REDUCING CORRUPTION IN THE PUBLIC SECTOR

EVALUATION REPORT FOR THRESHOLD COUNTRY PLAN (TCP)

COMPONENT 4:
STREAMLINING AND ENFORCING REGULATIONS

ACTIVITY 4.2:
REFORM OF THE PERMIT SYSTEM FOR CONSTRUCTION, MUNICIPAL SERVICES AND STREAMLINING LAND USAGE AND PROPERTY OWNERSHIP RIGHTS

OCTOBER 1, 2008

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October 1, 2008

Contract No. EEM-I-00-07-00001-00
Task Order No. 03

DISCLAIMER

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I.   Executive Summary

Introduction
Ukraine became eligible for the Millennium Challenge Corporation's (MCC) Threshold Country Plan (TCP) in 2005. At that time Ukraine fell short of meeting the MCC *Control of Corruption* indicator. The Government of Ukraine (GOU) responded by developing a $45 million, two-year program to reduce corruption in the public sector. The MCC Board approved Ukraine's program in July 2006; the Strategic Objective Agreement to implement TCP was signed on December 4, 2006, between USAID and the GOU. The TCP includes five distinct components (see ANNEX A).

Background
The purpose of this evaluation is to analyze and report on the progress and potential for successful completion of Activity 4.2 of the "Streamlining and Enforcing Regulation" component of the December, 2006 TCP USAID-GOU Strategic Objective Agreement. TCP Activity 4.2 is synonymous with Component III of the USAID Trade, Investment, and Business Acceleration project that was contracted to Booz Allen Hamilton in December 2006 for $4,314.838, also entitled "Streamlining and Enforcing Regulations."

TCP assistance approach
MCC requested USAID/Kyiv to manage and administer the TCP 4.2, among other TCP programs within Ukraine. Through a competitive process, USAID/Ukraine selected Booz Allen Hamilton as the TCP 4.2 implementer in Ukraine. A TCP 4.2 Implementation Plan (IP) was prepared jointly by the TIBA project and GOU in July 2007 and revised in December 2007. The program implemented under TCP Activity 4.2 envisions reducing corruption related to granting land owner and user rights, access to utilities, and construction permits by changing the legislative and regulatory framework for property transactions, reforming the permit system, and streamlining lines of responsibilities and procedures as well as by demanding governmental accountability and transparency.

Summary Findings
- USAID, BAH, GOU counterparts and virtually all stakeholders are dedicated to the success of the project;
- Difficulties did arise because of frequent changes in USAID leadership and direction throughout the project as well as a lack of resources for USAID to manage the MCC component of TIBA in addition to its pre-MCC projects;
- Three dramatic changes within the national GOU caused various interpretations of the direction that the project should take to harmonize with policy considerations;
- An adversarial relationship exists between the BAH TIBA Chief of Party and the MCC GOU Secretariat, which delayed progress and quality work in the beginning and has made smooth management on BAH's side and reporting to USAID problematic;

- According to all sources, the TIBA 4.2 project will be extended to March 2009. BAH will be hard pressed to bring 25 one-stop-shop permitting offices on line by project termination. The BAH most recent Work Plan, which BAH stated was approved by USAID in May 2008, lists tasks such as an analysis and development of unified permit-issuing procedures, an OSS toolkit, and presentation of eight workshops for 50 OSS offices. Inherent in these accomplishments is the improvement of construction permit procedures. If this task is managed well, bringing 25 operational OSS offices on-line is feasible.

- As this project features several overlapping documents with various formats from different sources, e.g., the BAH Work Plan, the TCP Implementation Plan, the TIBA Performance Monitoring Plan, the original Statement of Work from BAH's task order with USAID, Modification No. 3, and the emphases on each document changed with each revision, the Evaluation Team chose to use the BAH Work Plan and their Quarterly Reports for citation references as a way to maintain internal consistency during the Evaluation.

Summary Conclusions

- No single factor, organization or individual is responsible for the shortcomings, lack of actions and prospective failures of several of the 4.2 tasks

- A combination of negative influences impedes progress on the project (see Slide 3, ANNEX J)

- It appears that the dust has settled in all quarters, including with BAH, for the TCP 4.2 portion of the program. As a result of the no-cost extension that is pending for the USAID/TIBA project, TCP 4.2 goals and objectives will be met *as stated and outlined by* the *BAH workplan*, albeit on a schedule that was revised due to GOU delays.

Summary Recommendations and Lessons Learned

- With the March 31, 2009 task order extension action nearly completed, the Evaluation Team recommends no further extensions except for the continuation of the One-Stop-Shop Program, TIBA Task 5.2, Construction Permitting (Task 5.5, Access to Utilities is projected to be completed successfully by March 2009.)

- Redesign the remaining project drastically to focus on more analytical tasks. One area of analytical tasks that the BAH team could undertake would include an operations review of the permitting system. As we understood from several entrepreneurs who visited the Odessa One-Stop Shop, the law allows the Government of Ukraine to take up to a year to complete a permit for renovation of a building. Once the BAH team reviews all of the steps required and offices involved to prepare such a permit, the group could devise a system that eliminates duplicative or unnecessary steps, as well as delete offices or agencies that provide no value added to the process.

- The next USAID CTO should have dedicated time to monitor the project and work as closely as possible with the MCC Secretariat for the remainder of the project.

- Pending a lack of appropriate VR action followed or combined with a viable SLRC-MOJ cooperative agreement, phase out Task 5.6 (Property Rights and Transactions). The controlling

GOU administrative offices maintain a traditional vision and do not accept private property rights. Redistribute remaining funds to other task activities.

Unresolved Issues

If acceptable legislation pertaining to land and property is not adopted by the VR and Cabinet of Ministers and cooperation among various administrative land and immovable property agencies is not forthcoming, then long-standing issues regarding these functions will remain and constitute non-accomplishment for this task.

Representatives from the MCC Secretariat stated that they believed that the legal analysis of the TIBA Team was inadequate. USAID/Kyiv Mission senior management commented that this was the second evaluation of the TCP programs in which the MCC Secretariat mentioned that the legal analysis of the project team was deficient. USAID/Kyiv might wish hire an independent legal specialist to evaluate the laws proposed by the TIBA team as well as other TCP components.

II.   Introduction

Ukraine became eligible for the Millennium Challenge Corporation's (MCC) Threshold Country Plan (TCP) in 2005. At that time Ukraine fell short of meeting the MCC *Control of Corruption* indicator. The Government of Ukraine (GOU) responded by developing a $45 million, two-year program to reduce corruption in the public sector. The MCC Board approved Ukraine's program in July 2006; the Strategic Objective Agreement to implement TCP was signed on December 4, 2006, between USAID and the GOU. The TCP includes five distinct components (see ANNEX A):

1. Civil Society Monitoring and Advocacy;
2. Judicial Reform;
3. Government of Ukraine Monitoring and Enforcing Ethical and Administrative Standards;
4. Streamlining and Enforcing Regulations;
5. Combating Corruption in Higher Education.

The program implemented under TCP Activity 4.2 envisions reducing corruption related to granting land owner and user rights, access to utilities, and construction permits by changing the legislative and regulatory framework for property transactions, reforming the permit system, and streamlining lines of responsibilities and procedures as well as by demanding governmental accountability and transparency.

The purpose of this evaluation is to analyze and report on the progress and potential for successful completion of Activity 4.2 of the "Streamlining and Enforcing Regulation" component of the December, 2006 TCP USAID-GOU Strategic Objective Agreement. TCP Activity 4.2 is synonymous with Component III of a USAID Trade, Investment, and Business Acceleration project contracted to Booz Allen Hamilton in December 2006 for approximately $4 million, also entitled "Streamlining and Enforcing Regulations" (see ANNEX A.)

The principal focus of this midterm evaluation is to evaluate the progress and potential of the Activity 4.2 work with respect to the overall goals of the TCP. A secondary focus is to evaluate the Activity 4.2 for its:

a) potential for achieving TCP goals by December 2008;

b) potential for greater returns with additional time;

c) potential for greater returns with additional time and funding.

The USAID/Ukraine Mission is the primary audience for the evaluation and will use the evaluation to make management decisions with respect to its approach and its implementing partner's activities. The Evaluation Team used the questions (ANNEX A), also repeated below, as a guide to formulate findings and recommendations. Following each question are keyed references directed toward the team's findings.

1. Is the approach to changing the legislative and regulatory framework for property transactions, reforming the permit system, and streamlining lines of responsibilities and procedures and demanding governmental accountability on the right course or should adjustments be made given changes in the overall assistance environment and country context? (page 2, Summary Recommendations, page 10 (mid-page), page 15 (mid-page), ANNEX F, page 33, see "Note".)

2. Has the project yielded results other than those planned? Are there any unexpected but important benefits or impacts of the project that should be documented? (page 16, 1, 4, and 6)

3. What are the factors that hinder/assist the project performance? (page 11 and 12, USAID and BAH findings)

4. What improvements can be made in the implementation of the project? (page 17 and 18)

5. Are there any significant or critical gaps in Activity 4.2 implementation that require adjustment? (Beginning of page 17 and ANNEX F, beginning of page 34)

6. Are established targets reasonable given the current project context? If not, how do they need to be modified? (page 2, 1st paragraph and parts of Summary Recommendations, page 10, Bullet 5 of that page)

7. How effective is the analysis of legislation, methodological assistance and expert support provided by Activity 4.2 implementer in changing the legislative and regulatory framework and adopting laws dealing with land and property ownership? (page 33 and 34, ANNEX F)

8. Are project beneficiaries adopting desired practices or behaviors (including SCRPE, Parliamentary Committees, the Ministry of Regional Development and Construction, State Agency for Land Resources, VR Committee on Industrial and Regulatory Policy and Entrepreneurship, OSSs, SMEs and other relevant stakeholders)? (see page 10, last Bullet, page 14, 15 and 17, and ANNEX G.)

9. Are there opportunities to further leverage MCC resources through increased collaboration with other USG and donor programs? (page 17)

10. How can the project collaborate better with other current MCC TCP projects? (page 17)

11. How can the project collaborate better with the GOU? (page 10-11)

12. How effective have the project's public awareness campaign been in informing the Ukrainian public and private sector participants on the cost of corruption and private sector rights and obligations? (A public awareness campaign for the 4.2 Activity is definitely an area of neglect. See page 14, mid-page)

III.   Background

SEGURA/IP3 Partners LLC (SEGURA/IP3) of Bethesda, Maryland was contracted by USAID to perform a midterm evaluation of the 4.2 Activity to 1) analyze the progress of the six 4.2 tasks, 2) identify attendant 4.2 problems and recommend solutions, and 3) assess the potential for on-time accomplishment of 4.2. Booz Allen Hamilton is the implementing contractor for Activity 4.2 as well as other TCP programs.

SEGURA/IP3 employed two consultants, Jon B. Abrams, Team Leader and Land Tenure Specialist, and Karrye Braxton, a Project Management Specialist from Global Business Solutions, Inc., a subcontractor to SEGURA/IP3, to conduct the evaluation which started in Bethesda on July 24 and continued on-site in Kiev through August 1.

The consultants were furnished with a list of 12 specific questions to use as guidelines during interviews with BAH, GOU counterparts, and important stakeholders (see Appendix A). In addition to USAID managers and BAH staff, several GOU Ministries, offices, and individuals were personally interviewed by the consultants (see ANNEX D&E).

Evaluation Methodology

The purpose of this evaluation is to analyze and report on the progress and potential for successful completion of Activity 4.2 of the "Streamlining and Enforcing Regulation" component of the December, 2006 TCP USAID-GOU Strategic Objective Agreement. TCP Activity 4.2 is synonymous with Component III of a USAID Trade, Investment, and Business Acceleration project contracted to Booz Allen Hamilton in December 2006 for approximately $4 million, also entitled "Streamlining and Enforcing Regulations" (see ANNEX A).

The 4.2 Evaluation Team used a combination of techniques including USAID, BAH, and GOU furnished documents, group and individual interviews with these same entities, and internet communications to conduct the necessary reviews and research. The Team also made a one day visit to the Odessa One-Stop-Shop to observe the operations of that facility.

When appropriate follow-up visits were made with individual offices and individuals to confirm collected data and information and to explore additional areas of interest. The Evaluation Team used the twelve questions outlined in Section II as a guide to formulate findings and recommendations as a result of this evaluation.

Following the initial meeting with the relevant USAID/Kyiv staff, the evaluation team met with USAID/Kyiv five other times and updated the management and staff on the progress of the evaluation. On the basis of information obtained, scrutinized and analyzed, contractor prepared a draft report for USAID/Kyiv. The content of the draft report was discussed USAID/Kyiv during the two debriefing

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meetings (one additional briefing requested specifically by and for the benefit of the Mission Director and Acting Mission Director as well as the briefing required by the Task Order, with the Office of Economic Growth and the Office of Program Coordination and Strategy).

In addition to giving the Mission and other stakeholders a chance to add perspective or make changes based on accuracy, the draft report also spelled out the potential options for enhancing or improving the "arrangement" in the future. Before leaving Ukraine, the draft report was left with USAID/Kyiv so that the Mission could make written comments.

This report begins by elaborating

- the difficulties in general;
- the obstacles experienced by the project from its inception;
- continues with findings; and
- ends with conclusions and recommendations.

At the outset, the six 4.2 tasks (outlined on page 8 and in ANNEX F - 5.1 to 5.6) were likely to have been chosen for priority action by the MCC-GOU coalition precisely because they are crucial issues and breeding grounds for corruption.

Consider just three examples in the Ukrainian hierarchy of problems, i.e.:

1. The World Bank ranks Ukraine as 174 out of 178 countries on the complexity of its construction permitting system, which indicates how difficult it would be to implement fully the (excellent) concept of one-stop-shops for permitting;
2. 677 individual One-Stop-Shop offices will eventually need to be brought on-line, of which only 10% now have effective operations; and
3. There are 60 laws and 200 permits associated with the present Permit System Law and attendant processes.

IV.   TCP Assistance Approach

MCC requested USAID/Kyiv to manage and administer the TCP 4.2, among other TCP programs within Ukraine. Through a competitive process, USAID/Ukraine selected Booz Allen Hamilton as the TCP 4.2 implementer in Ukraine. A TCP 4.2 Implementation Plan (IP) was prepared jointly by the TIBA project and GOU in July 2007 and revised in December 2007. This IP demonstrated the commitment of the GOU to implement goals for effective establishment of legal and regulatory systems and procedures to:

- improve the current business Permit System Law;
- simplify construction permit procedures;
- implement an inspection law and simplify construction inspection procedures;
- introduce and require the use of effective local zoning programs and systems;
- provide for access to utilities; and
- reduce excessive administrative control over property transactions.

Table I.   MCC TCP and USAID Project Components

TCP COMPONENT NUMBER	CONTRACTOR/ SUBCONTRACTOR	CONTRACT ACTIVITY #
1. Monitoring and Exposure of corruption (Civil Society)	MSI	TCP Component I
2. Judicial reform	Chemonics; Commercial Law Center (Ukrainian NGO)	TCP Component II
3. Government of Ukraine Monitoring and Enforcing Ethical and Administrative Standards	U.S. Department of Justice ICITAP	TCP Component 3
4.1 Streamlining and Enforcing Regulations	U.S. Department of Justice OPTAP	TCP Component 4.1
4.2 Reform of the Permit System for Construction, Municipal Services and Streamlining Land Usage and Property Ownership Rights	Booz Allen Hamilton TIBA	USAID/TIBA Component III; BAH Task Order Activity 5
5. Education	Undisclosed	Component 5

V.   Findings

It was difficult for the Evaluation Team to attempt to sort out and decipher a confusing array of project reports and formats furnished to the Evaluation Team by USAID/Kyiv. This circumstance arose because TIBA had to respond to USAID reporting requirements in one format while reporting with MCC formats in another fashion. The result is dual numbering schemes for the task which are inconsistent and uncoordinated. Consequently, although USAID/Kyiv and USAID/TIBA are accustomed to using both the TCP Activity 4.2 label and the USAID/TIBA Task 5.1 naming conventions, the Evaluation Team used the terminology TCP IP 4.2 and USAID/TIBA 5.1, as well as BAH's numbering scheme as reference citations, to maintain consistency throughout this Evaluation Report.

General Findings
- Weak original Task Order design that reflected a non-specific Ukraine Threshold Country Plan, which was intentional so that the USAID managers and contractor implementers would have flexibility, according to the MCC Secretariat. An example of this flexibility that resulted in a weak task order design is found on p. 22 of 26 of the TCP Section II Final, Activity 4.2: "…3) amendments to the Land Code and auxiliary laws to remove administrative controls of property transactions;"
  The Land Code of Ukraine is administered across two Ministries and several Agencies. This sentence does not adequately address the particular difficulty of legislating and regulating these amendments within the Government of Ukraine.
- USAID, BAH, GOU counterparts and virtually all stakeholders are dedicated to the success of the project;
- Difficulties did arise because of frequent changes in USAID leadership and direction throughout the project as well a lack of resources for USAID to manage the MCC component of TIBA in addition to its pre-MCC projects;
- A lack of up-front BAH thorough coordination for reporting in the beginning of the project caused confusion;
- Significant changes within the national political structures of the GOU caused various interpretations of the direction the project should take to harmonize with policy considerations. Two examples of the delays brought on by a lack of action of the bodies of the Ukrainian government, are, respectively, draft amendments to the PSL received positive first readings by Parliament in early 2008, but subsequently were rejected by a VR committee that was instructed to finalize the drafts, which resulted in the "Law On The List of Permit Related Documents" being sent back to the Presidential Secretariat for further revision. Second, in 2004, a "State Registration of Ownership Rights to Immovable Property (PRL)" that contained a number of reforms was adopted by Parliament, but has been ignored with the MOJ, which refused to carry out a mandated legal review of a resolution of the CM that would implement the law under the auspices of the SCLR;

- Excessive domain protectiveness by GOU ministries and agencies leading to protective insistence by several GOU counterparts to "have it their way" has delayed or stalled progress;
- An adversarial relationship exists between the BAH TIBA Chief of Party and the MCC GOU Secretariat. This situation delayed progress and quality work in the beginning and has made smooth management on BAH's side and reporting to USAID problematic;
- It appears that the dust has settled in all quarters, including with BAH, for the TCP 4.2 portion of the program. As a result of the no-cost extension that is pending for the USAID/TIBA project, TCP 4.2 goals and objectives will be met *as stated and outlined by BAH*, albeit on a schedule that was revised due to GOU delays.
- According to all sources, the TIBA 4.2 project will be extended to March 2009. BAH would be hard pressed to bring 25 One-Stop-Shop permitting offices on line by project termination, but their most recent Work Plan only requires an analysis and development of unified permit-issuing procedures, an OSS toolkit, and presentation of eight workshops for 50 OSS offices (page 2 and ANNEX F).
- The 4.2 original targets for all Tasks are reasonable, considering that a no cost extension has been approved. One Task (Soil and Water Protection) was dropped and the "Access to Utilities" Task is the most advanced in progress. The remaining five Tasks are in various stages for potential achievement. However, most implementation is in the hands of the GOU and political issues may and will interfere with the reasonably set targets.
- Project beneficiaries including stakeholders, SCRPE, Parliament committees, government administrative permitting agencies for construction, inspections, and other functions are generally receptive to streamlining and modifications of their respective organic processes. However, there exists throughout the GOU system a hidden element of resistance to changing the status quo due to collective and individual self-interest. One glaring example of non-adoption of reforms exists between the MOJ and the SCLR (see page 3, last paragraph, and ANNEX F). As the Evaluation Team has mentioned, not all GOU officials agree with the political direction of the country, let alone this MCC TCP and its execution. As such, various components of the GOU have had disagreements and have gone in different directions, resulting in the dismissal of the Parliament more than once in three years. In addition, there have been well-publicized fractious arguments between the Prime Minister and the President and their proxies. These disagreements and arguments have delayed the execution of the TCP 4.2 program, as it requires forward progression by various stakeholders within the GOU. To provide a smoother resolution of the program, one advisor to the Cabinet of Ministers recommended the following new structure for the MCC Secretariat and the GOU counterparts to the MCC TCP Component 4.2:

  "A non-political group should handle/monitor/control MCC rather than the MCC Secretariat. This group can be called a "National Security Board" which will naturally fight against corruption. This NSB should answer only to the President, but it will have representatives from the Cabinet Ministers, the Presidential Administration, Office of the Prime Minister, the

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Verkhovna Rada, etc. The NSB should be an independent body that will demand answers from the ministries."
Should this NSB become a reality, then the TIBA team might have a strong counterpart to push forward on changes, rather than have a recalcitrant set of stakeholders.

- The success of the 4.2 project hinges on good collaboration with the GOU. However, other than the furnishing of well-accepted reform models, recommendations for sound business practice and legal advice, and availability of constant technical assistance, there is little more that can be done. Final implementations of reforms and process modifications are absolutely under the purview of the GOU.

Across the Board Findings:
- Difficult and long-standing issues and problems exist in Ukraine. Bureaucratic entanglements, competition among government agencies, and official corruption have long been a hallmark of an array of impediments for start-ups of small and large businesses and individual entrepreneurships, and acknowledgement of property ownership rights. Since independence, a morass of contradictory, complex, and duplicative requirements resting with multiple, overlapping authorities have been imposed on such functions as construction permits and issuance of clear titles to real property.
- Adversarial relationship between BAH management and the MCC Secretariat
- Poor selection of some BAH on-site management staff
- Deficient analytical skills of some project BAH TIBA team members
- Lack of strong, expeditious action by Verkhovna Rada. Long delays in the passage of reformative legislation by Parliament and lack of aggressive implementation of laws passed by the VR to correct or modify current practices are serious considerations.

USAID Findings
USAID/Kyiv is overwhelmed by management requirements as they are understaffed, with several USAID Foreign Service Officers and other Direct Hires in flux. In addition, the Mission has been downsized as a result of budget cuts over the years. USAID was provided with little management resources or funding to carry out oversight and management of the TIBA 4.2 component in addition to USAID programmed projects. MCC provided a 7% management fee. USAID/Kyiv management reported that they spent much more time on management and oversight of the TIBA project than MCC had budgeted to them. As the project dealt with many sectors of USAID, more managers were involved. For example, five components of the USAID/Kyiv mission were involved in TIBA:

1. Office of Program Coordination and Strategy (Office Director and Chief Economist)
2. Office of Economic Growth
3. Office of Democracy and Governance
4. USAID/Kyiv Mission Director
5. USAID/Kyiv Deputy Mission Director

A seven percent (7%) management fee does not begin to cover the effort required to manage and monitor the TCP projects adequately. The inadequate resources led to a lack of oversight by USAID during the life of the project, such that certain activities just went undone, for example:

- The Previous CTO assigned to the project let it be known that he did not wish to participate in its management, i.e., take on the CTO role.
- Therefore, the FSN Activity Manager became the defacto CTO without being given the authority or necessary training or being empowered to take charge.
- The Evaluation team had to request the USAID/Kyiv Mission several times for quarterly reports. We were told that we had already received them. We found out subsequently when we received one package of Quarterly Reports that USAID/Kyiv had sent us only selected pieces of several Quarterly Reports.
- The documents that the Evaluation Team received, including the selected pieces of the Quarterly Reports, did not have titles on them once they were printed out; therefore, we could not understand what each document was.
- The Evaluation Team requested several times for USAID/Kyiv to send the project's Work Plan for 4.2; we were told that it was essentially the same thing as the MCC Ukraine TCP's Implementation Plan. Booz Allen Hamilton's TIBA team finally provided us with the Work Plan. Whereas TIBA's Work Plan contained elements of MCC's implementation plan contained, the TIBA Work Plan detailed the requirements that Booz Allen Hamilton would carry out specifically.
- Due to overlapping programs between USAID and MCC, the project numbering system is very confusing to readers. There are several numbering schemes:

  1. USAID Strategic Objective Numbers
  2. MCC Ukraine Threshold Country Plan Numbers
  3. MCC Ukraine Threshold Implementation Plan Numbers
  4. Booz Allen Hamilton TIBA Work Plan Numbers

- The USAID/Kyiv Mission offered no crosswalk in the reports that they offered to explain which numbers to which a report might refer. The Evaluation Team had to make assumptions regarding which numbers were correct; the TIBA project team attempted to describe the various numbering schemes.

BAH Findings
USAID did not have a representative from the GOU MCC Secretariat on the TIBA Evaluation Team, as the SOAG between USG and GOU did not yet exist at the time of TIBA's formulation. As a result of past hard feelings between members of the Ukraine MCC Secretariat, the COP did not have the approval of several members of the Secretariat. Therefore, the Secretariat required that BAH senior management place a firewall between the BAH TIBA COP and the 4.2 technical sides.

As a result of the firewall erected between the Chief of Party and TIBA Component 3, BAH management quality is lacking, e.g.:

- Lack of quality control by Booz Allen Hamilton:
  - Incomplete descriptions and typographical errors in the Quarterly Reports (possibly interpretative errors from Ukrainian into English and changes in terminology between among the reports). However, if a crosswalk were offered, the confusion might be less difficult for readers.
  - Events described on First Quarter 2008's Quarterly Reports: 1/17/08 "New Government's National Breakthrough Program supports TIBA's major program initiatives in Components II and III." The Evaluation Team found that the events as described were not clearly written to explain the exact status, e.g., as to whether the new program was announced by the Prime Minister and introduced before the Rada.
  - Events described on 1/25/08: "TIBA jointly with SCRPE drafted legislation to bring in (sic) compliance with PSL." Again, the Evaluation Team found that the events as described did not clearly state that TIBA and SCRPE had already completed drafting pieces of legislation and then had already introduced the legislation to the Verkhovna Rada. The Evaluation Team felt that it would be more effective to state the event and provide the next steps in another section of the Quarterly Reports or that would it be more beneficial to add "Next Steps" as a new column to that report.
  - While the "Backgrounder" papers were helpful to explain the program to the TIBA Component 3 Team's neighbors (described as the audience for these Backgrounder papers), such things as incorrect headers and footers made the papers confusing to the Evaluation Team.
- An inability of the TIBA Component 3 Activity Manager to step back and determine how to make changes to the program in the citizens' sphere to encourage the public to lobby the Verkhovna Rada and the President's Administration to make the changes that will provide a better life for Ukrainians. TIBA's public awareness campaign under TCP 4.2 focused on industry and trade groups, but did not provide sufficient outreach to ordinary Ukrainian citizens, whom the TIBA Team admitted still showed a low level of awareness of the TIBA program or of the attempts to change legislation and regulations. TIBA Component 3 did not initiate any public education fora, but tagged along with other components of the TIBA project.
- An inability to come up with more focused changes to improve proposed legislation. For example, BAH said that the Draft Law 0883 on construction permits was ready for its second reading and could have been adopted in June 2008, but some MPs had problems with the draft law and therefore, its adoption was delayed until autumn. According to the MCC Secretariat, had this legislation been developed better, the MPs would not have still had questions about it. Further, the MCC Secretariat cited this draft law 0883 as one that the TIBA Project claimed credit for passing through the Verkhovna Rada, which had already been written previously to the existence of the TIBA project.

- A lack of BAH Component III management to propose drastic changes that would reconfigure the project to provide more effective outcomes. The Quarterly Reports list many meetings and "continued dialogue" with the same GOU officials, which included the VR, State Committees and Deputy Ministers. The meetings often had very weak outcomes; however, only marginal changes were recommended at the peripheral parts of the activities.

VI.   Conclusions

No one party, individual, or organization should bear the blame for perceived project shortcomings. As in all projects of this nature, a combination of factors usually comes into play in causing difficulties. The Evaluation Team believes that progress inhibiting factors included quick start-up; too many significant changes in both USAID project management and the GOU political scene; tasks which were, and are, targeted to address difficult long-standing issues; and domain protectiveness of GOU government entities. All of these factors should all be considered in a final project evaluation.

Barring unforeseen events, BAH should be able to furnish most of the required deliverables by March, 2009 with the possible exception of the passage of legislative-regulatory laws. The Evaluation Team was particularly impressed with the oral presentation skills of some of the junior BAH junior Ukrainian staff of the project during their updates of the individual subtasks, given the short time that has passed since Independence.

Although it is arguably the most crucial issue facing Ukraine, the land tenure situation will not be resolved or even modified by Task 5.6, "Reduce Excessive Administrative Control over Property Transactions." Lack of meaningful action has nothing to do with what BAH, USAID, or any other outside party does or does not attempt. Rather, it is a political impasse within the GOU which must be solved first for additional extraneous assistance to be effective. The State Committee for Land Resources and Ministry of Justice will not accede to relinquishing their respective authorities and responsibilities for immovable property. The MOJ supports transparency and the SCLR adamantly does not.

The present direction that the property registry impasse is taking is a proposal to establish a centralized data base of land and immovable property information open to all requesters with the MOJ and the SCLR retaining control and administrative over their respective registries. This design has proven successful in other countries and is workable for Ukraine but it is highly unlikely that the SLRC will accept the associated transparency.

BAH has prepared an excellent description of the property registries' political history and has apparently been as proactive as possible to encourage GOU to resolve the problems and disputes associated with these associated sensitive issues.

There is no agency/office investigative function within the GOU dedicated to monitoring government operations, accountabilities and criminal activities. For example, Offices of the Inspector General in each U.S. major Department perform these responsibilities. Lack of this type of oversight is another contributing factor to the ongoing corruption that is experienced in many areas, including the 4.2 elements.

The original Task Order would have been well served to have required a GOU individual liaison counterpart in each government entity to be associated with the MCC mission.

MCC funding has or will result in various degrees of accomplishment for tasks of Activity 4.2. The Evaluation Team can highlight the following accomplishments:

1) a greater Ukrainian understanding of business permit system reform and the drafting of laws and procedures to implement improvements;
2) an analysis of construction permitting practices and procedures and the set up of an OSS office in Odessa and the development of an OSS "toolkit;"
3) an initial CM draft resolution, "On The Procedures For Conducting Inspections By Officers Of The State Building Inspection And Its Regional Departments" was completed and submitted to appropriate entities for review and comment;
4) exposure of Ukrainian government agencies to worldwide modern zoning principles and practices;
5) review of drafts and revised drafts by the State Committee On Housing And Communal Services and other utility authorities for improvements of connectivity to utilities;
6) a thorough analysis of the difficulties concerned with resolving excessive administrative control over property transactions, which has pin-pointed the problems and steps the GOU must take to realize a viable land and property program.

VII.   Recommendations

Expend very little effort on the 5.6 task, "Reduce Excessive Administrative Control over Property Transactions." USAID should actively seek advice from the MCC Secretariat as to retaining this task past the original project expiration date if meaningful legislation is not passed by Parliament by that time.

- With the March 31, 2009 task order extension action nearly completed, the Evaluation Team recommends no further extensions except for the continuation of the One-Stop-Shop Program, TIBA Task 5.2, Construction Permitting (Task 5.5, Access to Utilities is projected to be completed successfully by March 2009.)
- Redesign the remaining project drastically to focus on more analytical tasks, as proposed in the Summary Recommendations found in Section I, Executive Summary.
- The next USAID CTO should have dedicated time to monitor the project and work as closely as possible with the MCC Secretariat for the remainder of the project.
- Phase out Task 5.6 (Property Rights and Transactions) as the specific GOU stakeholders maintain a traditional view and do not accept private property rights. Redistribute remaining funds to other task activities.
- While USAID generally includes directions to the contractor to collaborate and cooperate with other USG and USAID projects in its task orders, the TIBA team seems to have worked only with the public education component of the TCP Component III. The Evaluation Team recommends that the TIBA Team increase its public awareness activities with this public education group within Component III. Indeed, the TIBA team should lead some of the public education activities (rather than merely be a part of the public education activities) to underscore its anti-corruption efforts within the permitting system, for example. Further, following the operations review of the permit system that the Evaluation Team recommended in Summary Recommendations, the TIBA Team could work with the other TCP Component projects, if the other contractors are still implementing these tasks, namely: MSI (TCP Component 1 – Monitoring and Exposure of Corruption); Chemonics (TCP Component 2 – Judicial Reform); and USDOJ ICITAP (TCP Component 3 - Government of Ukraine Monitoring and Enforcing Ethical and Administrative Standards) to develop stronger recommendations to streamline the permit system, with an eye to stem corruption as well.
- When the USAID CTO position for Activity 4.2 is filled, the team recommends that one of the action priorities should be to promote collaboration with other MCC TCP projects through periodic coordination meetings, exchange of common interest documents, and circulation of summary progress reports.

VIII.   Lessons Learned

For these types of evaluations, which require multiple contacts in a short time, the Evaluation Team recommends whenever possible that they be scheduled outside of the summer vacation and transition months. The Evaluation Team was handicapped with arranging crucial meetings on a timely basis. If it is not feasible to avoid the summer time period, then the team recommends that the evaluation period in-country be extended.

The original Task Order for the project was inadequately thought out and designed. With more time and attention in the beginning dedicated to constructing a high quality task order, significant shortcomings of the 4.2 Activity could have been avoided or diminished. In an attempt to begin the project quickly and to provide flexibility to USAID as well as to the contractor implementer, the Task Order was very broad and general, without attention to the specific needs of Ukraine, given its governmental and regulatory structure as well as its dynamic and volatile political situation.

The question still remains if the program was designed properly, given the situation in the Government of Ukraine, the disputes between and among the Coalition members as well as within the Cabinet of Ministers. While this BAH workplan should be fulfilled by the end of the task order, we are not certain that the environment for businesses will be much better than it was at the beginning of this TCP. Changes could be made to the next steps for the continued TIBA, certainly if it continues through to September 2009, with more emphasis on regional outreach to committed oblasts, e.g., Odessa.

IX.   Unresolved Issues

If land related investments are to occur, the VR and Cabinet of Ministers must revise legislation, and real property administering agencies must cooperate with each other to address Ukrainian land and immovable property issues.

Representatives from the MCC Secretariat stated that they believed that the legal analysis of the TIBA Team was inadequate. USAID/Kyiv Mission senior management commented that this was the second evaluation of the TCP programs in which the MCC Secretariat mentioned that the legal analysis of the project team was deficient. USAID/Kyiv might wish hire an independent legal specialist to evaluate the laws proposed by the TIBA team as well as other TCP components.

ANNEXES

ANNEX A – Statement of Work for the Evaluation Task Order

SCOPE OF WORK

EVALUATION for THRESHOLD COUNTRY PLAN (TCP)
REDUCING CORRUPTION IN PUBLIC SECTOR

COMPONENT 4: STREAMLINING AND ENFORCING REGULATIONS

ACTIVITY 4.2: REFORM OF THE PERMIT SYSTEM FOR CONSTRUCTION, MUNICIPAL SERVICES AND STREAMLINING LAND USAGE AND PROPERTY OWNERSHIP RIGHTS

I. BACKGROUND

Corruption in Ukraine:
Corruption remains a significant obstacle to development in Ukraine, as confirmed by recent international indices. While Ukraine's leadership has recognized that corruption is a problem within government there had not been a comprehensive effort to combat it. International organizations and experts have repeatedly highlighted the targeted areas as significant sources of corruption, constraining economic investment and growth and limiting access to fair and equal opportunity and justice for the Ukrainian people. Initial steps for introducing reform in these areas have already been taken – including passage of the Concept of Judicial Reform, deregulation at the national and oblast levels, and passage and initial implementation of the Permit System Law. The 2006 free and fair elections to the Ukrainian Parliament firmly established a key element of anti-corruption efforts, namely, an environment of free political competition. In addition to this, immunity from prosecution for local elected officials was also abolished.

Ukraine's desire to strengthen international relationships and, more specifically, to build European alliances, has been a motivating factor that unites major players across the political spectrum in recognizing the need to combat corruption and agree on some level of "joint actions." It remains the incentive and leverage for the appearance, if not the actual facilitation, of progress in the area of good governance and the development of anti-corruption policies. The most evident examples of Ukraine's intentions and commitment to this path include the approval of an anti-corruption Concept "On the Way to Integrity" (adopted by the Presidential Decree in September 2006); the Action Plan to Implement the Concept "On the Way to Integrity" through 2010 developed by the Cabinet of Ministers of Ukraine; the ratification of the main anti-corruption conventions by the Parliament of Ukraine (the Council of Europe Criminal Law Convention on Corruption and its Additional Protocol and the UN Convention Against Corruption have been ratified by Ukrainian Parliament, yet their ratification instruments have not yet been forwarded to the Secretary General of the Council of Europe and UN); and the elaboration of the "anti-corruption package" of three draft laws, which is currently under review by the relevant Parliamentary Committees.

Recently, Prime Minister Yulia Tymoshenko, asked Ukrainians to take part in improving the action plan of the new government, "The Ukrainian Breakthrough for People Rather than Politicians," aimed at improving constitutional and legal reforms, combating corruption, and solving demographic and social problems.

Ukraine Threshold Country Plan:
Ukraine became eligible for the Millennium Challenge Corporation's (MCC) Threshold Country Plan (TCP) in 2005. At that time Ukraine fell short of meeting the MCC *Control of Corruption* indicator. The Government of Ukraine (GOU) responded by developing a $45 million, 2-year program to reduce corruption in the public sector. The MCC Board approved Ukraine's program in July 2006; the Strategic Objective Agreement to implement TCP was signed on December 4, 2006, between USAID and the GOU. The TCP includes five distinct components:

        1)   Civil Society Monitoring and Advocacy;
        2)   Judicial Reform;

    3)   Government of Ukraine Monitoring and Enforcing Ethical and Administrative Standards;

    4)   Streamlining and Enforcing Regulations;

    5)   Combating Corruption in Higher Education.

Component 4 is implemented in two parts and it is Component 4.2 that is the subject of this evaluation. The program implemented under TCP Activity 4.2 envisions reducing corruption related to granting land owner and user rights, access to utilities, and construction permits by changing the legislative and regulatory framework for property transactions, reforming the permit system, and streamlining lines of responsibilities and procedures as well as by demanding governmental accountability and transparency. Complicated, confusing and overlapping systems providing construction permits, delivery of municipal services, land and property ownership and usage are sources of significant corruption in Ukraine. Both private individuals and legal entities must complete an enormous number of steps to start any construction activity. The processes are neither transparent, nor defined in time, and there is clear evidence of corruption at all steps. It is envisioned that the TCP will reduce the number of users who indicate that they made unofficial payments in areas of construction, land usage and ownership, and municipal services by 20 percent. USAID awarded TCP Activity 4.2: *Reform of the Permit System for Construction, Municipal Services and Streamlining Land Usage and Property Ownership Rights* program under TCP Component 4 to *Booz Allen Hamilton* in September 2007.

TCP Activity 4.2 is one component of the USAID project Trade, Investment and Business Acceleration (TIBA) pursed by Booz Allen Hamilton since December 2006. The project consists of three components:

Component I: *WTO Accession and Post Accession* designed to assist Ukraine in its efforts to accede to World Trade Organization (WTO); to fulfill GOU's WTO commitments, and to ensure that Ukraine's businesses benefit from accession into WTO.

Component II: *Improvement of the Business Environment* designed to assist Ukraine in its efforts to reduce the cost of doing business in Ukraine.

Component III: *Streamlining and Enforcing Regulations* that in itself is the TCP Activity 4.2. Following are the expected results of this Component:

- effectively implement the Permit System Law;
- simplify permitting procedures for construction;
- help implement the Inspection Law and simplify inspection procedures regarding construction and safety;
- launch procedures for effective zoning of land areas;
- assist in simplifying procedures to obtain local access to utilities.

The project worked with the GOU to prepare Component 4.2 of its TCP Implementation Plan (IP) that was approved by both USAID and GOU MCC Executive Board. The project helped the Presidential Secretariat develop a national agenda for improving the legal and regulatory environment and was able to integrate most of the TCP IP Component 4.2 into the GOU's program. The national agenda was solidified through Presidential Decree No. 816/2007 and related Cabinet of Ministers resolution in October 2007.

By the end of December 2007, the project reinforced the GOU's commitment to the TCP IP by helping to establish the framework for legislative drafting and implementation, the next step in the TCP IP. Concurrently, the project also finalized analysis of the legal and regulatory environment in the areas of permitting and inspection procedures in construction sector, land zoning, property transactions, land parcels connectivity to utilities, and functions of soil and water environmental protection. The project is currently engaged in helping to draft almost 40 laws and by-laws required to help the GOU implement its TCP IP. Most of the project's counterparts have been proactive in implementing their tasks as per the TCP IP; however a few have not been as responsive as hoped.

II. EVALUATION PURPOSE

The principal focus of this midterm evaluation is to evaluate the progress and potential of the Activity 4.2 work with respect to the overall goals of the TCP.

A secondary focus is to evaluate the Activity 4.2
   a) potential for achieving TCP goals by December 2008;
   b) potential for greater returns with additional time;
   c) potential for greater returns with additional time and funding.

The USAID/Ukraine Mission – the primary audience for the evaluation – will use the evaluation to make management decisions with respect to its approach and its implementing partner's activities.

III. EVALUATION QUESTIONS

The evaluation team should use the questions listed below as a guide in formulating findings and recommendations as a result of this evaluation.

1. Is the approach to changing the legislative and regulatory framework for property transactions, reforming the permit system, and streamlining lines of responsibilities and procedures and demanding governmental accountability on the right course or should adjustments be made given changes in the overall assistance environment and country context?
2. Has the project yielded results other than those planned? Are there any unexpected but important benefits or impacts of the project that should be documented?
3. What are the factors that hinder/assist the project performance?
4. What improvements can be made in the implementation of the project?
5. Are there any significant or critical gaps in Activity 4.2 implementation that require adjustment?
6. Are established targets reasonable given the current project context? If not, how do they need to be modified?
7. How effective is the analysis of legislation, methodological assistance and expert support provided by Activity 4.2 implementer in changing the legislative and regulatory framework and adopting laws dealing with land and property ownership?
8. Are project beneficiaries adopting desired practices or behaviors (including SCRPE, Parliamentary Committees, the Ministry of Regional Development and Construction, State Agency for Land Resources, VR Committee on Industrial and Regulatory Policy and Entrepreneurship, OSSs, SMEs and other relevant stakeholders)?
9. Are there opportunities to further leverage MCC resources through increased collaboration with other USG and donor programs?
10. How can the project collaborate better with other current MCC TCP projects?
11. How can the project collaborate better with the GOU?
12. How effective have the project's public awareness campaign been in informing the Ukrainian public and private sector participants on the cost of corruption and private sector rights and obligations?

IV. METHODOLOGY

The Evaluation Team is encouraged to propose its own approach for conducting the evaluation and seek the concurrence of USAID/Kyiv prior to the start of any work. The Evaluation Team will draw upon suitable evaluation methodologies that answer the evaluation questions credibly, subject to time and resource constraints and develop plan for data evaluation and analysis. The Evaluation Team shall develop a common list of questions modified as necessary for different types of interviews.

The information will be gathered via site visits, interviews with project staff and recipients, and reviews of documentation.

The Evaluation Team shall ensure that findings, conclusions and recommendations of the evaluation are based on data that is accurate, objective and reliable. Information gathered should be representative of and reflect results actually achieved. Emphasis will be on collection of reliable empirical data indicating success or failure and/or objectively verifiable evidence, as opposed to anecdotal evidence.

The Evaluation Team will spend three days in US developing a work plan for the evaluation and conducting a desk-top review of key documents:
- Government of Ukraine Millennium Challenge Corporation Threshold Country Plan, 2006;
- Task Order between USAID/Kyiv and *Booz Allen Hamilton*;
- TCP Activity 4.2 implementation plan;
- TCP Activity 4.2 Performance Monitoring and Evaluation Plan;
- Activity 4.2 quarterly reports.

Other documents may be provided as needed upon the arrival of the team members from the U.S.

USAID/Kyiv shall provide the Evaluation Team with names and contact information for key individuals to be interviewed, including USAID/Kyiv staff, *Booz Allen Hamilton* professional staff, the project beneficiaries and stakeholders, and the GOU MCC Secretariat.

Detailed schedules for all site visits and interviews should be developed by the Evaluation Team, together with USAID/Kyiv, prior to the commencement of the evaluation in Ukraine. Logistical issues to be resolved in advance include host partner institutions to be interviewed, timing of visits to each office, and means of local travel and accommodations.

V. TEAM COMPOSITION

The evaluation will be carried out by a two-person team of experts. One team member will act as Team Leader.

Team Members Qualification and Experience: Both Team Leader and Team Member should have a professional background in development work in the NIS region. The experts should have extensive overseas program evaluation experience, including USAID experience, preferably in the E&E region. Knowledge of USAID operation and principles would be helpful. Highly developed communication skills (both verbal and written), the ability to conduct interviews and facilitate discussions, and experience writing evaluation reports is required. Experience in evaluating effectiveness of measures to reduce corruption is critical. Regional experience and/or country knowledge is required.

Team Leader: In addition, Team Leader should have a professional background in the implementation of technical assistance in addressing regulatory reform as well as possess technical expertise in reducing corruption related to granting land owner and user rights, access to utilities, and construction permits by changing the legislative and regulatory framework for property transactions and reforming the permit system. Team Leader shall be responsible for coordinating and directing the reporting effort, developing the research methodology and preparing and submitting the draft and final evaluation report. He/she must be thoroughly familiar with organizational and team-building skills.

Cognizant Technical Officer
The cognizant technical officer for this evaluation will be Bohdan Chomiak, USAID/Kyiv Office of Economic Growth (OEG).

VI. DELIVERABLES

The Evaluation Team shall have the initial orientation meeting with relevant USAID/Kyiv staff.

The Team shall debrief the USAID/Kyiv at least twice (once midway through the analysis and again prior to departure) in order to keep them current on the progress of the evaluation and to resolve any issues that may arise. The Team will debrief the mission on its findings, conclusions and recommendations toward the end of the second week of its work in Ukraine. The Team shall leave the draft of the Evaluation Report with the Mission before departing Ukraine. Once the Team Leader receives all written comments from the Mission, he/she has one week to finalize and submit the Final Report, incorporating and responding to comments from the Mission and other stakeholders. The Report belongs to USAID, not to the consultants or contractors, and any use of the

material in the report shall require the prior written approval of USAID. The Evaluation Team Leader has responsibility for ensuring that the Final Report is complete, reads in a holistic manner, and follows the suggested above format.

VII. TIME FRAME

The evaluation is scheduled to commence on or about May 5, 2008. It will include approximately three days in US for documents review; two weeks in Ukraine for collecting and analyzing data and drafting Evaluation Report; one week from the reception of USAID comments for incorporating USAID comments and drafting Final Report. A six-day workweek is authorized for the team.

VIII. LOGISTICS

The Mission and USAID implementing partners will make available reports and other background documents. The Mission will provide list of host partners and institutions to interview. The Evaluation Team is required to provide all other logistical support, such as travel, including travel within Ukraine, accommodation requirements, translation, laptop computers, secretarial and other services.

IX. REPORTING AND DISSEMINATION REQUIREMENTS

The final evaluation report shall document the important findings, conclusions, and recommendations of the evaluation. The body of the report should not exceed 40 pages, including an executive summary of no more than two pages; additional details and analysis, if any, should be placed in an appendix. The format of the final report should conform to the following format and guidelines, and contain the following elements:

Table of contents

Executive summary — Concisely states the main points of the evaluation. Not to exceed two pages in length. Briefly presents major findings, conclusions and recommendations for changes and improvements.

Introduction — Summarize the evaluation purpose, audience, and questions.

Background — Summarize context in which the project and its components took place, problem addressed, and short description of the project to be evaluated.

TCP assistance approach — Describe the TCP program strategy and activities implemented in response to the problem.

Findings — Empirical facts collected by the evaluation team related to the evaluation questions. Findings must be supported by relevant quantitative and qualitative data. Not to exceed ten pages in length.

Conclusions — Evaluators' interpretations and judgments based on the findings. Not to exceed ten pages in length.

Recommendations — Proposed relevant and practical actions for management based on and clearly supported by conclusions. Not to exceed ten pages in length. There should be a clear distinction in the evaluation report between findings, conclusions and recommendations. Making these distinctions enables readers to trace the reasoning used by the evaluators in reaching conclusions and proposing recommendations.

Lessons learned — Broader implications for similar programs in different settings or for future activities.

Unresolved issues — Review what remains to be done or examines unanswered questions.

Annexes — Include

    A. SOW,
    B. Description of evaluation methods used,
    C. Data collection instruments,

D. Schedules,
E. Lists of persons contacted/interviewed,
F. Statistical tables,
G. Charts and/or graphs,
H. Bibliography of documents consulted,
I. Glossary of acronyms used.

ANNEX B – Evaluation Methods

The 4.2 Evaluation Team used a combination of techniques including USAID, BAH, and GOU furnished documents, group and individual interviews with these same entities, and internet communications to conduct the necessary reviews and research.

The Team also made a one day visit to the Odessa One-Stop-Shop to observe the operations of that facility.

When appropriate follow-up visits were made with individual offices and individuals to confirm collected data and information and to explore additional areas of interest.

ANNEX C – Data Collection Sources

Review of all relevant existing documents including:

- Government of Ukraine Millennium Challenge Corporation Threshold Country Plan, dated May 2006
- Task Order between USAID/Kyiv and Booz Allen Hamilton (based on an redacted original version and modification 3)
- TCP Activity 4.2 implementation plan (based on an original version and subsequent modified, revised versions)
- BAH TIBA Workplan (based on an original version and revised versions based on modifications)
- TCP Activity 4.2 Performance Monitoring and Evaluation Plan (based on an original revised version and modified, revised versions)
- TCP Activity 4.2 quarterly reports (First and Second Quarters 2008);

Interviews with Relevant Persons

- USAID/Kyiv personnel;
- GOU MCC Secretariat
- Booz Allen Hamilton professional staff;
- Project beneficiaries and stakeholders (including a visit to the Odessa One-Stop Shop)

Selections from the twelve questions listed on page 5 of this Evaluation were used for the above interviews.

ANNEX D & E – Schedule of Persons Contacted/Interviewed

Schedule of Meetings 21/ 07 – 31/ 07/ 2008, TIBA Evaluation Team

Monday, 21/07	11:15 am	Booz / Allen / Hamilton	Tetyana Dudka	Deputy Director, TIBA Project
	02:00 pm	USAID / Ukraine	Evgenia Malikova	Project Management Specialist, Private Enterprise Development, OEG
Tuesday, 22/07	09:00 am	USAID / Ukraine	Bohdan Chomiak Evgenia Malikova	CTO of TIBA Project, Office of Economic Growth (OEG) Project Management Specialist, OEG
	02:00	Booz / Allen / Hamilton	Andrey Astrakhan Anna Bogdanova Alexander Shabalkov Olga Olefirova Ruslan Kudryk	Team Leader, TIBA 4.2 Monitoring & Impact Evaluation Director Senior Legal Advisor Legal Advisor Legal Advisor
Wednesday, 23/07	09:00 am	USAID / Ukraine	Bohdan Chomiak Evgenia Malikova	CTO of TIBA Project, OEG Project Management Specialist, OEG
	12:00 pm	Booz / Allen / Hamilton	Kimberley L. Kotnik Patrick Rader	Senior Associate, BAH Project Director, TIBA
	03:00 pm	Ministry of Regional Development and Construction	Vyacheslav Nehoda Oleksandra Kuzhel Volodymyr Papka	Deputy Minister Non-staff Advisor to the Minister of RDC State Inspection for Construction and Architecture
Thursday, 24/07	12:30 pm	Verkhovna Rada of Ukraine	Ksenia Lyapina	People's Deputy, Deputy Head of VR Committee on Industrial and Regulatory Policy and Entrepreneurship
Friday, 25/07	09:00 am	USAID / Ukraine	Bohdan Chomiak	CTO of TIBA Project, OEG

			Judith S. Schumacher	Director, Office of Program Coordination and Strategy (PCS)
Monday, 28/07	09:00 am	USAID / Ukraine	Bohdan Chomiak	CTO of TIBA Project, OEG
	01:00 pm	Ministry of Regional Development and Construction	Oleksandra Kuzhel	Non-staff Advisor to the Minister of RDC
	03:30 pm	Booz / Allen / Hamilton	Olga Olefirova	Legal Advisor, TIBA
Tuesday, 29/07	12:00 pm	OSS in Odessa Booz / Allen / Hamilton	Stakheeva Olga Olga Olefirova	Head Deputy of OSS, Odessa Town council Legal Advisor
Wednesday, 30/07	09:00 am	State Committee of Land Resources of Ukraine	Anton Tretiak Andriy Pidruchny	First Deputy Head Head of Department of Division of Communal and State Land and Administrative Land Management
Wednesday, 30/07	12:00 pm	Ukraine MCC Secretariat	Andriy Palyanitsa Dmytro Lutsenko	Head of Ukraine MCC Secretariat Senior Legal Advisor, Ukraine MCC Secretariat
Thursday, 31/07	02:00 pm	USAID / Ukraine	Peter Argo Dianne Tsitsos Bohdan Chomiak	Mission Director, USAID/Ukraine Acting Mission Director CTO of TIBA Project, OEG
Friday, 1/08	04:00 pm	USAID/Ukraine	Judith Schumacher Roman Woronowycz Peter Luzik Evgenia Malikova	Director, PCS Senior Development Outreach and Communications Officer, PCS Project Development Specialist, PCS Project Management Specialist, OEG

ANNEX F – Statistical Tables and General Information

Individual Task Workplan Findings

Task 5.1

Specific Requirements under BAH TIBA Component III, Task 5, as of 12/07	Status as of May or June 2008	Next Steps
5.1 Draft amendments to conform Permit System Laws (PSL) into modern practice	Deadline of 4/08 not met due to lack of political will by GOU; TCP IP revised to change WP requirement to amendments' adoption date by the VR to 10/31/08, but other laws are now not required to come into line with PSL. Notes from meeting: Draft Law 0883 offered to the Verkhovna Rada on 4/8/08, prior to deadline; is up for adopted after its second reading by 10/31/08.	TIBA team: 1) awaits approval of new workplan based on revised IP which is still to be approved; drafting additional amendments; and 2) working on reference books to explain the PSL to state agencies and private sector.

Task 5.2

Specific Requirements under BAH TIBA Component III, Task 5, as of 12/07	Status as of 6/08	Next Steps
5.2 Simplify Permitting Procedures in Construction	Other sublaws being worked on in anticipation of Draft Law 0883 passing. 25 One-stop shops for business to expedite understanding of permit procedures anticipated to be opened by October 2008. Toolkit for OSSs completed by 8/08 with training to begin then.	TIBA team will begin to analyze which other OSSs will be chosen next.

Task 5.3

Specific Requirements under BAH TIBA Component III, Task 5, as of 12/07	Status as of May or June 08	Next Steps
5.3 Implement the Inspection Law and Simplify Inspection Procedures in Construction	TIBA is working with the Ministry of Regional Development and Construction to improve the draft Resolution "On the Procedures for Conducting Inspections by Officers of the State Building Inspection and its Regional Departments."	Submit improved resolution to appropriate ministries for discussion and approval.

Task 5.4

Specific Requirements under BAH TIBA Component III, Task 5, as of 12/07	Status as of May or June 2008	Next Steps
5.4 Introduce Effective Zoning Principles	Following Zoning Study Tour to Germany, special advisor to the VR committee on Construction, Urban Development, Housing and Communal Services and Regional Policy presented results.	TIBA team will continue discussions among GOU stakeholders to persuade on changes to introduce modern zoning principles.

Task 5.5

Specific Requirements under BAH TIBA Component III, Task 5, as of 12/07	Status as of May or June 08	Next Steps
5.5 Access to Utilities	MRDC began discussions and collaboration on draft legislation with TIBA after a period of refusing coordination.	TIBA team will continue dialogue with key stakeholders to implement draft resolution and other initiatives.

Task 5.6:
"Identify and Eliminate Overlapping Authorities Within GOU Multiple Self-Regulating Agencies Connected with Property Ownership and Usage, and Eliminating Redundant
Registration for Land and Property Ownership Through the Various Registry Systems".

"Excessive Administrative Control Over Property Transactions Eliminated through amendments to the Land Code and auxiliary laws".

Expected Results: "Processes to develop a unified State Register for premises and land plots underway; improved operations of the State Cadastre; legislation amended and enacted accordingly". Regulations introduced that would reduce excessive administrative control over property transactions through amendments to the Land Code, Civil Code, law "On the State Registration of Land Rights for Immovable Property and Property Limitations", and law "On State Land Cadastre" for adoption by the Verkhovna Rada.

Qualification: **The Task Order provides that "successful implementation of Component III is conditional upon the GOU's fulfillment of its objectives under the MCC TCP-IP that was prepared with the assistance of TIBA and approved by the USG and GOU, 8/07".**

Prospects for Accomplishment by March 2009 of the 10 tasks in the (revised) BAH **Work Plan**:

Fair to Good

Note: BAH proactively added three tasks to enhance the TCP IP (not included in the IP) to,
1) assist the State Committee for Land Resources in obtaining approvals from relevant ministries; 2) develop steps the GOU can take to further address excessive control issues and increase transparency; and 3) initiate a public awareness campaign.

Problems Encountered:

While there is agreement throughout the GOU that a unified and transparent real property registration system is one critical component for ending excessive administrative control and corruption, there is an impasse between the State Committee for Land Resources and the Ministry of Justice as to which organization is to have authority over a reconstituted registry.

Presently there are four separate registries administered separately by the MOJ and SCLR's "Center for State Land Cadastre", all with strictly limited public access. The SCLR maintains the registry for land parcel rights and the MOJ's State Enterprise Information Center administers registries for non-land rights for real property, real property transactions, and real property restrictions. In total the MOJ administers 15 types of property related registries with the majority having no formal legal sanction.

Legislation must be adopted and laws promulgated to develop transparent registries and real estate transactions and to reduce or eliminate excessive administrative control procedures. The revised MCC TCP-IP requires an amendment to the Land Code to be adopted by April, 2009. The State Committee for Land Resources and the Ministry of Justice are jointly responsible for facilitating the necessary background work and has the assistance of BAH readily available. **There will be no significant real estate tenure reform for Ukraine unless appropriate legislation is emplaced and implemented.**

Recent BAH Activity Implementations:

From Weekly Reports Submitted by BAH to USAID during the Quarter

5/14/08: The MOJ forwarded comments and proposals to USAID/TIBA for amendments to the law, "On State Registration of Ownership Rights to Immovable Property and Limitations Thereof". TIBA experts are reviewing these proposals and plan to discuss them with the Presidential Secretariat.

5/21/08: USAID/TIBA experts participated in a roundtable with the SCLR to discuss land market legislative issues including real estate registration and the *establishment of electronic systems for State Land Cadastre operations and zoning data.*

6/12/08: Draft Law "On Auctions". USAID/TIBA discussed with the Commercial Law Center, the MOJ, Tax Administration and others. Amendments to the Civil Code when registration of property rights legislation is adopted should/can reinforce the reduction of excessive real estate property transaction procedures.

Next Quarter: 9/23/08, Roundtable to discuss with public and private stakeholders legislative initiatives directed toward reform of real estate transaction procedures and requirements. Obtain feedback.

Summation:

The strong political problems associated with the need to reduce excessive control over real estate related registries and transactions can be exemplified by the law, "On State Registration of Ownership Rights to Immovable Property and Limitations Therefore" adopted in 2004.

Commonly known as the Property Registry Law (PRL), a single unified registry of rights to real property under the SCLR was to be established. The PRL was never implemented due to bureaucratic maneuvering and manipulation. The MOJ counter-proposed legislation in 2006 by submitting amendments to the VR placing administration of a unified registration system with the MOJ, which was adopted in 2007 but later vetoed by the President. The result is that a system for property registration remains unchanged since before the passage of the PRL.

ANNEX G – Charts and/or Graphs

Accomplishments Chart Landscape

Ukraine TCP 4.2 Accomplishments As Considered by Stakeholders

	GOU	BAH TIBA	MCC GOU Secretariat	Ukrainian Entrepreneurs	USAID	MCC Washington
Team Analysis	High	High	Low	Non-existent	Low	?
Laws Written	Medium	High	Low	Low	Low	?
Accomplishments	Medium	High	Low	Low	Low	?
Keep Program As Is	High	Medium	Low	Non-existent	Low	?
Program is Risk Free As Is	High	Medium	Low	Non-existent	Low	High

● High

◑ Medium

◔ Low

○ Non-existent

ANNEX H – Bibliography of Documents Consulted

"Amendments to the Land Code of Ukraine and Legislative Acts of Ukraine"; Chapter 22-1, Permit Law, Articles 8-1, 17, 50, 151-1.

BAH Quarterly Report, July 1 September 30, 2007.

BAH Work Plan(s), Q 4 2007 – Q 1 2009.

Component III: "Streamlining and Enforcing Regulations", AFP-I-05-04-00005, Modification No. 3, Pages 9-12.

Component 4.2 TIBA ENG, Subcomponent 4.2 of Component 4, "Reform of the Permit System for Construction, Municipal Services and Streamlining Land Usage and Property Ownership Rights", Pages 1-16, June 07 – November 08.

GOU, MCC, Threshold Country Plan, May 2006.

Indicators MCC_Q4_2007_4.2 (BAH Results Monitoring Chart).

MCC, TCP, Quarterly Report – Component 4.2, FY 2008 Q 3, April 1 - June 30, 2008.

MCC Y 08 Q 1, Achievements (BAH).

Scope of Work (Evaluation), Activity 4.2, 2008.

Statement of Work, Original. BAH.

TCP IP 4.2 TIBA Revised-MCC-O7-04-2008 (Table (report) of Tasks Status).

TIBA Performance Monitoring Plan, Approved by USAID 06-06-08. Component III.

TIBA Results Chart_Q2_MCC TCP C4.2. "Results, Successes, and Monitoring/Measurement".

Ukraine TIBA Performance Monitoring Plan (CIII only), 2007 – 2008, 25 Oct 07.

USAID/TIBA, Quarterly Report IV 2007.

USAID/TIBA, Subcomponent 4.2, "Government Counterparts."

USAID/TIBA, Tasks 5.1 – 5.7, (BAH Background Narratives), May 2008

ANNEX I – Glossary of Acronyms Used

BAH	Booz Allen Hamilton
CM	Cabinet of Ministers
COP	Chief of Party
CTO	Cognizant Technical Officer
FSN	Foreign Service National
GOU	Government of Ukraine
IP	Implementation Plan
MCC	Millennium Challenge Corporation
MHCS	Ministry of Housing and Communal Services
MP	Member of Parliament
MRDC	Ministry of Regional Development and Construction
MOJ	Ministry of Justice
MSI	Management Systems International
OSS	One-stop-shop permitting office
PCS	Program Coordination Strategy
PRL	Property Registry Law
PSL	Permit System Law
SCLR	State Committee for Land Resources
SCRPE	State Committee of Ukraine for Regulatory Policy and Entrepreneurship
SOW	Scope of Work or Statement of Work
TCP	Threshold Country Plan
TIBA	Trade, Investment, and Business Acceleration project
WP	Work Plan
WTO	World Trade Organization
VR	Verkhovna Rada

ANNEX J – Evaluation Briefing for USAID/Kyiv Mission Director

Handout of PowerPoint presentation from 7/31/08:

Briefing for the
USAID Mission Director Peter Argo
Evaluation Team
Millennium Challenge Corporation
Threshold Country Plan
Activity 4.2
July 31, 2008

SEGURA/IP3 Partners LLC
Jon Abrams, Team Leader and Land Tenure Specialist
Karrye Braxton, Team Member and Project Management Specialist
Global Business Solutions, Inc.

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FINDINGS

- USAID, TIBA and most of the Government of Ukraine and Ukrainian stakeholders are dedicated to the success of the TCP 4.2 Project
- No single factor, organization or individual is responsible for the shortcomings, lack of actions and prospective failures of several of the 4.2 tasks
- Combination of negative influences impedes progress on the project

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NEGATIVE INFLUENCES ON PROJECT

- Weak original Task Order design that reflected a non-specific Ukraine Threshold Country Plan
- Numerous changes in USAID CTO leadership and neglect of USAID's oversight of the project
- Three major turnovers of the top Government of Ukraine officials
- Difficult and long-standing issues and problems exist in Ukraine
- Excessive domain protectiveness by GOU ministries and agencies
- Adversarial relationship between BAH management and the MCC Secretariat
- Poor selection of BAH on-site management staff
- Deficient analytical skills of project BAH TIBA team
- Lack of strong, expeditious action by Verkhovna Rada

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RECOMMENDATIONS

- With the March 31, 2009 task order extension action nearly completed, the Evaluation Team recommends no further extensions except for the continuation of the One-Stop-Shop Program, TIBA Task 5.2, Construction Permitting (Task 5.5, Access to Utilities is projected to be completed successfully by March 2009.)

- Redesign the remaining project drastically to focus on more analytical tasks.

- The next USAID CTO should have dedicated time to monitor the project and work as closely as possible with the MCC Secretariat for the remainder of the project.

- Possibly contract out this CTO role to a personal services contractor or a small business that holds current USAID IQCs.

- Phase out Task 5.6 (Property Rights and Transactions) as the specific GOU stakeholders maintain a traditional vision and do not accept private property rights. Redistribute remaining funds to other task activities.
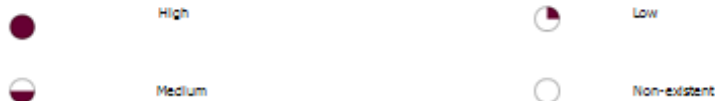
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NEXT STEPS

- Evaluation Team will deliver the Draft Evaluation Report to OEG on Friday, August 1, 2008
- USAID/Ukraine will make comments and recommend changes and/or corrections (Mission will determine which parties should review and comment on the draft)
- Evaluation Team will prepare Final Report within one business week of receiving comments back from USAID/Ukraine

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