together on the final framework to define different types of property prior to the end of the activity, build a greater sense of ownership over property rights programming, and help local officials make programming sustainable with a limited USAID footprint. The evaluation also suggested that the government of Kosovo develop methods for enforcing women's property rights by developing enforcement protocols as well as educational reforms for youth, law faculty and students, and judges on women's property rights and gender equality. In addition, USAID officials said the evaluation specialist and the Contract Officer's Representative for the activity should work with the implementing partner and beneficiaries to ensure that mid-term evaluation recommendations are used to help improve the overall project and its implementation.
- The USAID Liberia mission's 2018 mid-term evaluation of the Legal Professional Development and Anti-Corruption activity was conducted to assess the activity's progress following a redesign 2 years into implementation. The evaluation allowed the mission and its partners to "pause and reflect," according to USAID officials. These officials said the evaluation produced 24 recommendations and helped inform a subsequent contract modification, as well as the work plans for years 4 and 5 of the activity. Changes made based on the recommendations included building the capacity of satellite courts to reduce the docket load in Monrovia and ensuring that legal aid clinics are diversifying their services for women, among other things.

Informing Strategic Planning and Decision-Making

State's and USAID's policies and agency officials stated that evaluations contribute to the development of program priorities and strategic planning.

Both agencies' policies recommend the use of evaluation results to adopt course corrections as needed in interim years of multi-year strategic plans, or to shape future programming and strategic priorities, such as the creation of a country or sector strategic plan, and to support the budget formulation process. For example:

**Strengthening Rural Justice: Example of a USAID Evaluation of Rule of Law Projects in Liberia**



USAID's 2013 final evaluation of the Access to Justice and Access to Information projects in Liberia found that USAID had developed an effective development model for rural justice that combined legal education, mediation, and skill-building for customary justice practitioners. It also noted that women had emerged as the primary beneficiaries of legal education and mediation services, in terms of empowerment through knowledge of marriage and inheritance laws and in resolution of disputes concerning domestic violence and child abandonment. However, the evaluation identified limitations to project effectiveness and sustainability related to gender equality issues—the root causes of which the projects could not address. Nevertheless, mission officials stated that through programming like Access to Justice, USAID is making sustained incremental progress in protecting and promoting women's rights. The evaluation also noted that sustaining the government's efforts could be challenging because a powerful Liberian non-governmental organization from the justice sector was opposed to the concept of having community justice advisors adopting paralegal status.

Source: U.S. Agency for International Development (USAID). | GAO-21-14

- State/INL's 2013 final evaluation of Colombia's Justice Sector Reform Program included assessments of six INL projects that were active between 2008 and 2011. The assessments examined topics such as how the projects were meeting their objectives and how they facilitated the strategic goals of the agency. The first of the six total recommendations noted that INL should strengthen its strategic planning process by adopting systematic planning tools for setting goal targets and schedules for meeting them. This recommendation noted that in strengthening strategic planning tools, INL would improve its capacity to monitor both the progress toward established programs as well as the ability to measure and manage Colombia's needs related to rule of law program effectiveness and sustainability.
- USAID's 2015 mid-term evaluation of Colombia's Access to Justice Activity—which was intended to improve access to justice at the local level, in municipalities in Colombia's conflict zones—recommended that the agency study the unintended consequences of projects on the broader justice system culture in Colombia. USAID officials told us that they modified the contract to apply the evaluation findings and then used the evaluation to design the current Justice for a Sustainable Peace activity.
- USAID's 2018 mid-term evaluation of Kosovo's Justice System Strengthening Program was intended to, among other things, inform future justice sector programming. The evaluation contained over 25 recommendations intended to improve the independence, professionalism, efficiency, and accountability of the Kosovo Judicial Council and Courts. One of the recommendations was intended to support the country's development of a longer, 5-year strategic plan. Other recommendations addressed the need to capture strategic and tactical program planning through meaningful monitoring, evaluation, and learning indicators. USAID officials said that final evaluations are used as evidence-based tools and that recommendations are used to design future activities, which are based on the Country Development Cooperation Strategy and other important country developments.

State and USAID officials identified other factors that can make it challenging to conduct or use evaluations or apply their results to other country or regional contexts. According to State/INL officials, evaluations

can be hampered by changing conditions in the host country. For example, in the Philippines, extrajudicial killings related to the government's antidrug campaign affected the evaluators' approach to programmatic review and hampered management's decisions on which evaluation recommendations to pursue. Additionally, according to USAID officials from one of the missions we visited, some host country officials involved in rule of law activities have been implicated in government corruption, which can influence how agencies implement projects as well as which evaluation recommendations they consider. See appendix IV for more information on the rule of law evaluations we collected from our four selected countries.

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## Conclusions

Improving the rule of law in partner countries overseas is a key objective of America's foreign and national security policy. As the United States continues to support hundreds of rule of law projects around the world, it is important that State/INL and USAID monitor these projects carefully and stay well-informed of their performance in order to ensure that they are as effective as possible. State/INL, in most cases, and USAID, in almost all cases, consistently followed the key practices for monitoring rule of law assistance for the awards we reviewed from selected countries, though the agencies did not provide documentation demonstrating that they consistently followed other key practices. In particular, State/INL did not demonstrate that project representatives consistently included project goals and objectives and identified risks in monitoring plans. Furthermore, neither agency could demonstrate that project representatives consistently assessed and approved monitoring reports from implementing partners. Documentation is a necessary part of an effective internal control system and should allow management to evaluate ongoing monitoring efforts to identify any internal control issues and take action if needed. Sufficient documentation of key monitoring practices would enable agencies' management to ensure that monitoring officials are consistently following these practices. Following key monitoring practices helps to ensure that agencies stay well-informed of project performance and take corrective action when necessary, and that projects achieve their intended results.

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## Recommendations for Executive Action

We are making the following three recommendations, two to State and one to USAID:

The Secretary of State should ensure that State/INL establishes procedures to ensure that monitoring officials for rule of law projects develop monitoring plans that identify project goals and objectives, and address risks. (Recommendation 1)

The Secretary of State should ensure that State/INL establishes procedures to ensure that monitoring officials for rule of law projects assess and approve monitoring reports from implementing partners. (Recommendation 2)

The USAID Administrator should enhance procedures to ensure that monitoring officials for rule of law projects assess and approve monitoring reports from implementing partners. (Recommendation 3)

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## Agency Comments and Our Evaluation

We provided a draft of this report to State, USAID, DOD, and DOJ for review and comment. State and USAID provided written comments, which we reproduced in their entirety in appendixes V and VI, respectively. State concurred with the two recommendations we made to the agency and described actions it plans to take to address them. USAID also concurred with our recommendation but stated that some of the language in the report should be clarified, as described below. We also received technical comments from State and USAID, which we incorporated as appropriate. Additionally, DOD and DOJ informed us in writing that they had no comments.

In its written comments, USAID noted that the GAO recommendation for USAID is duplicative given the existence of USAID monitoring and evaluation procedures. While we acknowledge that USAID has monitoring procedures in place for rule of law projects, we found that the procedures did not ensure that USAID could demonstrate that it consistently followed the key monitoring practice of assessing and approving monitoring reports from implementing partners. We adjusted the recommendation language to clarify that USAID should enhance its procedures to ensure this key monitoring practice is consistently followed—an action USAID

agreed would help the agency ensure effective monitoring and evaluation of its rule of law programming and its impact.

Regarding the eight key practices we used to assess USAID's monitoring of its Rule of Law projects, USAID stated that the report should note that these practices were from GAO's leading practices on foreign assistance management formulated after the period covered by these projects. As described in the report, we derived these eight key practices from GAO's 14 previously identified leading practices for monitoring foreign assistance—practices directly relevant to USAID's monitoring of Rule of Law projects and identified within the period covered by the projects. As USAID stated in its written comments, USAID informed us that "it has no issues with the practices" we used for our assessment. Additionally, USAID stated that our use of the language "generally followed" to describe the extent to which it followed the practices "erroneously qualifies" USAID's adherence to the practice being assessed. As described in our methodology and identified throughout the report, we use the phrase "generally followed" to indicate that we received evidence that all critical elements of a key practice were conducted and documented to a large or full extent. We continue to believe that this is an accurate characterization of the extent to which USAID followed most of the key practices, as detailed in the report. Further, when characterizing the extent to which the agency followed the key practice of assessing and approving monitoring reports from implementing partners for those projects we reviewed, we added the word "consistently" to clarify that the agency did not always follow this practice for all projects.

Finally, USAID stated that it believes it provided all of the documentation we requested during our review and asked for further information on what we consider to be still missing so that the agency can identify and provide it. On multiple occasions throughout our review, including most recently in late July 2020, we informed USAID officials of the specific project documentation that was missing. The agency was unable to provide all of the missing documents.

We are sending copies of this report to the appropriate congressional committees and to the Secretaries of State and Defense, the Acting Administrator of USAID, the Attorney General, and other interested parties. In addition, the report is available at no charge on the GAO website at <http://www.gao.gov>.

If you or your staff have any questions about this report, please contact me at (202) 512-2964 or [gurkinc@gao.gov](mailto:gurkinc@gao.gov). Contact points for our Offices



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Letter

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of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made major contributions to this report are listed in appendix V.

Sincerely yours,

A handwritten signature in black ink that reads "Chelsea Gurkin". The signature is written in a cursive, flowing style.

Chelsea Kenney Gurkin  
Director, International Affairs and Trade

# Appendix I: Objectives, Scope, and Methodology

This report examines the (1) types of indicators the Department of State Bureau of International Narcotics and Law Enforcement Affairs (State/INL) and the U.S. Agency for International Development (USAID) use to track the performance of rule of law projects; (2) extent to which State/INL and USAID followed key practices for monitoring rule of law projects in selected countries; and (3) processes the agencies have in place to use evaluations to inform future rule of law assistance.<sup>1</sup>

To address these objectives, we examined relevant laws; State, State/INL, and USAID monitoring and evaluation requirements for foreign assistance, including policies, guidelines, and documents; and interviewed officials from State/INL and USAID in Washington, D.C., and in the field.<sup>2</sup> This is the second of two GAO reports on rule of law assistance. We reported on U.S. agencies' funding, planning, and coordination of rule of law assistance in June 2020.<sup>3</sup>

To identify which agencies were relevant for a review of global rule of law assistance, we interviewed officials from State, USAID, the Department of Justice (DOJ), the Department of Defense (DOD), and representatives from nongovernmental organizations involved in the rule of law sector. On the basis of these interviews and our previous work, we focused this review on State and USAID.<sup>4</sup>

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<sup>1</sup>As mentioned previously, agencies may use various terms to describe their assistance, including "programs," "projects," and "activities." In this report, we generally use the term "projects" to refer to assistance funded by U.S. agencies that is implemented directly by the agencies or through awards made to implementing partners, including contractors, international organizations, and other awardees. However, in certain instances when we are discussing agency project documentation that uses different terminology, we use the terminology from the documentation.

<sup>2</sup>We focused our review of State on INL, which is the lead State bureau for developing rule of law-related assistance programs.

<sup>3</sup>[GAO-20-393](#).

<sup>4</sup>[GAO-17-118](#).

For all three objectives, we selected for in-depth analysis a nongeneralizable sample of four case study countries that had received rule of law assistance: Colombia, Kosovo, Liberia, and the Philippines. In selecting these countries, we considered the following factors, among others: (1) countries in which at least two agencies allocated or obligated rule of law assistance funds during fiscal years 2014 through 2018; (2) countries that were among the top half of all recipients of rule of law foreign assistance allocations from State and USAID between fiscal years 2014 through 2018, our period of review, based on publicly available information; (3) countries that represented regional diversity; and (4) countries that State, USAID, DOJ, and DOD officials, as well as other stakeholders with relevant expertise, recommended as case study countries. We excluded countries that we deemed excessive security risks for audit travel and countries in which GAO had recently or was actively conducting audit work. On the basis of these considerations, we determined that the data were sufficiently reliable for the purposes of our reporting objectives.

Following our country selection, we conducted audit work for all three objectives in Washington, D.C., and in Kosovo, Liberia, and the Philippines. We did not travel to Colombia but conducted audit work with officials by phone. For these four countries, we interviewed officials from State, USAID, DOJ, DOD, and nongovernmental organizations that had implemented U.S.-funded rule of law projects, as well as in-country government officials who had participated in U.S.-funded rule of law assistance activities. We collected and reviewed State and USAID monitoring plans and evaluations for the 5-year period between fiscal years 2014 through 2018, the most recent available at the time of our review, and conducted interviews about monitoring and evaluation practices with these officials both in person and by phone.

To describe the types of indicators State/INL and USAID use to track the performance of rule of law projects, we reviewed the agencies' policies and guidance on selecting performance indicators. We also reviewed documents from rule of law projects implemented in our four case study countries to examine the types of indicators the agencies used to track project performance. We interviewed cognizant officials in Washington, D.C., and at missions and posts in our four case study countries.

To examine the extent to which State/INL and USAID's monitoring efforts for rule of law projects in Colombia, Kosovo, Liberia, and the Philippines adhered to key practices for monitoring foreign assistance, we identified the key practices we would use to assess awards. In 2016, we reported

on 14 leading practices for monitoring foreign assistance that agencies should incorporate in their monitoring policies to help ensure that they effectively manage foreign assistance, address impediments, and meet their assistance goals.<sup>5</sup> From these leading practices, we derived eight key practices that can help agencies monitor the implementation and performance at the project level.<sup>6</sup> These eight key practices include practices that in our judgment directly relate to monitoring project-level performance activities. We grouped the selected key practices into three areas: (1) planning a monitoring approach, (2) assigning monitoring duties to qualified staff, and (3) monitoring project implementation.

We then selected a nongeneralizable sample of 13 State/INL projects and six USAID projects from our case study countries and for which the agencies made high-dollar value obligations, that were ongoing from fiscal years 2014 through 2018 (between October 1, 2013 and September 30, 2018), and represented a range of implementing mechanism type, according to agency data. (See app. III for details on the 19 projects we selected for our sample.) Some of the projects were ongoing after fiscal year 2018. We requested data from State/INL and USAID related to the obligations for rule of law projects from fiscal years 2014 through 2018. Based on the obligations data, we judgmentally selected a sample of rule of law projects for which the agencies made high-dollar obligations and which represented a range of implementing mechanism types. For State/INL, based on agency data, we selected two cooperative agreements, one contract, three grants, three letters of agreement with international organizations, and four interagency agreements implemented by DOJ.<sup>7</sup> For USAID, based on agency data, we selected two cooperative agreements, one contract, and three task orders. According to agency data, State/INL obligated a total of approximately

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<sup>5</sup>[GAO-16-861R](#).

<sup>6</sup>To derive the eight key monitoring practices, we identified those practices that relate to monitoring ongoing projects, consolidated some of the practices, and omitted others that were not directly relevant to our review. For example, the key practices we selected did not focus on financial activities because our review focused on performance monitoring.

<sup>7</sup>According to agency officials, State/INL uses other implementing mechanisms to provide rule of law funding, such as personal service contracts and local contracts. We excluded these from our sample because they were not used to implement the highest-dollar value State/INL projects. In addition, while State/INL identified these contracts as involving funds that support rule of law programming, they are not directly tied to rule of law assistance. According to agency officials, these implementing mechanisms primarily cover the purchase of equipment, travel, and logistics. We focused our review on projects with measurable performance indicators and targets, which these mechanisms by and large lacked, according to officials.

\$26 million from fiscal years 2014 through 2018 for the 13 State/INL awards in our sample. USAID obligated about \$79 million for the six awards in our sample over the same period. The 13 State/INL projects represent, on average, about half of the total funding obligated by State/INL for rule of law assistance to each of the four case study countries during the period of our review. The six USAID awards in our sample represent an average of 70 percent of the total funding obligated by USAID for rule of law assistance to each of the four case study countries over the same period.

We assessed the agencies' monitoring of the 19 selected rule of law projects against the eight key monitoring practices. We reviewed documents to determine the extent to which State/INL and USAID followed the eight key monitoring practices for each of the 19 awards in our sample. Specifically, for each selected project, we requested monitoring plans; work plans; risk assessments; Contract, Grant, or Agreement Officer's Representative Certificates; Contract, Grant or Agreement Officer's Representatives Designation Letters; implementing partners' progress reports for the latest year of the project that fell within the 5-year period of our review; samples of field or site visit reports; and samples of monitoring emails between monitoring staff and implementing partners.<sup>8</sup> We reviewed available documents as they related to each key practice to determine the extent to which the agencies had taken steps to follow and document the key practice for each project.<sup>9</sup> We also interviewed monitoring officials from State/INL and USAID in Washington, D.C., and from our four sample countries to understand agency monitoring policies and processes.

On the basis of our review of each award, we assessed whether the eight key practices were "generally followed," "partially followed," or "not followed." We rated the extent to which the agency followed the key practice as "generally followed" if we received evidence that all critical elements of the key practice were conducted and documented to a large or full extent; "partially followed" if we received evidence that some, but not all, critical elements of the key practice were conducted and documented to some extent but a critical element of the practice was not

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<sup>8</sup>State/INL and USAID assign roles and responsibilities to monitoring staff through a designation letter in which a Contract Officer or Grant Officer designates a representative to oversee each project.

<sup>9</sup>In some cases, the agency reported that the documents were not available because they were missing or had not been submitted by implementing partners.

conducted or documented; and “not followed” if we did not receive evidence that any of the critical elements of the key practice were conducted and documented. To perform these analyses, two analysts reviewed the documents to rate the extent to which each key practice was followed. The analysts worked iteratively, comparing notes and reconciling differences at each stage of the analysis. In addition, GAO staff independent of the two analysts reviewed the final analysis, and made modifications as appropriate. Where we found deficiencies, we followed up with cognizant officials in Washington, D.C., and in the field.

To determine the extent to which State/INL and USAID tracked project performance, we selected a subset of six projects from our original nongeneralizable sample of 19 projects. The subset included four State/INL projects and two USAID projects, selected primarily based on their high-dollar values and because they represented a range of implementing mechanisms. For example, our subset of awards included a range of implementing mechanisms, such as a contract, grant, interagency agreement, and cooperative agreement, according to agency data.

For the subset of six awards, we reviewed monitoring documents, such as project narratives, work plans, and monitoring plans, and identified the performance measures outlined in these documents for each project.<sup>10</sup> We then reviewed these projects’ latest year of quarterly and annual progress reports (fiscal year 2018 was the most recent available complete fiscal year data at the time of our review), and assessed the extent to which State/INL and USAID assessed the status of the award’s performance against the established performance metrics. We interviewed State/INL and USAID monitoring officials in Washington, D.C., and our four sample countries to understand the process for how these officials track the performance of these selected projects, including in the projects’ quarterly and annual reports. We also reviewed the reports to identify any discrepancies or errors.

To describe how State/INL and USAID use evaluations to inform future rule of law assistance, we reviewed legislation related to the monitoring and evaluation of foreign assistance, agency policies, guidelines, procedures, and previous agency and GAO reports. We queried the available evaluations from USAID’s Foreign Assistance Explorer data, then asked State/INL and USAID to provide all rule of law performance

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<sup>10</sup>Not all of these documents were available for all of the projects in our sample.

evaluations of projects in our sample countries from fiscal years 2014 through 2018. We did not separately review agency files to identify whether agencies had additional evaluations beyond those identified by the agencies. We reviewed the evaluations and interviewed agency officials in Washington, D.C., and our four selected countries about their processes for conducting, disseminating, and tracking post-evaluation recommendation implementation, as well as the uses of the specific evaluations.

We conducted this performance audit from May 2019 to November 2020 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

# Appendix II: Examples of Performance Indicators for Rule of Law Projects

This appendix provides examples of indicators used to track the performance of three rule of law projects funded by the Department of State's Bureau of International Narcotics and Law Enforcement Affairs (State/INL) and the U.S. Agency for International Development (USAID). The projects were implemented in fiscal years 2014 through 2018 and are drawn from the 19 awards we selected for assessing the extent to which State/INL and USAID followed key practices for monitoring rule of law projects (see app. III) from our four case study countries: Colombia, Kosovo, Liberia, and the Philippines. Table 5 does not provide an exhaustive list of all of the performance indicators for each project, but those it includes are illustrative of the types of indicators the agencies use to track the progress of rule of law projects.

**Table 5: Examples of Objectives and Performance Indicators for Rule of Law Projects**

Project	Objective	Indicator type <sup>a</sup>	Indicator
<b>Enhancing the Institutional Capacity of Prosecutors in the Philippines</b> <ul style="list-style-type: none"> <li>Country of implementation: Philippines</li> <li>Funding agency: Department of State Bureau of International Narcotics and Law Enforcement Affairs (State/INL)</li> <li>Implementing partner: International Development Law Organization</li> <li>Purpose: To strengthen the institutional capacity of the Philippine Department of Justice to conduct improved criminal prosecutions, as well as strengthen the Office of the Ombudsman's capacity to better resolve complaints of corruption against public officials</li> </ul>	Increase the competence of prosecutors in the Philippine Department of Justice	Custom	Modules and handbooks developed were approved by expert working groups
		Custom	80 percent of participants to the training courses were satisfied with the delivered trainings
	Increase the competence of prosecutors in the Office of the Ombudsman in resolving complaints of corruption against public officials in the Philippines	Custom	One work plan and recommendations were developed at the end of the final workshop
		Custom	80 percent of participants in the training courses were satisfied with the delivered trainings
<b>Judicial Strengthening to Improve Court Effectiveness</b> <ul style="list-style-type: none"> <li>Country of implementation: Philippines</li> <li>Funding agency: U.S. Agency for International Development (USAID)</li> </ul>	Improve judicial efficiency	Custom	Clearance rate increased by 33 percent in target courts
		Custom	Disposition rate increased by 50 percent in target courts



**Appendix II: Examples of Performance Indicators for Rule of Law Projects**

<b>Project</b>	<b>Objective</b>	<b>Indicator type<sup>a</sup></b>	<b>Indicator</b>		
<ul style="list-style-type: none"> <li>Implementing partner: American Bar Association</li> <li>Purpose: To improve the rule of law in the Philippines by enhancing judicial efficiency, strengthening contract intellectual property rights enforcement, and reducing docket congestion, among other things</li> </ul>	Improve the timeliness of case resolution	Custom	Case processing time reduced: (a) time to disposal reduced by 33 percent in target courts by year 5 of project		
		Custom	Case processing time reduced: (b) age of pending case reduced by 33 percent in target courts by year 5 of project		
		Custom	Number of pending cases reduced by 33 percent in target courts		
	Improve contract enforcement	Custom	Case processing time for contract enforcement cases reduced: (a) time to disposal reduced by 33 percent		
		Custom	Case processing time reduced: (b) age of pending case reduced by 33 percent in target courts by year 5 of project		
		Custom	Target government agencies report that 100 percent of their public-private partnerships, build-operate-transfer, and joint venture contracts contain alternative dispute resolution clauses		
		Custom	200 mediations administered by the National Center for Mediation by year 5 of project		
		Custom	Quasi-judicial bodies report a 50 percent increase in the recognition of arbitral awards and alternative dispute resolution clauses by courts		
		<b>Justice for a Sustainable Peace</b>	Increase access to more effective, inclusive, and responsive justice-related services in conflict-affected regions of Colombia	Custom	Number of municipalities that implement stages of the improvement plan in the local justice system
				Custom	Value of funds allocated for access to justice activities in annual municipal budgets

**Appendix II: Examples of Performance Indicators for Rule of Law Projects**

<b>Project</b>	<b>Objective</b>	<b>Indicator type<sup>a</sup></b>	<b>Indicator</b>
<ul style="list-style-type: none"> <li>Purpose: To assist Colombian partners in strengthening an effective and responsive justice system, addressing the critical justice needs of victims of the armed conflict, and increasing citizen support for the rule of law in targeted conflict-affected regions of Colombia</li> </ul>	Increase citizen support for rule of law in conflict-affected regions	Custom	Number of disputes resolved by government-trained alternative dispute resolution providers in target areas
		Custom	Number of cases in the special indigenous jurisdiction documented and disseminated by virtual means
	Strengthen judicial responses for victims of the armed conflict	Custom	The number of criminal and/or disciplinary cases, supported by the U.S. government, that have advanced at least one procedural step or sub-stage, in the Attorney General's Office and the Inspector General's Office, respectively, regarding abuse allegations against human rights defenders and social leaders
		Custom	Number of land allocation orders included in rulings issued by land restitution judges and magistrates that do not have the allocation ruling from the National Land Agency
		Custom	Number of gender-based violence and sexual violence cases receiving investigative support that have progressed at least one sub-stage in the judicial process
	Standard	Number of individuals from low-income or marginalized communities who received legal aid or victims' assistance with U.S. government support	

Source: GAO analysis of State/INL and USAID documents. | GAO-21-14

<sup>a</sup>State/INL and USAID use different types of indicators to measure the performance of foreign assistance projects, including rule of law projects. Standard foreign assistance indicators are indicators used by both agencies to collect and report comparable indicator data across multiple bureaus and offices. The agencies also use standard foreign assistance indicators to measure and illustrate foreign assistance accomplishments. Custom indicators are performance indicators that reflect progress within a country or program context. Unlike standard foreign assistance indicators, they often cannot be aggregated across a number of programs.

# Appendix III: Rule of Law Projects Included in GAO's Review

Table 6 provides detailed information on our sample of 19 rule of law projects, awarded by the Department of State's Bureau of International Narcotics and Law Enforcement Affairs (State/INL) and the U.S. Agency for International Development (USAID). We assessed the extent to which the agencies followed key practices for monitoring these projects. The sample includes 13 State/INL and six USAID projects that were implemented from fiscal years 2014 through 2018 in our four selected countries: Colombia, Kosovo, Liberia, and the Philippines. Based on data provided by the agencies, we selected the 19 projects based on high-dollar value and implementing mechanism type.

**Table 6: State/INL and USAID Rule of Law Projects Included in GAO's Review**

Award	Award agency	Country of implementation	Type of implementing mechanism	Implementing partner	Obligation amount, FY 2014–2018 (dollars)
Judicial Strengthening to Improve Court Effectiveness Project	USAID	Philippines	Cooperative agreement	American Bar Association	13,387,180
Justice for a Sustainable Peace	USAID	Colombia	Contract	Chemonics	23,049,619
Property Rights Program	USAID	Kosovo	Task order	Tetra Tech	10,028,198
Justice System Strengthening Program	USAID	Kosovo	Task order	Millennium DPI Partners	10,377,665
Land Governance Support Activity	USAID	Liberia	Task order	Tetra Tech	7,653,014
Access to Justice Program	USAID	Liberia	Cooperative agreement	Carter Center	6,036,986
Resident Legal Advisor Program	State/INL	Kosovo	Interagency agreement	DOJ OPDAT	4,551,039
Philippines Justice Sector Reform Program	State/INL	Philippines	Interagency agreement	DOJ OPDAT	1,163,185
Colombia Rule of Law Program	State/INL	Colombia	Interagency agreement	DOJ OPDAT	4,381,471

**Appendix III: Rule of Law Projects Included in  
GAO's Review**

<b>Award</b>	<b>Award agency</b>	<b>Country of implementation</b>	<b>Type of implementing mechanism</b>	<b>Implementing partner</b>	<b>Obligation amount, FY 2014–2018 (dollars)</b>
DOJ/ICITAP Rule of Law Program in Colombia	State/INL	Colombia	Interagency agreement	DOJ ICITAP	3,181,692
Support for Colombian Judicial Education Project	State/INL	Colombia	Grant	American Bar Association Fund for Justice and Education	3,000,000
Advancing Citizen Engagement in the Liberian Justice System	State/INL	Liberia	Cooperative agreement	Carter Center	2,485,747
Support to the Liberia Justice Sector Program	State/INL	Liberia	Cooperative agreement	American Bar Association Fund for Justice and Education	2,500,000
Enhancing the Institutional Capacity of Prosecutors in the Philippines	State/INL	Philippines	Letter of agreement	International Development Law Organization	800,000
Criminal Justice Program Support Project	State/INL	Liberia	Contract	Integrated Justice Systems International	1,563,118
Assessment of Ten Municipalities	State/INL	Colombia	Letter of agreement	Pan American Development Foundation	300,000
Colombo Plan	State/INL	Philippines	Letter of agreement	Colombo Plan Council	650,000
Case Buildup for Cases of Extrajudicial Killings, Enforced Disappearances, and Torture Project	State/INL	Philippines	Grant	The Asia Foundation	300,000
Demand for Justice Project	State/INL	Kosovo	Grant	National Center for State Courts	799,963

Legend: State/INL = Department of State Bureau of International Narcotics and Law Enforcement Affairs; USAID = U.S. Agency for International Development; FY = fiscal year; DOJ = Department of Justice; OPDAT = Office of Overseas Prosecutorial Development Assistance and Training; IAA = interagency agreement; ICITAP = International Criminal Investigative Training Assistance Program

Source: GAO analysis of State/INL and USAID data. | GAO-21-14

# Appendix IV: Information on State/INL and USAID Performance Evaluations of Rule of Law Projects for Selected Countries, Fiscal Years 2014 through 2018

The Department of State's Bureau of International Narcotics and Law Enforcement Affairs (State/INL) and the U.S. Agency for International Development (USAID) have each conducted performance evaluations to assess their respective rule of law assistance. Table 7 provides selected information about State/INL evaluations for rule of law projects that were implemented from fiscal years 2014 through 2018 in our four selected countries: Colombia, Kosovo, Liberia, and the Philippines.

**Appendix IV: Information on State/INL and USAID Performance Evaluations of Rule of Law Projects for Selected Countries, Fiscal Years 2014 through 2018**

**Table 7: Summary of State/INL Performance Evaluations of Rule of Law Projects for Selected Countries, Fiscal Years 2014–2018**

Country	Evaluation name and date	Purpose of evaluation	Selected State/INL evaluation findings
Colombia	Evaluation of the INL Rule of Law Program in Colombia (November 2013)	<p>The purpose of the evaluation was to assess the effectiveness of the Justice Sector Reform Program relative to the goals and objectives in the planning documents. The State/INL Justice Sector Reform Program in Colombia is composed of six projects:</p> <ul style="list-style-type: none"> <li>• Justice Sector Reform Project</li> <li>• Justice and Peace Unit Project</li> <li>• Human Rights Unit Project</li> <li>• Exhumation Investigations Project</li> <li>• Protection Program Project</li> <li>• Prosecutor General's Office Organized Crime Unit (Bandas Criminales) and Colombia Strategic Development Initiative Project</li> </ul>	<ul style="list-style-type: none"> <li>• The six rule of law projects are progressing toward achieving their stated goals at different rates.</li> <li>• The effects of rule of law training were positive, resulting in significant gains in participants' knowledge, attitudes, and practices.</li> <li>• Some revisions to the training and participant selection could make the training more effective.</li> <li>• Good progress was made in improving the effectiveness of the criminal justice system and the implementation of the accusatory system.</li> <li>• The effectiveness of the government of Colombia's efforts to support the sustainability of the training agenda is less clear.</li> <li>• Legal advisers for the Human Rights Unit and technical training for the Exhumation Investigations Unit provide valid assistance.</li> <li>• Two of the six projects showed limited progress: the Protection Unit and the Organized Crime Unit.</li> </ul>

**Appendix IV: Information on State/INL and USAID Performance Evaluations of Rule of Law Projects for Selected Countries, Fiscal Years 2014 through 2018**

Country	Evaluation name and date	Purpose of evaluation	Selected State/INL evaluation findings
Philippines	Evaluation of the INL-funded Criminal Justice Programs in the Philippines (September 2016)	<p>The purpose of the evaluation was to determine whether the projects were on track to achieve their intended objectives and whether the activities were appropriate responses to the needs in the Philippines. The Criminal Justice Programs evaluated included the following:</p> <ul style="list-style-type: none"> <li>• Justice Sector Reform Project</li> <li>• Philippines Law Enforcement Development Program               <ul style="list-style-type: none"> <li>• The Special Boat Unit Project</li> <li>• The Model Police Station Project</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• The implementing partners' reports rarely followed a format that tracked the objectives contained in the interagency agreements.</li> <li>• The lack of comprehensive analysis made it nearly impossible for INL to track progress on agreed-upon objectives from implementing partners.</li> <li>• It was nearly impossible to oversee progress or to determine, through the implementing partners' reporting to INL, if or to what degree the implementing agencies were achieving desired results, or what challenges they were facing.</li> <li>• Implementation of two of the three projects, Model Police Station Project and Justice Sector Reform Project, which are primarily rule of law-oriented, did not meet pre-defined objectives, were ineffective in achieving stated objectives, and were not well-understood by host country officials.</li> <li>• Though each project has shown effectiveness and made contributions to the criminal justice sector, the Model Police Station Project and Justice Sector Reform Project have not shown sustainability.</li> </ul>

Source: GAO analysis of Department of State Bureau of International Narcotics and Law Enforcement Affairs (State/INL) evaluations. | GAO-21-14

Table 8 provides selected information about USAID evaluations for rule of law projects that were implemented from fiscal years 2014 through 2018 in our four selected countries: Colombia, Kosovo, Liberia, and the Philippines.

**Appendix IV: Information on State/INL and USAID Performance Evaluations of Rule of Law Projects for Selected Countries, Fiscal Years 2014 through 2018**

**Table 8: Summary of USAID Performance Evaluations of Rule of Law Projects for Selected Countries, Fiscal Years 2014–2018**

<b>Country</b>	<b>Evaluation name and date</b>	<b>Purpose of evaluation</b>	<b>Selected USAID evaluation findings</b>
Colombia	Mid-Term Performance Evaluation of the Access to Justice Activity (April 2015)	<p>The evaluation purpose was to obtain information about the impact and sustainability of the Access to Justice Activity including the following:</p> <ul style="list-style-type: none"> <li>• Access,</li> <li>• Gender, and</li> <li>• Judicial Reform</li> </ul>	<ul style="list-style-type: none"> <li>• A key challenge was the diminished numbers of active conciliators and the inability of the Ministry of Justice and Law to maintain contact with trained participants. This challenge creates concern about the ministry’s ability to make its access programs, such as the National Program for Equity Conciliators, sustainable.</li> <li>• Regarding Access, the principal finding is that only a small portion of trained and certified equity conciliators remain active.</li> <li>• Regarding Gender, the different perspectives and methods of the national, regional, and local actors have produced a fragmented program.</li> <li>• Regarding Judicial Reform, the exclusive focus on judges seems misplaced as most problems with the land restitution process occur elsewhere.</li> </ul>
Kosovo	Evaluation of Contract Law Enforcement Program; “Alternative Dispute Resolution Center–Increasing Capacity of American Chamber of Commerce to Provide Arbitration Services” Activity; Kosovo Chamber of Commerce Permanent Arbitration Tribunal Activity (February 2016)	<p>The purpose of the evaluation was to provide an objective assessment of the effectiveness, strengths, and weaknesses of the management and performance of the following activities:</p> <ul style="list-style-type: none"> <li>• Contract Law Enforcement Program</li> <li>• Alternative Dispute Resolution Center</li> <li>• Permanent Arbitration Tribunal Activity</li> </ul>	<ul style="list-style-type: none"> <li>• The Contract Law Enforcement Program has made significant efforts to reduce the execution backlog and provided metrics showing the number of cases removed, the amount of debt recovered, and comparisons of the recovered debt compared to the program allocations spent to reduce court backlogs.</li> <li>• This same program was credited for being a major actor for the successful establishment of the private enforcement system and for indirectly contributing to higher debt collection rates.</li> <li>• The Contract Law Enforcement Program has provided significant support to enhance mediation services in Kosovo, and has supported the use of contracts in the agricultural sector, raising the importance and benefits of written contracts.</li> <li>• Challenges include that the courts are not prioritizing the unenforced decisions related to court expenses and criminal fines where the state is the creditor; that court presidents and/or enforcement judges do not consider cases involving debt to commercial banks as a priority regardless of the fact that almost all judicial leaders recognized that these cases represent the highest monetary values of unenforced debt; and that judges are reluctant to use the “judge may suspend” clause under the Law on Enforcement Procedure, failing to close and remove many cases.</li> </ul>



**Appendix IV: Information on State/INL and USAID Performance Evaluations of Rule of Law Projects for Selected Countries, Fiscal Years 2014 through 2018**

Country	Evaluation name and date	Purpose of evaluation	Selected USAID evaluation findings
Kosovo	Mid-Term Performance Evaluation of the Implementation of the Effective Rule of Law Program and the Kosovo Legal Profession Program (April 2014)	<p>The purpose of the evaluation was to provide an objective external assessment of the management and performance of the following programs:</p> <ul style="list-style-type: none"> <li>• The Effective Rule of Law Program aims to support the strengthening of Kosovo institutions, enhance the capacity of justice sector personnel, increase efficiency of the courts, and improve public awareness and outreach throughout Kosovo.</li> <li>• The Kosovo Legal Profession Program seeks to improve the quality of legal education as well as the legal profession.</li> </ul>	<ul style="list-style-type: none"> <li>• A large number of businesses are still not familiar with the arbitration proceedings; lack of awareness is another obstacle to wider use of arbitration.</li> <li>• Effective rule of law has had a positive impact in strengthening the Kosovo Court's operations and enhancing its overall institutional capacity.</li> <li>• It has also had a moderate impact on improving the internal organization and operation of the Kosovo Judicial Council. Several of its activities have not met the stated objectives such as those aimed at increasing the court's capacity to develop and implement judicial policies, reducing case backlog, improving caseload management, filling judicial vacancies, evaluating judges, enforcing discipline, and conducting strategic planning for the judiciary.</li> <li>• Effective rule of law has also been beneficial in developing internal rules, an organizational structure, an institutional strategic plan, and creating a public relations strategy.</li> <li>• The Kosovo Legal Profession Program has provided key support to the Kosovo Bar Association on the new institutional framework.</li> <li>• The program effectively designed and implemented a large number of legislative reform assistance and created a new structure for the legal education disciplinary system.</li> <li>• It was also instrumental in enforcing regulations, introducing new and improved disciplinary regulations, and establishing an Office of the Disciplinary Officer.</li> <li>• The Kosovo Legal Profession Program's strong focus on legal clinics has led to a noticeable jump from a strictly literature (theory only) style learning to clinical education (practical experience) and greatly improved research capacities for both faculty and students.</li> </ul>

**Appendix IV: Information on State/INL and USAID Performance Evaluations of Rule of Law Projects for Selected Countries, Fiscal Years 2014 through 2018**

Country	Evaluation name and date	Purpose of evaluation	Selected USAID evaluation findings
Kosovo	Mid-Term Performance Evaluation of the Justice System Strengthening Program (July 2018)	<p>The purpose of the evaluation is to provide an assessment of progress to date toward achieving the Justice Sector Strengthening Program goals and objectives, which are to improve the quality of the justice system in Kosovo through three program components that</p> <ul style="list-style-type: none"> <li>• strengthen the efficiency, effectiveness, and service delivery of the Kosovo Judicial Council and courts;</li> <li>• enhance the accountability and professionalism of justice system institutions and actors; and</li> <li>• support the functioning and integration of the judicial structures in the north of Kosovo.</li> </ul>	<ul style="list-style-type: none"> <li>• The overall assessment provided a scorecard of Justice Sector Strengthening Program efforts stating that the project had managed to accomplish many things over the past 2 years to improve the functioning of the courts in Kosovo.</li> <li>• Most of the accomplishments that improved court functioning were the result of highly labor-intensive efforts to embed experts and young workers in relevant institutions.</li> <li>• The level of ownership and institutionalization of improvements remains questionable, as does the sustainability of the efforts, because most of the efforts have been opportunistic in the sense that the work took place when the program's and the courts' interests were aligned.</li> <li>• Continued progress depends on the resolution of a number of structural, legal, and regulatory questions, some of which are more difficult than others. Therefore, achieving significant gains in performance for the courts and integration of the northern courts is limited.</li> <li>• Continued progress also relies on connecting program performance with other USAID and donor efforts, and civil society group programs.</li> <li>• In summary, the program's preparatory efforts were extensive, but must continue to strategize around key issue areas to ensure that programs are more mutually reinforcing.</li> </ul>

**Appendix IV: Information on State/INL and USAID Performance Evaluations of Rule of Law Projects for Selected Countries, Fiscal Years 2014 through 2018**

Country	Evaluation name and date	Purpose of evaluation	Selected USAID evaluation findings
Kosovo	Mid-Term Performance Evaluation of the Kosovo Property Rights Program (April 2018)	<p>The purpose of the evaluation was to assess the Kosovo Property Rights Program, which sought to improve property rights in Kosovo, strengthen rule of law, and increase economic growth and investment. The activity’s four key objectives are</p> <ul style="list-style-type: none"> <li>• better coordination and policy;</li> <li>• improved court processes related to property claims;</li> <li>• enhanced women’s rights to use property in practice; and</li> <li>• improved communication, access to information, and understanding of property rights.</li> </ul>	<ul style="list-style-type: none"> <li>• Even though Kosovo has made notable progress led by the program, it continues to face major challenges.</li> <li>• Kosovo has yet to define the different forms of public property. Mindsets—most notably among men—about women’s property rights continue to impede equal access to property rights. Education at law faculties, as well as in the primary and secondary school systems, does not focus on gender or gender equality under the law.</li> <li>• Because of political challenges within Kosovo, of the 65 measures that are included in the National Property Rights Strategy Action Plan, three have been implemented.</li> <li>• Although the program has worked closely with the host government in drafting new property rights-related legislation, neither the program nor the host government has articulated a clear framework for monitoring the process for adopting and implementing new pieces of legislation.</li> <li>• There is a lack of capacity to enforce new laws and regulations that have been adopted.</li> </ul>
Liberia	Lessons Learned Evaluation: Access to Justice and Information Projects (June 2013)	<p>The purpose of the evaluation was to capture lessons for potential future USAID programming and assess the following:</p> <ul style="list-style-type: none"> <li>• Access to Justice Project</li> <li>• Access to Information Project</li> </ul>	<ul style="list-style-type: none"> <li>• The project’s design significantly changed and the overall project results framework was revised and continues to change.</li> <li>• Successful programming activities were at times completed outside of the results framework and may not have been directly mentioned in the project reports because of their political sensitivity; for instance, advancements made to address Female Genital Mutilation.</li> <li>• Further, the results framework is not easily understood because of incorrect use of terms and faulty logic regarding indicators and comprehensiveness.</li> <li>• In the absence of a clear legal framework, there is a proliferation of mediators by non-governmental organizations and government agencies which in the long run may be duplicative, unsustainable, and potentially confusing in regards to legal education.</li> <li>• The policy and legal framework for customary justice and harmonization with the formal sector are seriously lagging and present challenges to capacity building and sustainability.</li> </ul>

**Appendix IV: Information on State/INL and USAID Performance Evaluations of Rule of Law Projects for Selected Countries, Fiscal Years 2014 through 2018**

<b>Country</b>	<b>Evaluation name and date</b>	<b>Purpose of evaluation</b>	<b>Selected USAID evaluation findings</b>
Liberia	Mid-Term Performance Evaluation of the Legal Professional Development and Anti-Corruption Activity (December 2018) <sup>a</sup>	<p>The evaluation explored the appropriateness and sustainability of the redesign of the Legal Professional Development and Anti-Corruption Activity, which seeks to promote a more effective and accountable formal justice sector through improving the capacity of five legal and regulatory institutions:</p> <ul style="list-style-type: none"> <li>• the James A. A. Pierre Judicial Institute,</li> <li>• the Louis Arthur Grimes School of Law,</li> <li>• the Liberia Legal Information Institute,</li> <li>• the Liberian National Bar Association, and</li> <li>• the Liberia Anti-Corruption Commission.</li> </ul>	<ul style="list-style-type: none"> <li>• Inaccurate assumptions and planning led to flaws in the original design, caused by lack of designing with government partners.</li> <li>• Since the redesign, the activity has had uneven progress working with legal and regulatory institutions.</li> <li>• Access to justice remains a major factor underpinning the rule of law and democracy in Liberia.</li> <li>• Design constraints include the following: focus on administrative and financial sustainability, which cause poor understanding of context; lack of co-creation; tying success to institutional capacity; pinpointing the Liberia Anti-Corruption Commission as the primary anti-graft agency for host government; and unclear purpose/goals.</li> <li>• Implementation constraints include: risky staffing structure; lack of institutional collaboration with the government of Liberia on approach; primary partnership with the anti-corruption commission; poor monitoring and evaluation plan and systems; and high turnover of key staff.</li> </ul>

Source: GAO analysis of U.S. Agency for International Development (USAID) evaluations. | GAO-21-14

<sup>a</sup>Although this evaluation was released in fiscal year 2019, we agreed to include it in our sample because the work was primarily performed during our period of interest.

# Appendix V: Comments from the Department of State



United States Department of State  
*Comptroller*  
Washington, DC 20520

OCT 9 2020

Thomas Melito  
Managing Director  
International Affairs and Trade  
Government Accountability Office  
441 G Street, N.W.  
Washington, D.C. 20548-0001

Dear Mr. Melito:

We appreciate the opportunity to review your draft report, "RULE OF LAW ASSISTANCE: State and USAID Could Improve Monitoring Efforts" GAO Job Code 103560.

The enclosed Department of State comments are provided for incorporation with this letter as an appendix to the final report.

Sincerely,

A handwritten signature in black ink, appearing to read "William B. Davisson".

William B. Davisson (Acting)

Enclosure:  
As stated

cc: GAO – Chelsa Gurkin  
INL – Kirsten D. Madison  
OIG - Norman Brown

**Department of State Comments on Draft GAO Report**

**RULE OF LAW ASSISTANCE: State and USAID Could Improve  
Monitoring Efforts**  
**(GAO-21-14, GAO Code 103560)**

Thank you for the opportunity to comment on the GAO draft report, "*Rule Of Law Assistance: State and USAID Could Improve Monitoring Efforts.*"

**Recommendation 1: The Secretary of State should ensure State/INL should establish procedures to ensure that monitoring officials for rule of law projects develop monitoring plans that identify project goals, and objectives and risk.**

**Recommendation 2: The Secretary of State should ensure State/INL should establish procedures to ensure that monitoring officials for rule of law projects assess and approve monitoring reports from implementing partners.**

**The Department concurs with these recommendations.**

INL recognizes that for our programs to achieve optimal results, identifying project goals, objectives and risks such as those outlined by the monitoring and evaluation guidelines set forth by GAO's best practices will strengthen our programmatic capabilities.

INL is drafting implementation guidance for the Department's monitoring policy. This guidance will establish procedures to ensure that: (1) monitoring plans identify goals, objectives, and risks; and (2) the responsible people assess and approve monitoring reports from implementing partners.

INL acknowledges that ensuring communication with our implementing partners plays a vital role in the success of our mission. INL is currently in the process of revising the AOR handbook to provide additional guidance on records management and project oversight to ensure consistency across the bureau.

Thank you for your work in producing this report.

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## Agency Comment Letter

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### Text of Appendix V: Comments from the Department of State

#### Page 1

October 9, 2020

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Managing Director  
International Affairs and Trade  
Government Accountability Office  
441 G Street, N.W.  
Washington, D.C. 20548-0001

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Sincerely,

William B. Davisson (Acting)

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As stated

cc: GAO-Chelsa Gurkin  
INL - Kirsten D. Madison  
OIG - Norman Brown

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Page 2

Department of State Comments on Draft GAO Report

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# Appendix VI: Comments from the U.S. Agency for International Development



Chelsa Gurkin  
Director, International Affairs and Trade  
U.S. Government Accountability Office  
441 G Street, N.W.  
Washington, D.C. 20226

Re: *Rule of Law Assistance: State and USAID Could Improve Monitoring Efforts*  
(GAO-21-14)

Dear Ms. Gurkin:

I am pleased to provide the formal response of the U.S. Agency for International Development (USAID) to the draft report produced by the U.S. Government Accountability Office (GAO) titled, *Rule of Law Assistance: State and USAID Could Improve Monitoring Efforts (GAO-21-14)*. We appreciate the opportunity to respond to your review of monitoring efforts on U.S. rule of law programming around the world.

USAID is committed to the evaluation and improvement of program design and implementation processes on rule of law and other USAID activities in order to ensure oversight of taxpayer-funded programs and to maximize the impact of U.S. development investments. Indeed, much of the Agency's focus in recent years has been on strengthening internal processes to ensure we deliver high-impact development assistance on behalf of the American people. USAID knows that effective monitoring and evaluation (M&E) is a key piece of ensuring this impact and accountability, and has invested in enhancing existing processes and metrics, and building capacity across our workforce. We acknowledge that, as with all organizations, our internal processes may be strengthened and enhanced by understanding external best practices, and we welcome Congressional review of our effectiveness.

The draft report contains one recommendation for USAID, notably that "[t]he USAID Administrator should establish procedures to ensure that monitoring officials for rule of law projects assess and approve monitoring reports from implementing partners." We understand that this recommendation comes from the GAO's finding of insufficient documentation that USAID assesses and approves implementing partners' periodic reports on three of the six projects included in the review. As included in our full comments, USAID is requesting further information on the documentation the GAO believes is still missing so that we may identify and provide it. More importantly, however, USAID is requesting that the GAO amend the wording of the proposed recommendation for USAID in order to ensure accuracy. As shared in USAID's prior communications and responses to the GAO, the procedures that the GAO proposes for USAID to establish already exist within USAID's existing internal requirements, which

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**Appendix VI: Comments from the U.S. Agency  
for International Development**

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expressly lay out the processes, roles and responsibilities for ensuring oversight and accountability for M&E on all USAID programs. The recommendation as written implies that USAID lacks such procedures, whereas the report indicates that three of the six projects actually followed these existing procedures. USAID requests that the finding be modified to read “[t]he USAID Administrator should *strengthen* procedures to ensure that monitoring officials for rule of law projects assess and approve monitoring reports from implementing partners. (Recommendation 3),” in order to clarify that such procedures already exist and should be supported.

I am transmitting this letter and additional technical comments from USAID for inclusion in the GAO’s final report. Thank you again for the opportunity to respond to the draft report, and for the courtesies extended by your staff while conducting this engagement. We appreciate the opportunity to participate in the complete and thorough evaluation of M&E efforts on our rule of law programming around the world.

Sincerely,

*Frederick M. Nutt*

Frederick M. Nutt *Oct. 19, 2020*

Assistant Administrator  
Bureau for Management

Enclosure: a/s

**COMMENTS BY THE U.S. AGENCY FOR INTERNATIONAL DEVELOPMENT ON  
THE DRAFT REPORT PRODUCED BY THE U.S. GOVERNMENT  
ACCOUNTABILITY OFFICE (GAO) TITLED, RULE OF LAW ASSISTANCE, STATE  
AND USAID COULD IMPROVE MONITORING EFFORTS (GAO-21-14)**

The U.S. Agency for International Development (USAID) would like to thank the U.S. Government Accountability Office (GAO) for the opportunity to respond to this draft report. We appreciate the extensive work of the GAO engagement team, and the specific findings that will help USAID ensure effective monitoring and evaluation (M&E) of our rule of law programming and its impact. Our management comments are below; detailed technical comments have already been shared with the GAO.

*The report should clarify that the eight M&E practices used to assess these USAID programs were in fact GAO-identified and formulated after the period covered by these projects.* USAID is committed to a constant evaluation and improvement of program design and implementation processes, in order to ensure oversight of taxpayer-funded programs and to maximize the impact of U.S. development investments. We know especially that effective monitoring and evaluation (M&E) is a key piece of ensuring the impact of our programming and the accountability to the American people for our development investments. As an Agency, we have invested in enhancing existing M&E processes and metrics and building capacity across our workforce. We acknowledge that, as with any organization, our internal processes may be strengthened and enhanced by understanding external best practices. We note, however, that USAID has robust existing requirements and processes to ensure adequate oversight and management of M&E on our programming. In this vein, we would like to underscore, as we have in prior responses to the GAO, that the eight key practices the GAO has opted to assess USAID M&E performance and practice against are ones recently identified (in May 2020) by the GAO itself in an unrelated GAO Report on the Merida Initiative. As shared with the GAO previously, while USAID takes no issue with the practices *per se*, USAID is unclear as to why mission-level programming from 2014 -2018 - and which pre-dates the Merida report - should be assessed against these GAO-identified M&E practices instead of against internal USAID M&E requirements to which missions and programs are held through the Agency's Automated Directive Systems (ADS). USAID believes it is important that the report clarify at the outset that these eight practices are GAO-identified and were formulated after the period covered by these projects, rather than ones in use by the Agency or the development field at large, and requests that such language be included. This clarification will provide important context that will allow the requestors of this report to fully evaluate USAID performance in monitoring and evaluation.

*The report's conclusion should be modified to accurately state that USAID provided evidence of the use of all eight GAO-identified M&E practices.* USAID notes that in the section titled "GAO Recommends", the report concludes that "the Department of State (State) Bureau of International Narcotics and Law Enforcement Affairs (State/INL) and the U.S. Agency for International Development (USAID) provided sufficient documentation for GAO to conclude that they followed *most* key practices for monitoring rule of law assistance for the awards we reviewed from selected countries" (emphasis added). As also detailed in our technical comments, this

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**Appendix VI: Comments from the U.S. Agency  
for International Development**

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sentence implies that there are practices within the eight selected by the GAO that were not followed by either State/INL or USAID. We believe this conclusion is misleading and incorrect. USAID provided extensive evidence and documentation that the Agency in fact follows all eight GAO practices for all the projects requested by the GAO. This is also noted implicitly in the report itself, including in the data on page 1, which indicates that USAID demonstrated usage of all eight GAO practices (of note: there is not one category of practices where USAID did not provide evidence of usage). Even where the GAO believes documentation was missing or incomplete for some of the projects in certain practices categories, USAID provided evidence that it in fact follows all eight GAO practices. As written, the sentence suggests and concludes that there were some practices that USAID failed entirely to follow, which is incorrect. For these reasons, we request the sentence be amended to state that “The Department of State (State) Bureau of International Narcotics and Law Enforcement Affairs (State/INL) and the U.S. Agency for International Development (USAID) provided sufficient documentation for GAO to conclude that they followed *all key GAO practices for monitoring rule of law assistance for the awards we reviewed from selected countries; however, in some cases the agencies failed to provide documentation showing they consistently followed the practices on all the projects reviewed.*”

Language throughout the report erroneously qualifying USAID adherence to the GAO-identified practices should be amended. We note that throughout the report, the GAO has used language that appears to erroneously qualify USAID adherence to the practice being assessed. For example, while the section in the report on developing monitoring plans states that “USAID followed this key practice for all projects in [the GAO’s] sample”, on page 20 the report concludes that “USAID generally followed this key practice for all six of its projects in our sample; each included project goals and objectives in a monitoring plan”. Similarly, on page 21 the report again qualifies USAID’s compliance with the practice, incorrectly stating first that “State/INL and USAID provided documentation that they developed performance measures for nearly all of the projects in our sample” and later that “USAID generally followed this key practice for all six of its projects in our sample.” USAID requests that the qualifying language of “generally” and “nearly” be removed in these instances and anywhere else where it is clear USAID practice has met the standard against which it is being assessed.

The GAO recommendation for USAID, as written, is duplicative of existing Agency practice and should be amended to reflect the need to strengthen, rather than replicate, M&E processes. The draft report contains one overall recommendation for the Agency, notably that “[t]he USAID Administrator should *establish* procedures to ensure that monitoring officials for rule of law projects assess and approve monitoring reports from implementing partners. (emphasis added)” This recommendation appears to be based on the GAO assertion that in three of six USAID projects reviewed, there was insufficient documentation that USAID assesses and approves implementing partners’ periodic reports. As included in our detailed technical comments and responses, USAID stresses that we have provided the GAO with hundreds of documents in five tranches over the course of this 15-month engagement, including all pertinent documentation in support of GAO Key Practice #7 regarding assessment and approval of monitoring reports. As detailed in our technical comments, USAID believes we have provided all such documentation

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**Appendix VI: Comments from the U.S. Agency  
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and is requesting further information on what the GAO believes is still missing so that we may identify and provide it.

More importantly, however, USAID is requesting that the GAO amend the wording of overall recommendation to read “[t]he USAID Administrator should *strengthen* procedures to ensure that monitoring officials for rule of law projects assess and approve monitoring reports from implementing partners. (Recommendation 3)” As shared in USAID’s prior communications and responses to the GAO, the procedures that the GAO proposes for USAID to establish already exist within USAID’s ADS, which expressly lays out the processes, roles and responsibilities for ensuring oversight and accountability for M&E on all USAID programs. The recommendation as written implies that USAID lacks such procedures. While we recognize that there may be programs that fail to follow or properly document existing procedures, we stress that the ADS is clear on M&E requirements for all activities, and that such instances are the exception, rather than the rule.

USAID also notes that the Agency has invested significantly in strengthening internal processes around record retention and management related to all USAID awards. Notably, in early 2018 USAID launched its’ Effective Partnering and Procurement Reform (EPPR) project as part of the Agency’s Transformation process in order to both improve our models of investing our resources and address gaps in the Agency’s then-existing accountability and award-management responsibilities. The Agency has also amplified processes and guidance around the use of Agency Secure Image and Storage Tracking (ASIST) System, which is USAID’s official electronic repository for all Acquisition & Assistance (A&A) award documentation. These processes already include requirements for the retention of documents related to M&E. As an agency in search of constant improvement, we appreciate the GAO flagging the issue of documentation of M&E report assessment and approval. We acknowledge that while COR/AORs are required to upload M&E plans into ASIST, there are no current requirements related to M&E reports, primarily because M&E data from implementing partners is generally included in the quarterly reports, which are separately uploaded to ASIST. USAID will use the GAO’s recommendation to explore ways of strengthening M&E document retention, including documentation of M&E report assessment and approval.

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## Agency Comment Letter

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### Text of Appendix VI: Comments from the U.S. Agency for International Development

#### Page 1

Chelsa Gurkin  
Director, International Affairs and Trade  
U.S. Government Accountability Office  
441 G Street, N.W.  
Washington, D.C. 20226

Re: Rule of Law Assistance: State and USAID Could Improve Monitoring Efforts  
(GAO-21-14)

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Enclosure: a/s

Page 3

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# Appendix VII: GAO Contact and Acknowledgments

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## GAO Contact

Chelsa Kenney Gurkin, (202) 512-2964 or [gurkinc@gao.gov](mailto:gurkinc@gao.gov)

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## Staff Acknowledgments

In addition to the contact named above, Joe Carney (Assistant Director), Carolina Morgan (Analyst in Charge), Parul Aggarwal, Martin Wilson, Brian Hackney, Benjamin Legow, Afsana Oreen, Abena Serwaa, Debbie Chung, Neil Doherty, Justin Fisher, Jenny Grover, James Michels, and Alex Welsh made key contributions to this report.