

DOCUMENT OF THE INTER-AMERICAN DEVELOPMENT BANK

GUYANA

SUPPORT FOR THE CRIMINAL JUSTICE SYSTEM

(GY-L1044)

LOAN PROPOSAL

This document was prepared by the project team consisting of: Arnaldo Posadas (IFD/ICS), Team Leader; Mariko Russell (ICS/CSU), Alternate Team Leader; Melissa Gonzalez (IFD/ICS); Norma Peña Arango (SCL/GDI); Maria Camila Padilla and Paula Louis-Grant (FMP/CGY); Nathalie Hoffman (IFD/ICS); Monica Lugo (LEG/SGO); Derise Williams (CCB/CGY); Federico Changanahui, Leila Parris and Sophia Whyte-Givans (Consultants). Beatriz Abizanda (ICS/CCR) and Dana King (ICS/CTT) contributed to the quality of the document.

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| ABBREVIATIONS | |
|---------------|---|
| AOP | Annual Operating Plan |
| CSSP | Citizen Security Strengthening Programme |
| DPP | Department of Public Prosecutions |
| EA | Executing Agency |
| FSO | Fund for Special Operations |
| GPN | General Procurement Notice |
| GPS | Guyana Prison Service |
| IACHR | Inter-American Commission on Human Rights |
| IDB | Inter-American Development Bank |
| M&E | Monitoring and Evaluation |
| MOLA | Ministry of Legal Affairs |
| NGO | Non-Governmental Organizations |
| OC | Ordinary Capital |
| PA | Procurement Plan |
| PIU | Programme Implementation Unit |
| POD | Proposal for Operation Development |
| RJ | Restorative Justice |
| RM | Results Matrix |
| SPF | Safeguard Policy Filter |
| SSF | Safeguard Screening Form |
| TIR | Internal Rate of Return |

PROJECT SUMMARY
GUYANA
SUPPORT FOR THE CRIMINAL JUSTICE SYSTEM
(GY-L1044)

| Financial Terms and Conditions | | | | | |
|--|---------------|--------------------------|---------------------------------|--------------------------|--|
| Borrower: Cooperative Republic of Guyana | | | | Ordinary Capital (OC) | Fund for Special Operations (FSO) |
| Executing Agency: Ministry of Legal Affairs (MOLA) | | | Amortization Period: | 30 years | 40 years |
| | | | Disbursement Period: | 5.5 years | 5.5 years |
| Source | Amount (US\$) | % | Grace Period: | 6 years | 40 years |
| IDB (OC): | 4,000,000 | 50 | Supervision and Inspection Fee: | (a) | N/A |
| IDB (FSO): | 4,000,000 | 50 | Interest rate: | SCF Fixed ^(b) | 0.25% |
| | | | Credit Fee: | (a) | N/A |
| Total: | 8,000,000 | 100 | Currency of Approval: | US\$ dollars | US\$ dollars |
| Project at a Glance | | | | | |
| Project Objective/Description: The general objective of the programme is to contribute to the reduction of high concentrations of prison population in Guyana. The specific objectives are: (i) to reduce the proportion of inmates who are pre-trial detainees; and (ii) to increase the use of alternative sentencing in the country. | | | | | |
| Special Contractual Clauses prior to the first disbursement: (i) presentation of evidence that the Ministry of Legal Affairs (MOLA) has created the Programme Implementation Unit and selected the project manager, procurement officer, financial officer, and a monitoring and evaluation officer, according to professional profiles satisfactory to the Bank; (ii) presentation by the executing agency, to the Bank satisfaction, of the procurement plan, the first annual operation plan and the financial plan for the programme; (iii) presentation of evidence of the establishment of the Programme Steering Committee; and (iv) the preparation and approval of the Operating Manual for the Programme by the MOLA, in the terms previously agreed with the Bank (¶3.7). | | | | | |
| Exceptions to Bank Policies: None. | | | | | |
| Strategic Alignment | | | | | |
| Challenges ^(c) : | SI | <input type="checkbox"/> | PI | <input type="checkbox"/> | EI <input type="checkbox"/> |
| Cross-Cutting Themes ^(d) : | GD | <input type="checkbox"/> | CC | <input type="checkbox"/> | IC <input checked="" type="checkbox"/> |

^(a) The credit fee and inspection and supervision fee will be established periodically by the Board of Executive Directors during its review of the Bank's lending charges, in accordance with the relevant policies.

^(b) The Borrower shall pay interest on the outstanding balance of the OC loan at a Libor based rate. Each time the outstanding balance reaches 25% of the net approved amount or \$3 million, whichever is greater, the interest rate will be fixed.

^(c) SI (Social Inclusion and Equality); PI (Productivity and Innovation); and EI (Economic Integration).

^(d) GD (Gender Equality and Diversity); CC (Climate Change and Environmental Sustainability); and IC (Institutional Capacity and Rule of Law).

I. DESCRIPTION AND RESULTS MONITORING

A. Background, Problem Addressed, Justification

- 1.1 The growth of the prison population in Guyana and the overcrowding conditions in which that population is held has become a cause of considerable concern in the country. According to official figures, Guyana has a prison population rate of 256 per 100,000 of national population,¹ which significantly surpasses the world average (146 per 100,000).² Furthermore, the prison population exceeds the country's housing capacity (overcrowding rate of 118.5%).³ Overcrowding is generally associated with considerably negative effects on the physical and mental well-being on prisoners, violent incidents, and numerous safety management challenges.⁴
- 1.2 Prison overcrowding is not necessarily a consequence of rising crime rates, but can also result from criminal justice policies.⁵ Indeed, research suggests that a crime policy that seeks to reduce crime solely by incarceration will more likely increase the imprisonment rate while having little effect on crime rates.⁶ Indeed, there is little evidence on the effects of imprisonment in deterring crime; on the contrary, prison sentences seem to have no deterrent effects when compared with alternative non-custodial sanctions. Instead, custodial sentences can actually increase recidivism, regardless of the sentence length, when compared to non-custodial sentences.⁷ According to the Guyana Prison Service (GPS), the country shows a recidivism rate of 21.3%.⁸
- 1.3 Potential negative consequences of incarceration have been associated with: (i) an individual's future proclivity for crime, due mainly to social interaction in which persons in custody can learn new crime skills as their human capital

¹ See [Institute for Criminal Policy Research \(ICPR\), World Prison Brief, World Prison Population List, Eleventh Edition \(2016\)](#).

² Other countries in the Caribbean show similar or higher rates, for example: The Bahamas (363), Barbados (322), Jamaica (145), Suriname (183), and Trinidad and Tobago (258). See Op. Cit. ICPR.

³ According to ICPR (op. cit.) the total prison population is 1944 inmates and the official capacity is 1640 inmates (as of October 2015). Overcrowding is calculated by comparing the occupancy rate and the official capacity of prisons. It refers to the situation where the number of prisoners exceeds the official prison capacity.

⁴ Prison riots (amidst protests reportedly pertaining overcrowding and delays affecting prisoners awaiting trial), resulted in [seventeen deaths and seven severe injuries on March 3rd of 2016](#). The Inter-American Commission on Human Rights (IACHR) called on the Guyanese government to reduce prison overcrowding and to adopt measures to prevent similar loss of lives in the future (see [IACHR Condemns Deaths in Fire at Guyana Prison](#)).

⁵ International. [Ten Point Plan to Reduce Prison Overcrowding \(2012\)](#).

⁶ In the case of Guyana, prison overcrowding has been occurring despite the absence of a pronounced rise in crime (increase in most crime categories have been in single digits between 2013 and 2015; see, United States Department of State, Overseas Security Council). As will be explained in this document, practices such as the overuse of pretrial detention and reliance on custodial sentences for minor offenses are key factors contributing to the overcrowding of prisons.

⁷ Nagin, Daniel (2013). Deterrence in the Twenty-First Century, Crime and Justice: A Review of Research.

⁸ The Caribbean region shows similar or higher recidivism rates, according to administrative data from neighboring countries: The Bahamas (24%), Jamaica (28%), Barbados (64%), and Trinidad and Tobago (60%).

depreciates;⁹ (ii) feelings of resentment against society¹⁰ and strengthening of an offender's "deviant identity";¹¹ and (iii) decrease of bonds to institutions such as family, employment, school, and conventional norms.^{12,13}

- 1.4 Even if an expansion of prison facilities could conceivably alleviate the pressure put on penitentiary systems, the root causes of high imprisonment rates must be changed. Otherwise, the new prisons are likely to be filled, requiring prisons to be built constantly.¹⁴ As has been insistently pointed out, the harmful effects of imprisonment go beyond its economic costs, as it has been associated with other harmful effects such as recidivism, even in non-overcrowded facilities.¹⁵
- 1.5 **Relevant actors.** Addressing the causes of prison overcrowding requires a wide view of all public entities that implement policies related to the functioning of the criminal justice system. Indeed, the effectiveness of this programme's activities will rely on a coordinated approach by various criminal justice institutions whose decisions have consequences on the size of the prison population.¹⁶ Therefore, a summary of some of the institutions and actors relevant to the programme is presented as follows:
 - a. The Ministry of Legal Affairs (MOLA) is in charge of ensuring an adequate functioning of the country's system for the administration of justice, providing legal advice, services and representation for the government, as well as drafting legislation for presentation to Parliament. The Minister for Legal

⁹ Associating with more experienced inmates can lead new inmates to adopt the older inmate's deviant behavior (Hawkins, Gordon (1976). *The Prison: Policy and Practice*. Chicago, IL: Chicago University Press; Steffensmeier, Darrell and Ulmer, Jeffrey T. (2005). *Confessions of a Dying Thief*. New Brunswick, NJ: Aldine/Transaction.

¹⁰ Sherman, Laurence (1993). "Defiance, Deterrence and Irrelevance: A Theory of the Criminal Sanction". *Journal of Research in Crime and Delinquency* 30: 445-473.

¹¹ Matsueda, Ross (1992), "Reflected Appraisals, Parental Labeling, and Delinquency: Specifying a Symbolic Interactionist Theory", *American Journal of Sociology* Vol. 97, No. 6.

¹² Durlauf, Steven and Nagin, Daniel, *Imprisonment and Crime. Can Both be Reduced?* Criminology and Public Policy (2011).

¹³ It has been observed that the negative consequences of prison are particularly pervasive to women in general, as they are at a high risk of abuse and violence throughout the criminal justice process (see, for example, *Women in the Criminal Justice System; The Sentencing Project* (2007). In the case of Guyana, women are estimated to account for 3.5% of the total prison population (Penal Reform International, *Women in the Criminal Justice System*. World Prison Brief, Institute for Criminal Policy Research (data from 2013).

¹⁴ See UNODC, *Handbook on Strategies to Reduce Overcrowding of Prisons*, Criminal Justice Handbooks Series, New York (2013).

¹⁵ See, for example, Bondeson, U.V., "Global Trends in Corrections", in *International Annals of Criminology*, Volume 36, 1998, pp. 91-116; Cid, J., "Is Imprisonment Criminogenic?: A comparative study of recidivism rates between prison and suspended prison sanctions" (2009) *European Journal of Criminology*. 6(6):459-480; Lappi-Seppala, T., *Crime Prevention and Community Sanctions in Scandinavia* (http://www.unafei.or.jp/english/pdf/RS_No74/No74_06VE_Seppala2.pdf); The Matrix Knowledge Group, *The Economic Case for and against Prison*; Cocker, S. (2006) *Using reconviction data to explore the effectiveness of community penalties in West Yorkshire*, Report no. 2005/6-5, National Probation Service, West Yorkshire; Bartels, L 2009, 'The weight of the Sword of Damocles: a reconviction analysis of suspended sentences in Tasmania', *Australian and New Zealand Journal of Criminology*, vol. 42, pp. 72-101.

¹⁶ For example, decisions that promote minimizing the use of imprisonment can contribute to reducing inflows into prisons; greater efficiency in the performance of key institutions' responsibilities can reduce unnecessary delays and unfair sentencing.

Affairs -who is also the Attorney General- holds parliamentary and cabinet accountability for all justice sector institutions not otherwise represented in Parliament or Cabinet. MOLA has, therefore, a prominent role in representing the justice sector and ensuring that reform processes in this area are implemented in a coordinated and coherent manner.

- b. The Judiciary, which comprises the Court of Appeals, the High Court and the Magistrates Courts. For purposes of the programme, emphasis will be made on the Magistrates Court, which handles about 90% of all litigation in the country. Within criminal jurisdiction, this includes: (i) non-indictable offenses (minor, non-violent offenses carrying a potential sentence of up to five years); and (ii) preliminary inquiries of indictable offenses (initial hearings of cases which go to the High Court for full trial).
- c. The GPS, which falls under the authority of the Ministry of Public Security. The GPS is charged with housing and rehabilitating the country's prisoners. There are five prisons in Guyana, one of which, Georgetown Prison (also referred to as Camp Street Prison), houses approximately 65% of the country's inmates (including all pre-trial detainees).¹⁷
- d. The Department of Public Prosecutions (DPP) is responsible for instituting and undertaking criminal proceedings (other than courts martials), and the taking over and continuing of criminal proceedings instituted by the police when the DPP considers it is in the interests of justice to do so. In practice, police prosecutors deal with Magistrates Court prosecutions and the DPP prosecutes cases in the High Court. The DPP has oversight of all criminal prosecutions, and provides legal advice on criminal matters to the Police and other law enforcement agencies.
- e. The Probation Service is part of the Ministry of Social Protection. It is headed by the Chief Probation and Family Welfare Officer and it is in charge of providing reports to Judges and Magistrates for sentencing purposes. In addition, when resources allow, probation officers go into prisons and provide a source of counselling for prisoners and provide links between prisoners and their families. It is also charged with supervising inmates that are released before their sentence is completed as a result of their rehabilitation.
- f. Attorneys. Most attorneys in Guyana are employed in private practice. There are currently close to 200 practicing attorneys of which about 30% are members of the voluntary Bar Association. Firms tend to be small, with only a handful having more than six lawyers. Many law graduates set up in solo practice immediately after qualification. Qualification as an attorney consists of a law degree followed by a legal education certificate (usually obtained in law schools from The Bahamas, Jamaica or Trinidad and Tobago), which includes some practical experience. A period of traineeship is not required in order to obtain a practicing certificate.

¹⁷ The remaining prisons are known as New Amsterdam, Mazaruni, Sibley Hall, Lusignan and Timehri.

- g. **Non-Governmental Organizations.** In Guyana, as in other contexts, civil society has made contributions to the improvement of the administration of justice by: providing services to users of the justice system (for example, legal aid provision in civil matters); as trainers (for example, some organizations have been training new police recruits on domestic violence); and as promoters of change (by acting as lobbyists and advocates for particular causes, such as the elimination of the death penalty).
- 1.6 **The problem.** The general problem to be addressed by this operation is the overcrowding conditions for adults at Guyana's penitentiary system. The programme will address this challenge by focusing on two specific issues that contribute to that situation: (i) the high proportion of individuals accused of non-violent offenses who are incarcerated while in pre-trial detention; and (ii) reliance by the criminal justice system on custodial sentences for minor offenses.
- 1.7 **Use of pre-trial detention.** A high proportion of individuals accused of minor, non-violent offenses are incarcerated worldwide while in pre-trial processing.¹⁸ Guyana is not an exception to this trend, as GPS data show that, by the end of 2015, 38.46% of Guyanese adult inmates were pre-trial detainees¹⁹ (persons who, in connection with an alleged offense, are deprived of liberty following a legal process but have not been definitively sentenced by a court).²⁰ According to GPS data, 37% of pre-trial detainees are in prison for periods between two and four years before their cases are decided; out of this population, 46% have been detained due to minor, non-violent offenses. This use of pre-trial detention is another contributing factor to the overcrowding of Guyanese prisons²¹ and

¹⁸ As has been observed, "Most pretrial detainees are poor, and economically and politically marginalized. The poor and powerless lack the money to hire a lawyer, procure bail (or bond) or pay a bribe". Presumption of Guilt: the Global Overuse of Pretrial Detention. Open Society Foundation, Justice Initiative (2014).

¹⁹ According to the World Prison Brief, this is higher than the average in the world (32%) and the Americas (30%). Other countries in the Caribbean show the following percentages: The Bahamas (42%), Barbados (44.1%), Jamaica (14.8%), Suriname (50%), and Trinidad and Tobago (43.3%). See, [International Centre for Prison Studies \(ICPS\), World Pre-trial/Remand Imprisonment List, Second Edition \(2012\)](#).

²⁰ Pre-trial detention can have a negative effect on defendants' ability to prepare for trial given that prison conditions often force defendants to ensuring their own safety rather than preparing their defense. Access to a lawyer or information about their case are often limited if the defendant is detained. As has been noted, people in pre-trial detention are more likely to be condemned than those who remain at liberty before their trial (see, for example, Working Group on Arbitrary Detention, Report of the Working Group on Arbitrary Detention, United Nations Commission on Human Rights, E/CN.4/2006/7, 2006).

²¹ In some cases, pre-trial detainees are kept together with sentenced prisoners, which contravenes international best practices and hinders rehabilitation (interview with members of the Guyana Bar Association). Indeed, studies have concluded that detaining low- and moderate-risk defendants, even just for a few days, is strongly correlated with higher rates of new criminal activity both during the pretrial period and years after case disposition. For instance: bivariate and multivariate models (logistic regression) used on a dataset of more than 153 thousand defendants in Kentucky showed that: (i) when held 2-3 days, low-risk defendants are almost 40% more likely to commit new crimes before trial than equivalent defendants held no more than 24 hours; (ii) when held 8-14 days, low-risk defendants are 51% more likely to commit another crime within two years after completion of their cases than equivalent defendants held no more than 24 hours (Lowenkamp et al., 2013. The Hidden Costs of Pretrial Detention).

constitutes a fairly complex challenge,²² as it is affected by the following determinants:

- a. A majority of adult detainees accused of minor offenses lack legal counsel. The majority of adult defendants in criminal cases at the Magistrates Courts (which hear all minor offenses cases) are unrepresented. This lack of access to legal counsel may be due to the lack of legislation that guarantees defendants' right to lawyers, together with a lack of a functioning, effective legal aid system, along with a shortage of lawyers or paralegals doing pro bono work.²³ The Magistrate Courts estimate that 90% of those accused of minor offenses in 2016 appeared unrepresented in court.²⁴
- b. Long processing delays at the prosecutorial stage. Prosecutions of minor criminal offences are carried out by police prosecutors who are assigned all cases before a particular Magistrates Court independently of case complexity or level of experience (in a context of scarcity of training resources). Police prosecutors manage their cases manually without a proper tracking system, which adds to the difficulty of keeping good records of filings and case status (interview with police prosecutors, August 2016). Prosecutorial discretion to dismiss or plea bargain minor offenses cases (or to take into account the situation of vulnerable groups) is very rarely exercised as police prosecutors frequently lack the adequate skills to handle such decisions. According to judicial records, only 23% of prosecuted non-indictable cases were decided during 2015.
- c. High judicial backlog of criminal cases involving minor offenses. Postponements of trials are frequent due to case overload at the Magistrate Court level, absence of witnesses, and difficulties in recording, filing and tracking cases, as well as scheduling hearings (interview with Chief Magistrate, August 2016). The backlog of non-indictable matters reached over 15 thousand cases in 2015 (which is 83% of this type of complaints originated during that year, according to judicial records). According to statistics from the Magistrate Court Clerk, a case can take an average of 220 days to move from indictment to the conclusion of a preliminary inquiry (even in minor offenses cases entailing pre-trial detention).
- d. Lack of alternatives to solve minor disputes. Alternatives where the victims and offenders (and some other community members) meet and agree on plans to right the situation (such as Restorative Justice (RJ)) have proven successful in other jurisdictions, including in the Caribbean, as they can reduce the likelihood of the offenders to continue engaging in unlawful activities. These types of alternatives have been associated with two major benefits: reducing repeat offending and repairing harm caused to victims of

²² Excessive use of pre-trial detention affects not only detainees but also their families and communities as it has consequences for public health, rule of law and socio-economic development (see Op. Cit. Open Society Foundation).

²³ The few lawyers provided by the State are reserved for serious (capital) offenses. (Guyana Business Law Handbook, Volume 1, Strategic Information and Basic Laws, International Business Publications, 2015. Page 64-65).

²⁴ Interview with Guyana's Chief Magistrate (August 2016).

crime.²⁵ These alternatives are currently absent in the Guyanese context, where no minor disputes involving adults are solved in this manner.²⁶

1.8 Reliance on custodial sentences for minor offenses. The tendency for stricter law enforcement and sentencing is a specific problem that results in significant increases in prison population by locking up persons charged with petty and non-violent offences. According to the GPS, approximately half of the country's sentenced inmates (49.4%) were accused of non-violent offenses. This problem is affected by the following determinants:

- a. Low use of available alternatives to imprisonment. Guyana's legislation allows for a limited range of alternatives to imprisonment. The situation is compounded by the reluctance of the justice system to apply the options provided by the law. Indeed, Guyanese judges have the option of both probation and community service orders as alternatives to imprisonment. Nonetheless, these measures are scarcely used (in 2015, only 0.4% of all sentenced adults were on probation)²⁷ because Magistrates lack both incentives to make use of these options and confidence in the effectiveness of the Department of Probations (Ministry of Social Protection) to provide efficient supervision of offenders in their communities, given its insufficient resources and trained staff.²⁸
- b. Absence of alternative sentencing options for minor offenders. As discussed, a prison sentence –with its often damaging effects– is usually an inappropriate sanction, especially for non-violent, minor offenses.²⁹ Various alternatives have been implemented in other jurisdictions, such as bail, seizure of travel documents, periodic reporting to police or other authorities, electronic monitoring or curfews, and conditional and suspended sentences. In Guyana, the MOLA is charged with drafting new legislation on criminal justice and introducing it for consideration of the Parliament. However, the MOLA is currently experiencing institutional shortcomings to permanently perform this function. Indeed, the MOLA has been able to dedicate only one legal expert (hired with finite international aid resources) to perform this function, without adequate support or equipment. As a result, legislative reviews to ensure that modern alternatives to imprisonment are introduced have lagged.³⁰

²⁵ See, for example, Sherman, Laurence. "Effects of face to face RJ on victims of crime in four randomized controlled trials". *Journal of Experimental Criminality* (2005) 1:367-395.

²⁶ CARICOM: Regional Forum stresses the need for RJ (2016); interview with Chief Justice (2016).

²⁷ Information provided by the Guyanese Probation Service.

²⁸ Interviews with probation officers, August 2016. It is expected that overcoming this judicial reluctance will require coordinated efforts by more than one relevant actor (beyond the Executing Agency). This joint approach will be fostered by the execution arrangements of the programme as described in Chapter III of this document.

²⁹ Cullen, Francis, Cheryl Lero Johnson and Daniel S. Nagin. *Prisons Do Not Reduce Recidivism: The High Cost of Ignoring Science*. *The Prison Journal* 91 (3) (2011).

³⁰ Most law review functions were reduced after international aid ceased in 2010; no significant legal reform in criminal justice has occurred since then (Interviews with MOLA staff, August 2016).

- 1.9 **Lessons Learned.** Relevant lessons can be extracted from two Bank-funded operations previously implemented in Guyana. First, the Citizen Security Programme (an investment loan, [1752/SF-GY](#), approved in 2006 and completed in 2014), which sought to improve social cohesion, by fomenting a preventive approach to violence through the strengthening of key security sector institutions, as well as the improvement of relationships among residents of at risk communities. By the programme's conclusion, a positive trend in the number of crimes committed within targeted communities was observed. The second operation, the Modernization of the Justice Administration Programme (a hybrid operation, [1745/SF-GY and 1746/SF-GY](#), that was approved in 2006 and concluded in 2013), sought to address key policy reforms related to the functioning of the justice system as a whole and supported the operational capabilities of the Judiciary at the High Court level. By the programme's conclusion, the High Court's clearance rates had improved; successful prosecution of violent offenses had increased, as did the number of settled civil mediation disputes. It is expected that the present programme will add to the achievements of these programmes by tackling criminal justice issues not directly addressed by those previous efforts, such as the criminogenic effects of overreliance on imprisonment.
- 1.10 Some key lessons identified from these previous programmes include: (i) the importance of full-time, dedicated, Programme Implementing Unit (PIU) staff with requisite experience and skills, as well as structured and consistent Executing Agency (EA) oversight of PIU's performance;³¹ and (ii) the importance of ensuring participation of all entities involved in solving the issues addressed by the programmes. The lessons learned have been incorporated into the design of the present programme by including a coordinating body (see paragraph 3.3) that will allow for all relevant agencies to provide inputs and collaborate with the achievement of the programme's objectives. Similarly, the programme will be executed by a group of professionals dedicated to the implementation of the operation's activities. Additionally, more sector-specific lessons include, among others, the importance of allocating resources to the generation of crime-related data (prison surveys will be conducted during the execution of this Programme); and, the need to promote alliances with social sector line ministries already engaged in crime prevention interventions (the Steering Committee for this programme will include the Ministry of Social Protection).
- 1.11 **Rationale for intervention.** This programme will contribute to reduce prison overcrowding through a comprehensive approach that combines institutional strengthening activities affecting various institutions that are relevant to the issue. The programme will also be consistent and complementary with another IDB project currently in execution in Guyana: the Citizen Security Strengthening

³¹ In the case of the hybrid justice programme (1745/SF-GY and 1746/SF-GY), there was a project implementation structure whereby two PIU were appointed for programme implementation. This created certain inefficiencies in areas such as procurement (i.e., tendering of IT which could have been more efficiently managed in consolidated tenders), project management reporting (inconsistencies in formats that were eventually rectified), and uneven workflows and workload. These issues are expected to be avoided in the present operation by the appointment of one PIU.

Program (CSSP) (3369/BL-GY), which is a \$15M loan operation approved in 2014. That operation includes a component focused on improving the effectiveness of the GPS in reducing offender recidivism at the national level through two streams of activity. Under the first stream of activity, CSSP aims to strengthen GPS capacity to better deliver rehabilitation programmes and provide reintegration opportunities through financing of a national prison survey, a needs and assets institutional assessment; the design and implementation of a rehabilitation and reintegration model, including training for prison staff and service providers, and implementation of a case management tool. Under the second stream of activities, CSSP aims to contribute to the understanding of pre-trial detention through financing of an in-depth study of its use and effects, as well as analysis of non-custodial alternatives. By addressing shortcomings in other areas of the justice system that affect overcrowding (such as legal defence, prosecutions, the Judiciary and probations), the present programme will complement the work already started by the CSSP.

- 1.12 **Strategic Alignment.** This programme is included in the 2016 Operational Program Report (GN-2849) and in the Country Program Document 2016. It is consistent with Guyana's Poverty Reduction Strategy (Improving Citizen's Security in Chapter 9). It also contributes to the "area for continued strategic dialogue" included in the IDB Country Strategy with the Cooperative Republic of Guyana, 2012-2016 (GN-2690): citizen security. The programme is also consistent with the Update to the Institutional Strategy (UIS) 2010-2020 (AB-3008) and is aligned with the cross-cutting theme of institutional capacity and rule of law by: (i) ensuring that persons in pre-trial detention have access to legal assistance; (ii) providing prosecutors with the ability to use their discretionary powers to plea bargain non-violent cases before they proceed to trial; (iii) strengthening the capacity to solve cases of the Magistrate Courts; (iv) implementing a restorative justice programme; and (v) strengthening the probation service. Additionally, the programme will contribute to the Corporate Results Framework (CRF) 2016-2019 (GN-2727-6) output indicator of "Government agencies benefited by projects that strengthen technological and managerial tools to improve public service delivery" by including among its outputs: (i) number of offices for the Law Reform Commission equipped and operating; (ii) number of risk and assessment tools designed and implemented; and (iii) number of probation offices equipped and operating (see Results Matrix).
- 1.13 The programme is also aligned with the Operational Guidelines for Program Design and Execution in the Area of Civic Coexistence and Public Safety (GN-2535-1), specifically its priority target area of "prevention, criminal and alternative justice, and rehabilitation from a preventive perspective (Component 3); the Sector Strategy Institutions for Growth and Social Welfare (GN-2587-2), specifically, its component of "reducing insecurity and violence"; and is consistent with the Citizen Security and Justice Sector Framework Document (GN-2771-3), specifically its third dimension of success, "citizens have access to efficient and timely criminal justice services".

B. Objective, Components and Cost

- 1.14 The general objective of the programme is to contribute to the reduction of high concentrations of prison population in Guyana. The specific objectives are to:

(i) reduce the proportion of inmates who are pre-trial detainees; and (ii) increase the use of alternative sentencing in the country.

1.15 Component 1. Reduction of the use of pre-trial detention (US\$3.375.000).

This component will seek to address institutional gaps that contribute to the high proportion of persons who are detained while awaiting their trial. The component will finance:

- a. A pilot project (under the MOLA) to provide legal assistance to persons accused of minor, non-violent offenses in pre-trial detention. Training activities will strengthen legal representation skills among Non-Governmental Organizations (NGO) and other aid providers. The programme may use supervised paralegals³² to provide support in various legal aid tasks in prisons and police stations, such as seeking dismissal of charges, arranging diversion where appropriate, or arguing for bail and generally avoiding procedural delays.³³ Preference will be given to defendants facing charges for less violent offenses. The programme will finance: (i) an assessment of NGO suited for provision of legal aid; (ii) an outreach and training programme to strengthen legal representation skills of NGO and individual legal aid providers;³⁴ (iii) a study to set up quality standards for legal aid services, develop standardized training programmes, establish quality monitoring and evaluation mechanisms, and explore financial sustainability measures for a permanent legal aid provision system; and (iv) the hiring of a team (paralegals and supervising lawyers) to undertake the defence of selected non-violent cases before the courts. It is estimated that 20% of those accused of minor, non-violent offenses in pre-trial detention will benefit from this intervention.
- b. The component will also seek to enhance the DPP and police prosecutors' ability to handle their cases before they proceed to trial. This will include: (i) the development of a set of criteria for deciding on the appropriateness of discharging a case or imposing a suitable non-custodial measure;³⁵ (ii) training of DPP and police prosecutors to enhance their handling of their cases in a consistent and fair manner, as well as raise their awareness about the needs of vulnerable groups; and (iii) provision of information technology equipment for prosecutors in order to contribute to their

³² Paralegals will provide assistance under the supervision of two practicing attorneys in order to alleviate their work load and carry out legal tasks that do not require direct participation of attorneys in accordance to local legislation.

³³ Evidence shows that by increasing access to legal representation, pre-trial detention can be reduced. Through the implementation of a pilot project in Sierra Leone which provided front line legal assistance at police stations and prisons to suspects and detainees, combined with community outreach, the pre-trial population was reduced by 20% as a percentage of the overall prison population (Bilal Siddiqi, 2012). A Quasi-Experimental Impact Evaluation of a Criminal Justice Paralegal Program in Sierra Leone, Center for the Study of African Economies, Oxford University). The project focused on providing basic criminal justice procedures training to paralegals to work with pre-trial detainees at the prison, with arrested suspects at the police station, with the community members and with justice sector officials, to intervene early in the criminal justice process and help solve problems as they emerge.

³⁴ The programme will consider organizations advocating for women's rights as part of this activity.

³⁵ This set of criteria will include consideration for situations where women or men are sole caregivers or breadwinners in their families.

effectiveness in disposing of cases and reducing the need for adjournments.³⁶

- c. Strengthening the Magistrate Court level of the Judiciary by: (i) the implementation of a pilot project by which Magistrates will receive training on evaluating the appropriateness of alternative sentences to certain cases (as part of the pilot, sentenced cases will be reviewed in order to apply currently available alternatives to imprisonment for appropriate, non-violent offenders); (ii) providing the Magistrate Court with a scheduling, case management system and IT equipment to ensure swifter resolution of cases; and (iii) implementing a sensitization and public awareness campaign to highlight the societal consequences of imprisonment as well as the benefits of alternatives in terms of social reintegration of offenders and public safety.³⁷
- d. Design and implementation of a restorative justice programme under the MOLA, to solve minor offenses or disputes through alternatives to trial.³⁸ The component will finance: (i) the design of proper rules of procedure; (ii) the proposal of appropriate standards of performance; (iii) a guide to the type of offences that should be subject of restorative justice processes; (iv) the design and implementation of a training programme for restorative justice officers (including court staff, lawyers, prosecutors, the media, MOLA officials, among others); (v) design and implementation of a marketing strategy to disseminate the benefits of restorative justice processes;³⁹ and (vi) the procurement of furnishings, and related equipment for a restorative justice centre.

1.16 Component 2. Increase in the use of alternative sentencing (US\$3.300.000).

This component will seek to promote a more proactive use of alternative sentencing by the criminal justice system. As has been pointed out, the Guyanese criminal justice system shows a tendency to use imprisonment as its default sanction.⁴⁰ As in other countries, this can be caused by beliefs that society's interests are best served by custodial sentences, by punitive tendencies

³⁶ Evidence from Garicano, L., & Heaton, P. (2010) found that an agency implementing a combination of information technology, specialization of workers, implementation of new work methods integrating technology and technical capacity produce a relative increase of 15% in clearance rates (Garicano, L., & Heaton, P. (2010) Information technology, organization, and productivity in the public sector: evidence from police departments. *Journal of Labor Economics*, 28(1), 167-201).

³⁷ Evidence from a quasi-experimental (non-equivalent groups comparison) pilot project in 8 courts of India (4 piloted vs. 4 non-piloted) showed a 7% average rate of decrease of old civil, criminal and juvenile backlog, when combining executive mentoring of judges with case management systems (Sanjay Salkute 2014). *Court Management - To reduce Backlog of old pending cases and Increase rate of disposal in subordinate Judicial System*. *International Journal of Information, Business and Management*. Vol. 6, No.1, 2014.

³⁸ In seven United Kingdom studies, 72% of victims who experienced RJ expressed satisfaction with the criminal justice system's response, compared to 60% of the control group (Strang, H., L. Sherman, E. Mayo-Wilson, D. Woods, B. Ariel 2013) *RJ Conferencing: Using Face-to-Face Meetings of Offenders and Victims: Effects on Offender Recidivism and Victim Satisfaction*. In addition, a systematic review from the Campbell Collaboration, in South Africa found that two RJ initiatives reached resolution in 80-90% of cases. Monaghan, Rachel (2008).

³⁹ Giving special consideration to more vulnerable population groups.

⁴⁰ United States State Department, Bureau of Democracy, Human Rights and Labor. Guyana 2015 Human Rights Report.

of the criminal justice system as a whole and by the reluctance of judges of being perceived as “soft” on crime.⁴¹ In order to contribute to the modification of this context, this component will finance the following activities:

- a. Implementation of a pilot project implemented at Magistrate Court level to apply currently available alternatives to imprisonment (such as probation) to appropriate, non-violent offenders. This pilot will include: (i) review of selected sentenced cases, emphasizing non-violent offenses;⁴² (ii) development of judicial policies (with the participation of the Judiciary) aiming at reducing overreliance on imprisonment; and (iii) study on appropriate treatment of substance abuse as a health issue.
- b. Strengthening of the probation service (accompanied by appropriate training, hardware and software) so it can perform adequate follow-up of treatments delivered in and after prison, in order to better tend to the rehabilitative needs of those who present a lesser risk of reoffending.⁴³ This will include: (i) review protocols and design risk assessment tools to ensure that released inmates are appropriately tracked; (ii) train probation officers in the use of discretion to appropriately respond to each individual case; and (iii) provide the probation service with systems and equipment to generate and maintain adequate information concerning released offenders.⁴⁴
- c. Strengthening of the Law Reform Commission at the MOLA in its role of drafting new legislation introducing non-custodial sanctions suitable for different types of offenses and applicable to a variety of circumstances.⁴⁵

⁴¹ See UNODC, Op. Cit.

⁴² In order for this pilot to contribute to reduce the rate of imprisonment correct targeting must be applied. During implementation a careful selection of offenders will be conducted to identify eligible persons for non-custodial measures by prioritizing those who are currently receiving short prison sentences and assessing their profiles.

⁴³ Courts typically grant probation for first-time or low-risk offenders. A recent study analyzing different types of probation found that in-home probation is associated with a lower risk of recidivism for first-time violent offenders as compared with subjects placed in group homes or assigned to a more secure setting such as probation camps. This is an important finding because it helps policy makers identify effective and efficient strategies for interrupting criminal careers that do not disrupt important social bonds to family, peers and school (Ryan et al. 2014) First-Time violent Offenders: Probation, Placement, and Recidivism, Social Work Research). Concrete findings include: "Compared with in-home probation, the likelihood of recidivism was 2.12 times greater for individuals assigned to probation camp and 1.28 times greater for those assigned to group homes.

⁴⁴ Similar interventions have demonstrated positive results. For example, a quasi-experiment (interrupted time series) of probation supervision reform using evidence-based practices (including assessment tools and training personnel), showed a reduction of the re-arrest rate for probationers by 17% and for low risk offenders by 77% (Fabelo, A., Nagy, G., & Prins, S. (2011). A Ten-step Guide to Transforming Probation Departments to Reduce Recidivism: A Report. New York: Justice Center, Council of State Governments). Similarly, a comprehensive statistical analysis (multivariate model, controlling for variables that have been shown to be predictors of recidivism; logistic regression and survival analysis) developed on more than 1,530 offenders in Kansas City, shows that those sentenced to prison were 2.3 times more likely than those sentenced to probation to recidivate (charged with a new offense), 1.8 times more likely than probationers to be convicted of a new offense; and 2.2 more likely than probationers to be incarcerated for a new offense. (Spohn and Hol-Ieran 2002). (The Effect of Imprisonment on Recidivism Rates of Felony Offenders: A Focus on Drug Offenders. Criminology 40(2): 329-358).

⁴⁵ It may be noted that although the envisioned legal reforms (introducing new alternatives to imprisonment) can result in additional benefits, they are not strictly necessary for the achievement of the expected outcomes as described in this programme's Result Matrix.

The programme will support the Law Reform Commission with specialized expertise, equipment and furnishing of MOLA working spaces in order to facilitate its task of introducing new sentencing alternatives not currently contemplated by the country's legal framework.⁴⁶ The strengthened Law Reform Commission will elaborate a proposal for the introduction of new alternatives to imprisonment, which the MOLA will present for consideration of the Cabinet.

C. Key Results Indicators

- 1.17 The expected results of the programme include an increased use of alternative sentencing and the reduction of pre-trial detainees. Outcome indicators include: (i) proportion of adult offenders who are detained in pre-trial detention; (ii) backlog of criminal cases; (iii) recidivism rate among adults detained for minor offenses; and (iv) proportion of adult offenders of minor offenses who are on probation (see Annex II). The beneficiaries will be adults who are in conflict with the law (before and after trial) because of minor offenses and who are expected to benefit from different approaches to processing and sentencing. The programme will also benefit institutions in the criminal justice system that will see their functions strengthened by the operation.
- 1.18 **Economic Analysis.** This analysis considers as benefits: (i) the salaries that will be received by potential pre-trial detainees after they have benefitted from the activities of the programme and avoided pre-trial detention; (ii) the extra employment and income generated from the impact of the alternatives to imprisonment that are implemented, particularly those associated with more effective probation services, and (iii) the government expenditure savings due to the earlier release of convicts (because of penalty reductions) and the decline of recidivism. The economic analysis, performed under conservative assumptions, shows that the total estimated benefits of the two components of the programme amounts to US\$66.25 million, with a net present value of US\$12.25 million with an IDB discount rate of 12 percent. The Internal Rate of Return (TIR) is 33.3% percent. These results hold under two conservative sensitivity analyses: (i) a decrease of 10% in the annual salary used to estimate the benefits in both components, and (ii) an increase in the unemployment rate of 10 percentage points. For further information see [Economic Analysis](#).

⁴⁶ Non-custodial measures and sanctions contribute directly to the reduction of the prison population. Furthermore, these alternatives tend to help reducing reoffending, which also helps reduce the prison population in the long term. Studies have shown that reoffending rates tend to be lower when for those sentenced to non-custodial sanctions, in comparison to imprisonment (for example, a study conducted at prison centers in Buenos Aires showed that the use of electronic monitoring made it possible to achieve a reduction of 9% in recidivism, compared with the control group (Di Tella and Schargrotsky (2013). Criminal Recidivism after Prison and Electronic Monitoring. Journal of Political Economy vol. 121, no. 1).

II. FINANCING STRUCTURE AND MAIN RISKS

A. Financing Instruments

- 2.1 This operation will be financed through a specific investment loan for an estimated total cost of US\$8 million. The loan will be financed with resources from the biannual allocation for Guyana (GN-2442-46) of the Single Currency Facility of the Ordinary Capital (OC) and the Fund for Special Operations (FSO).

Table 1. Project Budget (in US\$)

| Category | IDB | % (IDB) |
|--|------------------|------------|
| Component 1. Reduction of pre-trial detention | 3,376,000 | 42.2 |
| Component 2. Increase in the use of alternative sentencing | 3,307,000 | 41.3 |
| Execution costs | 757,000 | 9.5 |
| Auditing and M&E | 256,000 | 3.2 |
| Contingencies | 304,000 | 3.8 |
| Total/ Percentage (%) | 8,000,000 | 100 |

B. Environmental and Social Safeguard Risks

- 2.2 According to the results of the IDB "Safeguards Policy Filter Report", and the safeguard and Environment Policies (OP-703), this operation is classified as Category C, given the low impact on environmental and social issues.

C. Fiduciary Risk

- 2.3 As discussed in Annex III, financial management has been assessed as having low risk largely due to the integrated financial accounting system of the government used in MOLA – IFMAS. Notwithstanding, to strengthen internal control, the recruitment of a financial specialist has been recommended. This recruitment coupled with the provision of training on Bank policies and procedures should mitigate any remaining risks. In terms of procurement functions, the same assessment concluded that the complexity of the programme's activities could present considerable challenges to the MOLA and, therefore, the following mitigating measures were recommended: (i) periodic re-evaluation of the level of risk during project execution; (ii) training for MOLA's procurement specialists by the Bank; (iii) monitoring of the execution according to the operation's procurement plan; and (iv) recruitment of a procurement officer who will be specifically dedicated to the execution of the operation.

D. Other Key Issues and Risks

- 2.4 A risk analysis workshop was held with relevant stakeholders, during which of the 12 key risks identified (eleven of which were non-fiduciary), 1 was rated as "medium" and 4 were rated as "high". The programme's overall risk rating is high. A summary of the risks considered high and their corresponding mitigating measures is presented as follows:

Table 2. Project Non-fiduciary Risks (high and medium)

| Risk | Mitigation Measure |
|---|--|
| High: The MOLA experiences time lapses in building consensus among the various institutions affected by the programme. | Agencies will appoint liaisons to the PIU and a Steering Committee will be established to oversee project implementation. Liaisons and Steering Committee are intended to foster commitment and engagement. |
| High: Limited skills on efficiently sharing and managing information and knowledge within agencies could delay implementation of programme activities. | The programme will include training activities to promote knowledge and information continuity within participating agencies. |
| High: Lack of adequate administrative data and resources delays the implementation of activities and affects the ability of MOLA to evaluate their policies and programmes. | PIU staff to include monitoring and evaluation specialist to be in charge of obtaining and tracking relevant data. |
| High: Lack of funding for the legal aid activities after the programme closes threatens the sustainability of the benefits obtained legally. | As part of the programme, a study for sustainability of legal aid services will be conducted. |
| Medium: Resistance to systemic changes within the respective agencies. | Technical liaisons to the PIU will be appointed by relevant agencies, who together with a Steering Committee, are intended to foster commitment and engagement. Further mitigation will be provided by training activities conducted for relevant agencies on benefits of changes promoted by the programme. |

- 2.5 **Institutional viability.** The programme is the second IDB-financed project to be implemented by MOLA. MOLA has demonstrated administrative capacity and familiarity with IDB requirements and procedures to oversee this operation. IDB will provide ongoing training and guidance to support execution, particularly with respect to fiduciary responsibilities and procedures, as per recommendations from other projects implemented in Guyana. To facilitate coordination with other relevant agencies, such as the Judiciary, the Ministry of Public Security and the DPP, a Steering Committee composed of governmental, civil society, and private sector entities will be established to guide execution (see paragraph 3.3).
- 2.6 **Sustainability.** This programme is Guyana's fourth major investment, with IDB support, to enhance the citizen security and justice sectors in recent years and indicates Guyana's ongoing commitment to invest in this area. As part of this programme's final evaluation, the country will define operational and financial resources necessary to ensure the sustainability of its interventions.
- 2.7 Activities related to functions that prior to the programme's execution had been either absent or performed in smaller scale (such as legal aid or law reform) will be subject of specific sustainability studies that will include: (i) estimates of expenses related to these services; (ii) alignment of such services with Guyana's

legal framework; and (iii) road map, timelines, and benchmarks for transferring the funding of these services to Guyana's budgetary process.⁴⁷

III. IMPLEMENTATION AND MANAGEMENT PLAN

A. Summary of Implementation Arrangements

- 3.1 The Borrower is the Cooperative Republic of Guyana. The EA is the MOLA, which will create and oversee a PIU for project execution. This PIU – responsible for overall project administration, including planning, budgeting, accounting, procurement implementation, and monitoring – will include a full-time project manager, a financial officer, a procurement officer, and a Monitoring and Evaluation (M&E) officer. A legal officer may, if circumstances so require, join the PIU on a temporary basis.
- 3.2 The PIU responsibilities will include: (i) [Annual Operating Plan \(AOP\)](#) preparation and implementation; (ii) financial administration, accounting, and preparation of budgets and disbursement requests; (iii) annual procurement plan preparation and procurement of works, goods and services; (iv) preparation of technical reports and financial statements; (v) monitoring of the programme's activity progress, environmental and social safeguards compliance, and actual and planned results variance; (vi) selection and hiring of the external audit firm and implementation of recommendations; (vii) hiring of consultants to conduct external evaluations; and (viii) serving as liaison to the IDB.
- 3.3 A Programme Steering Committee (PSC) will be established to provide oversight and strategic direction and recommendations as well as ensure the coordination of the programme's activities with those of the various relevant government offices that will be affected by the operation. In addition, each one of the participating institutions will appoint a technical liaison or focal point to provide input in support of the activities of the PIU. The PSC will consist of permanent secretaries and heads of agencies from core ministries, representatives of other organizations and agencies responsible for services and issues related to crime prevention and justice delivery.⁴⁸ The PSC will provide proactive strategic oversight of programme activities, facilitate coordination, collaboration and communication among participating agencies and will address strategic challenges related to achieving the programme goals. The PSC will receive quarterly update reports on the following issues: (i) programme progress in outputs and outcome indicators (compared to the M&E Arrangements, with special attention to new services, such as those related to the legal aid pilot);

⁴⁷ Activities related to the Law Reform Commission are designed to have a high degree of integration with and ownership by the MOLA institutional structure, which is favorable to their sustainability. These activities seek to add value to MOLA's mandate already in place, which is expected to create incentives for the Ministry to absorb the new capacities generated by the programme. As to the legal aid pilots, it is expected that once these services are provided by the programme, the MOLA will also have incentives to advocate for their continuation. Furthermore, actual and potential recipients of this legal assistance will likely become active constituencies interested in the continuation of this type of public services.

⁴⁸ Agencies represented in the PSC will include at minimum: (i) The Judiciary; (ii) the Ministry of Public Security; (iii) the Ministry of Social Protection; (iv) the DPP; (v) the GPS; and (vi) the Ministry of Finance.

(ii) operational issues and challenges; (iii) strategic planning; (iv) work plans for the next period; and (v) coordination with other actors and programmes. The Attorney General will chair the PSC and the PIU's programme manager will serve as its secretary. **Presentation of evidence of the establishment of the PSC will be a special contractual condition prior to first disbursement.**

- 3.4 **Procurement.** The programme will be carried out in accordance with the Policies for the Procurement of Works and Goods Financed by the Bank (GN-2349-9); and the Policies for the Selection and Contracting of Consultants Financed by the Bank (GN-2350-9), and with the provisions established in the loan contract and procurement plan. In addition, for all IDB-financed projects, the borrower is required to prepare and submit to the Bank a draft of the General Procurement Notice (GPN). The Bank will arrange for publication of the GPN on United Nations Development Business online and on the Bank's website. The supervision method for procurement will be ex ante
- 3.5 **Annual Operating Plans.** Each year, the PIU will present an [AOP](#) to the Bank for its non-objection. The [AOP](#) will detail programme execution activities and associated implementation plans for the year; and will include for each programmed activity: annual goals, budget, and implementation schedule.
- 3.6 **Auditing.** The PIU will submit the following documents to the Bank: (i) semi-annual financial reports of the programme to be included in semi-annual progress reports; (ii) annual financial statements of the programme, audited by the Auditor General of Guyana to be submitted within 120 days at the end of each fiscal year, beginning with the fiscal year in which the first expenditures are incurred; and (iii) a final financial report of the programme audited by the Auditor General of Guyana to be submitted by MOLA within 120 days after the date of the last disbursement.
- 3.7 **Special contractual conditions prior to the first disbursement:** (i) presentation of evidence that the MOLA has created the PIU and selected the project manager, procurement officer, financial officer, and a monitoring and evaluation officer, according to professional profiles satisfactory to the Bank; (ii) presentation by the EA, to the Bank satisfaction, of the procurement plan, the first annual operation plan and the financial plan for the programme; (iii) presentation of evidence of the establishment of the Programme Steering Committee; and (iv) the preparation and approval of the Operating Manual for the Programme by the MOLA, in the terms previously agreed with the Bank.

B. Summary of Arrangements for Monitoring Results

- 3.8 Project monitoring will be based on the Results Matrix (RM), [M&E](#) arrangements, [Procurement Plan \(PA\)](#), and [AOP](#). Current government data collection systems will be strengthened as part of the programme to allow for data collection on all RM indicators. The PIU's M&E officer will be tasked with maintaining data collection and monitoring systems. MOLA will submit semi-annual progress reports within 45 days of each semester end, containing: (i) narrative description of activities, procurement processes, and implementation issues for the reported period; (ii) RM indicator update; (iii) statement of costs by component activities

and RM indicator; and (iv) identification of implementation risks/events and mitigation measures.

- 3.9 **Evaluation.** The EA will hire independent consulting services to conduct the programme's mid-term and final evaluation.⁴⁹ The programme will also ensure that technical assistance to build the government's own evaluation capacity is provided, thus complementing all external evaluations. The final evaluation will include an evaluation to provide more robust analysis on key outcomes for two interventions (legal aid and implementation of RJ). The methodology for this impact evaluation will correspond to a difference in differences approach, which will be supplemented with a before and after comparison, to allow comparison of changes in relevant RM indicators (for further detail see [M&E Arrangements](#)).

⁴⁹ The mid-term and final evaluations will be carried out upon (i) commitment of 60% of loan resources or 2.5 years of project execution (whichever occurs first); and (ii) commitment of 90% of loan resources or 4.5 years of project execution (whichever occurs first), respectively.

| Development Effectiveness Matrix | | | |
|---|--|--|---|
| Summary | | | |
| I. Strategic Alignment | | | |
| 1. IDB Strategic Development Objectives | | Aligned | |
| Development Challenges & Cross-cutting Themes | | -Institutional Capacity and the Rule of Law | |
| Regional Context Indicators | | | |
| Country Development Results Indicators | | -Government agencies benefited by projects that strengthen technological and managerial tools to improve public service delivery (#) | |
| 2. Country Strategy Development Objectives | | Aligned | |
| Country Strategy Results Matrix | | | |
| Country Program Results Matrix | | GN-2849 | The intervention is included in the 2016 Operational Program. |
| Relevance of this project to country development challenges (If not aligned to country strategy or country program) | | | |
| II. Development Outcomes - Evaluability | | Evaluable | Weight |
| | | 7.3 | 10 |
| 3. Evidence-based Assessment & Solution | | 6.0 | 33.33% |
| 3.1 Program Diagnosis | | 1.8 | |
| 3.2 Proposed Interventions or Solutions | | 1.2 | |
| 3.3 Results Matrix Quality | | 3.0 | |
| 4. Ex ante Economic Analysis | | 8.5 | 33.33% |
| 4.1 The program has an ERR/NPV, a Cost-Effectiveness Analysis or a General Economic Analysis | | 4.0 | |
| 4.2 Identified and Quantified Benefits | | 0.0 | |
| 4.3 Identified and Quantified Costs | | 1.5 | |
| 4.4 Reasonable Assumptions | | 1.5 | |
| 4.5 Sensitivity Analysis | | 1.5 | |
| 5. Monitoring and Evaluation | | 7.5 | 33.33% |
| 5.1 Monitoring Mechanisms | | 2.5 | |
| 5.2 Evaluation Plan | | 5.0 | |
| III. Risks & Mitigation Monitoring Matrix | | | |
| Overall risks rate = magnitude of risks*likelihood | | High | |
| Identified risks have been rated for magnitude and likelihood | | Yes | |
| Mitigation measures have been identified for major risks | | Yes | |
| Mitigation measures have indicators for tracking their implementation | | Yes | |
| Environmental & social risk classification | | C | |
| IV. IDB's Role - Additionality | | | |
| The project relies on the use of country systems | | | |
| Fiduciary (VPC/FMP Criteria) | | Yes | Financial Management: Budget, External control. |
| Non-Fiduciary | | | |
| The IDB's involvement promotes additional improvements of the intended beneficiaries and/or public sector entity in the following dimensions: | | | |
| Gender Equality | | | |
| Labor | | | |
| Environment | | | |
| Additional (to project preparation) technical assistance was provided to the public sector entity prior to approval to increase the likelihood of success of the project | | | |
| The ex-post impact evaluation of the project will produce evidence to close knowledge gaps in the sector that were identified in the project document and/or in the evaluation plan | | | |

Note: (*) Indicates contribution to the corresponding CRF's Country Development Results Indicator.

The growth of the prison population in Guyana and the overcrowding conditions in which that population is held has become a cause of considerable concern in the country. According to official figures, Guyana has a prison population rate of 256 per 100,000 of national population, which significantly surpasses the world average (146 per 100,000). In this context, two specific problems were identified: (i) the high proportion of individuals accused of non-violent offenses who are incarcerated while in pre-trial detention; and (ii) the reliance by the criminal justice system on custodial sentences for minor offenses. While these problems are clearly identified and quantified, their determinants are not. As a consequence, the link between the solutions proposed and the determinants of the main problems cannot always be adequately established.

The project's vertical logic is clear and well specified. The project presents adequate evidence of internal validity of the proposed solutions. The Result Matrix included in the loan proposal contains all of its required elements for the monitoring of the project.

The project's economic analysis is partially adequate. Taking a social discount rate of 12%, a time horizon of 15 years and benefits and costs at market price, the program proposed is economically viable. The benefit-cost ratio under the conservative scenery is estimated at 2.89. Although the benefits estimated are sufficient to justify the investment, the Economic Analysis has systematically under-estimated the medium and long-run benefits of the project. This occurred because the analysis did not consider the longer-term project impact on crime prevalence associated with the expected reduction in the offender's recidivist rate.

The loan proposal includes a satisfactory monitoring and evaluation plan (MEP). The project has identified and adequately addressed the monitoring and evaluation requirements and the data availability.

The project's overall risk rating is Medium. Of the twelve risks identified, one was classified as Medium and four were classified as High. Mitigation measures were identified with adequate monitoring indicators.

RESULTS MATRIX

| | |
|---------------------------|---|
| Project Objective: | The general objective of the programme is to contribute to the reduction of high concentrations of prison population in Guyana. The specific objectives are to: (i) reduce the proportion of inmates who are pre-trial detainees; and (ii) increase the use of alternative sentencing in the country. |
|---------------------------|---|

EXPECTED IMPACT¹

| Indicators | Unit of measure | Baseline | Baseline Year | Year 1 | Year 2 | Year 3 | Year 4 | End of Project | Means of verification | Observations |
|---|---|----------|---------------|--------|--------|--------|--------|----------------|----------------------------|---|
| IMPACT #1: Reduce the high concentration of adult prisoners in Guyana's penitentiaries | | | | | | | | | | |
| Adult prison population in Guyana ² | Rate (# of inmates/ 100,000 of national population) | 272.5 | 2016 | | | 265.15 | 258.02 | 251.07 | Registry of the High Court | Adult prison population refers to all individuals older than 18 years of age, incarcerated and part of the Guyana Prison System. The rate was calculated using the total number of prison population and the annual population in Guyana. |

¹ Impact and outcome targets were calculated by assigning an expected outcome change percentage for the population potentially benefited by the programme, resulting from programme activities. Expected change for each impact and outcome indicator was derived from existing empirical evidence (internal validity).

² Bilal Siddiqi (2012). 20% reduction in the level of pre-trial population as a percentage of the total population (as a result of combined paralegal and legal counseling services), which is estimated to produce a conservative 7% reduction of the total prison population.

| | | | | | | | | | | |
|--|---|-------|------|--|--|------|------|------|---|---|
| Prison over-occupancy level in Guyana ³ | Percentage (%) | 118.5 | 2015 | | | 114 | 110 | 105 | World Prison Brief | The Over-occupancy level was calculated based on official capacity of the prison system and current occupation level. |
| Recidivism rate ⁴ | % of total number of offenders released from prison | 21.3 | 2013 | | | 20.0 | 19.0 | 18.0 | Source: Magistrate Court/GPS Means: ICIS and Magistrate's annual reports requested by the programme execution unit | Baseline value corresponds to official aggregated data for the recidivism rate of convicted adult offenders as of 2013. |

³ Usta and Wein (2015). Alternative sentencing for low-level felony offenders including community supervision alleviates jail congestion by almost 20%. A 10% decrease in prison occupancy level was assumed to be conservative as limited documented experience for this intervention in developing countries is available.

⁴ Fabelo et al. (2011). Reform of probation supervision using evidence-based practices, including assessment tools and training personnel, found a reduction of the overall re-arrest rate for probationers by 17% and for low risk offenders by 77%. A conservative target of 15% decline is set, as limited documented experience for this intervention in developing countries is available.

EXPECTED OUTCOMES

| Indicators | Unit of measure | Baseline Value | Baseline Year | Year 1 | Year 2 | Year 3 | Year 4 | End of Project | Means of verification | Observations |
|---|---|----------------|---------------|--------|--------|--------|--------|----------------|--|--|
| OUTCOME # 1: Reduce the proportion of inmates in pre-trial detention | | | | | | | | | | |
| Proportion of total prison population who are detained in pre-trial detention ⁵ | % of total prison population | 38.46 | 2015 | | | 35 | 32 | 30 | Source: Guyana Prison Service (GPS) Means: Integrated Crime Information System (ICIS) | Adults older than 18 who are detained in pre-trial for minor offenses. The denominator is the total prison population and the numerator is the part of the prison population that is detained before a sentence is rendered. |
| OUTCOME # 2: Reduce the proportion of inmates who are detained at the sentencing stage | | | | | | | | | | |
| Recidivism rate of adult offenders detained for minor offenses ⁶ | % of total number of minor offenders released from prison | 13 | 2015 | | | 12 | 11 | 10 | Source: Magistrate Court/GPS Means: ICIS and Magistrate's annual reports | Baseline value corresponds to official data for the recidivism rate of adult offenders detained for minor offenses |

⁵ Bilal Siddiqi (2012). The final target is consistent with evidence suggesting a 20% reduction in the level of pre-trial population as a percentage of the total population (as a result of combined paralegal and legal counseling services) in Sierra Leone.

⁶ Fabelo et al. (2011). Reform of probation supervision using evidence-based practices, including assessment tools and training personnel, found a reduction of the overall re-arrest rate for probationers by 17% and for low risk offenders by 77%. A conservative target of 20% decline is set, as limited documented experience for this intervention in developing countries is available.

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|---|------------------------------------|------|------|--|--|------|------|------|--|---|
| | | | | | | | | | requested by the programme execution unit | as of 2013. |
| Proportion of total prison population who are on probation ⁷ | % of total prison population | 0.89 | 2015 | | | 0.94 | 1.00 | 1.05 | Source: Ministry of Social Protection Means: Annual probation programme monitoring report | Baseline value corresponds to 18 adults sentenced to probation, as a proportion of the total prison population. However, baseline and targets will be adjusted, for those offenders detained for minor offenses who are convicted to probation. Once the 2017 prison survey data is available. |

⁷ Ostrom et al. (2002). A Three-Stage Evaluation (Process of Sentencing Reform, Empirical Study of Diversion & Recidivism, Benefit-Cost Analysis) of the use of alternative sentences based on new sentencing guidelines and the use of an offender risk assessment tool for judges, suggests an approximate 25% increase of offenders diverted to alternative sentences (non-violent offenders who would otherwise receive incarceration to alternative punishments). As limited documented experience for this intervention in developing countries is available, a conservative target of a 15% increase in the use of probation, as an alternative to incarceration is set.

OUTPUTS

| Outputs | Unit of measure | Baseline Value | Baseline Year | Year 1 | Year 2 | Year 3 | Year 4 | End of project | Means of verification | Observations |
|---|------------------|----------------|---------------|--------|--------|--------|--------|----------------|-----------------------|--------------|
| Component # 1: Reduce the use of pre-trial detention | | | | | | | | | | |
| 1. Number of assessments of NGO suited for training, supervising and organizing paralegals produced and completed | # of assessments | 0 | 2016 | 1 | 0 | 0 | 0 | 1 | PIU ⁸ | |
| 2. Number of legal assistance training programmes provided and completed by paralegals | # of programmes | 0 | 2016 | 0 | 1 | 0 | 0 | 1 | PIU | |
| 3. Number of studies of legal standards produced and completed | # of studies | 0 | 2016 | 1 | 0 | 0 | 0 | 1 | PIU | |
| 4. Number of paralegals under the defense programme hired and working | # of paralegals | 0 | 2016 | 0 | 5 | 10 | 0 | 15 | PIU | |

⁸ Mean of verification for this and other products will be the PIU's progress reports that will be prepared semi-yearly.

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|---|--------------------------|---|------|---|---|----|---|----|-----|--|
| 5. Number of legal criteria documents (for deciding non-custodial measures) developed and implemented | # of studies | 0 | 2016 | 1 | 0 | 0 | 0 | 1 | PIU | |
| 6. Number of DPP and police prosecutors trained and certified on the use of non-custodial measures | # of prosecutors | 0 | 2016 | 0 | 9 | 10 | 0 | 19 | PIU | Currently there are 19 prosecutors in the country (including police and PDP). It is estimated that all of them will be trained by the programme. |
| 7. Number of prosecutorial offices equipped and operating | # of offices | 0 | 2016 | 0 | 0 | 2 | 0 | 2 | PIU | Equipment refers to information technology (hardware and software). |
| 8. Number of judges and magistrates trained and certified in the use of alternatives to pre-trial detention | # of judges /magistrates | 0 | 2016 | 0 | 5 | 10 | 5 | 20 | PIU | The total number of magistrates and judges in 2015 was 38. (Registry of the High Court. August 2016). It is estimated that |

| | | | | | | | | | | |
|---|---|---|------|---|---|---|---|---|-----|--|
| | | | | | | | | | | 20 of them will be trained by as part of a pilot project. |
| 9. Number of case management and scheduling systems designed and implemented | # of case management and scheduling systems | 0 | 2016 | 0 | 0 | 1 | 0 | 1 | PIU | |
| 10. Number of public awareness campaigns on pre-trial detention developed and implemented | # of campaigns | 0 | 2016 | 0 | 1 | 0 | 0 | 1 | PIU | |
| 11. Number of guidelines, rules and procedural documents completed and implemented | # of guidelines documents approved | 0 | 2016 | 3 | 0 | 0 | 0 | 3 | PIU | These new guidelines will be implemented within a pilot project financed by the programme. |
| 12. Number of training workshops provided and completed on restorative justice | # of workshops | 0 | 2016 | 3 | 3 | 3 | 0 | 9 | PIU | |

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|--|----------------------------|---|------|---|---|----|---|----|-----|--|
| 13. Number of restorative justice centers equipped and operating | # of centers | 0 | 2016 | 0 | 0 | 1 | 0 | 1 | PIU | |
| 14. Number of public awareness campaigns on Restorative Justice designed and implemented | # of campaigns | 0 | 2016 | 0 | 0 | 1 | 0 | 1 | PIU | |
| Component # 2: Increase the use of alternative-sentences | | | | | | | | | | |
| 15. Number of legal advisors hired and working on sentence review | # of advisors | 0 | 2016 | 0 | 5 | 5 | 0 | 10 | PIU | |
| 16. Number of studies setting out judicial policies produced | # of studies | 0 | 2016 | 0 | 1 | 0 | 0 | 1 | PIU | |
| 17. Number of studies on substance abuse conducted and published | # of studies | 0 | 2016 | 0 | 0 | 0 | 1 | 1 | PIU | |
| 18. Number of risk and assessment tools designed and implemented | # of risk assessment tools | 0 | 2016 | 0 | 0 | 0 | 0 | 1 | PIU | |
| 19. Number of probation staff | # of staff trained | 0 | 2016 | 0 | 7 | 10 | 0 | 17 | PIU | |

| | | | | | | | | | | |
|---|-------------------------------------|---|------|---|---|---|---|---|-----|--|
| trained and certified in the use of discretion to respond to each individual case as well as in supervision methodology | | | | | | | | | | |
| 20. Number of probation offices equipped and operating | # of offices functioning | 0 | 2016 | 0 | 1 | 0 | 0 | 1 | PIU | |
| 21. Number of specialized consultancies completed | # of consultancies | 0 | 2016 | 1 | 1 | 3 | 2 | 7 | PIU | |
| 22. Number of offices for the Law Reform Commission equipped and operating | # of offices opened and functioning | 0 | 2016 | 0 | 0 | 1 | 0 | 1 | PIU | |
| 23. Number of law reform proposals introducing alternative to imprisonment completed | # of law reform proposals | 0 | 2016 | 0 | 0 | 0 | 1 | 1 | PIU | |

FIDUCIARY AGREEMENTS AND REQUIREMENTS

COUNTRY: Guyana

PROJECT N° GY-L1044

NAME: Support for the Criminal Justice System

EXECUTING AGENCY: Ministry of Legal Affairs (MOLA)

I. EXECUTIVE SUMMARY

- 1.1 The general objective of the program is to contribute to the reduction of high concentrations of prison population in Guyana. The specific objectives are to: (i) reduce the proportion of inmates who are pre-trial detainees; and (ii) increase the use of alternative sentencing in the country. The total estimated budget is US\$8,000,000, all of which will be financed by the IDB from the Ordinary Capital (OC) and Fund for Special Operations (FSO) resources as detailed in the Proposal for Operation Development (POD) for the present loan.
- 1.2 The Executing Agency is the Ministry of Legal Affairs (hereafter MOLA). MOLA previously executed one Bank financed loan – 1745/SF-GY Justice Administration. This loan was executed via ad hoc by an Executing Agency (EA). The fiduciary aspects of the execution mechanism for the present loan are analyzed accordingly.
- 1.3 An institutional capacity assessment of the MOLA was conducted in August 2016 using the Institutional Capacity Assessment System (ICAS) methodology. The ICAS assessment concluded that the fiduciary risk is considered as medium. A re-evaluation of the fiduciary risks will be conducted during execution as part of the regular fiduciary supervision to ensure efficient support to project execution.
- 1.4 **Fiduciary Context of the country.** An Integrated Fiduciary Assessment (IFA) was conducted in 2012/2013. It provided an update to the 2007 combined Public Expenditure and Financial Assessment (PEFA) performance measurement framework and the Organisation for Economic Co-operation and Development (OECD) - Development Assistance Committee (DAC) procurement assessment. The results of the 2012/2013 IFA, like the 2007 PEFA, concluded that Guyana's overall budget planning, accounting and reporting systems worked well; the Integrated Financial Management Accounting System (IFMAS) used by the government operated consistently and reliably providing updated information about all elements of budget execution, and budget planning and reporting was being done in accordance with the cash basis of accounting and its standards. The Public Financial Management (PFM) indicator scores from the 2012/2013, continued to show encouraging results with slight improvements in areas such as Strengthened External Audit Function, Budget Preparation Process, Revenue Administration, etc. Notwithstanding, the IFA highlighted that attention needed to be paid to the internal control environment, Internal Audit, Payroll Control and Procurement Control, among others. To date, confirmations from the Borrower on the results of the 2012/2013 IFA as well as 2007 PEFA remain outstanding. The Bank's Guide for the Use of Country Systems (GUS) assessment was also conducted in 2013; this also has not been accepted by the

- government. The Auditor General's Office (AOG) is currently eligible to audit all Bank-financed TCs and loan operations deemed to be of low or medium complexity and risk. This was based on an assessment of the capacity of the AOG undertaken by the Bank in 2011 and the continued institutional strengthening support given by the Bank to the AOG. For this operation, the Bank is recommending: (i) the use of the national accounting system, IFMAS, or any other system acceptable to the Bank, for the financial administration of the project; and (ii) for external control, a firm of independent public accountants acceptable to the Bank or the Auditor General of Guyana.
- 1.5 With regards to procurement, assessments of the national system (MAPS) have been performed in 2007 and 2013. The results are not yet endorsed by the Government of Guyana. Guyana has a dedicated legislation that governs public procurement, namely the Procurement Act of 2003 and its associated regulations. The National Procurement and Tender Administration Board (NPTAB) was established in the same Procurement Act of 2003. It is responsible for exercising jurisdiction over the country's tender processes, reporting to the Ministry of Finance with policy making, advisory oversight, and monitoring and information functions. In accordance with the existing legal framework, the NPTAB is a temporary entity while awaiting the creation of the Public Procurement Commission (PPC). The PPC is a constitutional body with responsibility for overseeing that the purchasing of goods and services and the execution of works by public institutions is carried out in a fair, equitable, transparent, and competitive manner; its members are appointed by the President and approved by the National Assembly. The country is in the process of strengthening its centralized website for publication of opportunities for requests for proposals, but to date, it is not regularly used across procurement entities or by the independent public corporations. Additionally, efforts are being deployed to also strengthen capacity to retain records of procurement processes and related information, as well as a registry for protests, suspension and debarment and contractors' performance. Statistics on public procurement awards is also an area of focus for the Government of Guyana. Notwithstanding, to date, the Country Procurement System has not been approved and hence will not be used under the present loan. Consequently, the Bank requires the use of its Procurement Policies GN-2349-9 and GN-2350-9 for all projects approved starting April 19, 2011. In the meantime, the Bank will bring adequate support to the procurement function to ensure that procurement activities are carried out in a way that support the prompt execution of the operation and in accordance with the Bank's rules and procedures.

II. FIDUCIARY CONTEXT OF THE EXECUTING AGENCY

- 2.1 The MOLA headed by the Minister of Legal Affairs, who is also the Attorney General, will be responsible for the execution of the loan and for carrying out all related fiduciary activities. In accordance with the indications of the ICAS which identifies the execution mechanism for this loan, a Project Implementation Unit (PIU) will be created within the MOLA. It will include a project manager, a procurement specialist a financial specialist and a monitoring and evaluation specialist. The procurement and financial specialists will be recruited with the responsibility for the execution of the procurement activities and financial

management activities respectively scheduled under this loan. According to the identified execution structure, the procurement specialist will have two lines of reporting: (i) to the project manager; (ii) to the MOLA's Procurement Officer/Assistant Secretary (General). The financial specialist will report to the project manager and to MOLA's Principal Assistant Secretary Finance. The objective of the said structure is to ensure efficiency and sustainability of capacity and execution within the Ministry itself. Also, it will seek to contribute to an increased capacity to apply internal and external controls which is expected to contribute to the general quality of execution of the procurement and financial management related activities under this loan. This should in turn positively contribute to the review of the general level of risk as identified for this operation, knowing that the Bank will provide continued support during the entire execution period.

- 2.2 MOLA, as a budget agency, uses the IFMAS of the country. IFMAS was successfully piloted on previous IDB-financed loans; and an operations manual for bank funded operations using IFMAS as its accounting system was developed by the Ministry of Finance. It is recommended that this programme use IFMAS for the financial management and accounting of the programme.
- 2.3 As far as the procurement function is concerned, findings of the ICAS indicate that, under the organizational scheme currently in force at MOLA, procurement activities are housed under the Budget Authority and centralized through the principal assistant secretary for administration, with an assistant secretary responsible for Procurement matters who is familiar with the procurement law and the Tender Board process. Training to the new staff will be provided to ensure that procurement duties are discharged in the most efficient manner and in keeping with the Bank's procurement policies.

III. FIDUCIARY RISK EVALUATION AND MITIGATION ACTIONS

- 3.1 The project team in consultation with the MOLA and other stakeholders developed a preliminary risk mitigation matrix included in the project documents to be approved for the present loan agreement. The Bank and the MOLA will undertake joint reviews of the Matrix on a yearly basis, and introduce necessary additional mitigating actions as a result of such reviews and as deemed necessary. Financial management has been assessed as having low financial management risk largely due to the integrated financial accounting system of the government used in MOLA – IFMAS. Notwithstanding, it has noted that in MOLA there is no internal audit function and the permanent secretary is the only personnel with experience working with IDB projects. To ensure adequate segregation of duties and to strengthen the internal control environment, the recruitment of a financial officer will be necessary. This coupled with the provision of training on Bank policies and procedures should mitigate the existing risk and strengthen the control environment.
- 3.2 From a procurement standpoint, it is found that MOLA will create a PIU that will be responsible for the execution of the loan and for carrying out all related fiduciary activities. According to the ICAS, the MOLA demonstrated its capacity to execute the loan. Notwithstanding, as indicated during project preparation, the loan will be executed by a newly formed PIU, which will also include newly

recruited staff whose familiarity with the Bank's procedures is unknown at present. Additionally, the ICAS identifies the planning function as a potential weakness in the execution structure. Although the activities as included in the proposed procurement plan for this loan present a certain degree of complexity, the above drive to the identification of a general risk established as medium. Proposed mitigation measures include: (i) re-evaluation of the level of risk during project execution and strengthening of the execution capacity; (ii) discharge of the necessary training activities of staff discharging procurement duties to increase capacity to plan and identify an efficient execution strategy; (iii) monitoring of the execution of the procurement related activities as listed and approved in the operation's procurement plan; and (iv) recruitment of a procurement officer who will be specifically dedicated to the execution of the operation's procurement plan and all other procurement related activities under this loan.

IV. SPECIAL CONDITIONS OF CONTRACT TO BE ADHERED TO

- 4.1 **Conditions prior to first disbursement:** the following will be special contractual conditions prior to the first disbursement: (i) presentation of evidence that the Ministry of Legal Affairs (MOLA) has created the Programme Implementation Unit (PIU) and selected the project manager, procurement officer, financial officer, and a monitoring and evaluation officer, according to professional profiles satisfactory to the Bank; (ii) presentation by the executing agency, to the Bank satisfaction, of the procurement plan, the first annual operation plan and the financial plan for the programme; (iii) presentation of evidence of the establishment of the Programme Steering Committee; and (iv) the preparation and approval of the Operating Manual for the Programme by the MOLA, in the terms previously agreed with the Bank.

V. FINANCIAL MANAGEMENT

- 5.1 **Financial Statements and Reports, audited or unaudited.** (i) Semi-annual financial reports of the programme are to be included in the semi-annual progress report which will be submitted by the MOLA to the Bank; (ii) annual financial statements of the project, audited by the Auditor General of Guyana are to be submitted to the Bank within 120 days at the end of each fiscal year, beginning with the fiscal year in which the first project expenditures are incurred; and (iii) a final financial audit report of the programme is to be submitted by MOLA within 120 days after the date of the last disbursement.
- 5.2 **Programming and Budget.** The Borrower has committed to allocate, for each fiscal year of project execution, adequate fiscal space to guarantee the unfettered execution of the project; as determined by normal operative instruments such as the Annual Operating Plan and the Project Profile.
- 5.3 **Accounting and Information Systems.** It is expected that IFMAS accounting system will facilitate the recording and classification of all financial transactions.
- 5.4 **Disbursements and Cash Flow.** The Bank will supervise the creation of an Advance of Funds, using the Advance of Funds methodology. Whenever resources from the financing are requested through an advance of funds, it will

be deposited into a special account, denominated in US\$, established exclusively for the project at the Central Bank of Guyana. Required resources from this special account will be transferred to another bank account, denominated in Guyana Dollars to be utilized for payment of expenditures in local currency.

- 5.5 The project will provide adequate justification of the existing advance of funds balance, whenever 80% of said balance has been spent. Advances will normally cover a period not exceeding 180 days and no less than 90 days. In order to request disbursements from the Bank, the EA will present the following forms and supporting documents:

| Type of Disbursement | Mandatory Forms | Optional forms/ information that can be requested by the IDB |
|---------------------------------|--|--|
| Advance | Disbursement Request/Financial Plan | List of Commitments Physical/Financial Progress Reports |
| Reimbursements of Payments Made | Disbursement Request/Project Execution Status/ Statement of Expenses | List of Commitments Physical/Financial Progress Reports |
| Direct Payment to Supplier | Disbursement Request/Statement of Expenses/Acceptable Supporting Documentation | List of Commitments Physical/Financial Progress Reports |

- 5.6 Generally, supporting documentation for Justification of Advances and Reimbursement of Payments Made will be kept at the office of the EA. Disbursements' supporting documents may be reviewed by the Bank on an ex post basis.
- 5.7 **Internal Control and Internal Audit.** The management of the project will assume the responsibility for designing and implementing a sound system of internal controls for the project.
- 5.8 **External Control and Reports.** For each fiscal year during project execution, MOLA will be responsible to produce semi-annual financial reports for the project, annual audited financial reports of the programme and one final audited financial report at the end of the programme, audited either by the Auditor General of Guyana or by a firm of independent public accountants acceptable to the Bank.
- 5.9 **Financial Supervision Plan.** Financial Supervision will be developed based on the initial and subsequent risk assessments carried out for the project. Inspection visits will be performed based on the risk assessed, covering the following: (i) review of the bank reconciliation and supporting documentation for advances and justifications; (ii) compliance with procedures; (iii) review of compliance with the lending criteria; and (iv) ex post review of disbursements.
- 5.10 **Execution Mechanism.** MOLA will be the EA and will be responsible for the financial administration of the programme. MOLA's responsibility will include: (i) preparation of required project reports; (ii) monitoring product, output and outcomes achievement using established indicators; (iii) preparation and submission of disbursement requests to the Bank and justification of expenses; (iv) preparation of financial reports; (v) ensure compliance with all aspects of the Operating Manual; and (vi) maintain adequate documentation filing system.

VI. REQUIREMENTS AND AGREEMENTS FOR EXECUTION OF PROCUREMENT

- 6.1 **Procurement Execution.** Procurements for the proposed project will be carried out in accordance with the Policies for the Procurement of Works and Goods Financed by the Inter-American Development Bank (GN-2349-9), of March 2011; and the Policies for the Selection and Contracting of Consultants Financed by the Inter-American Development Bank (GN-2350-9), of March 2011, and with the provisions established in the loan contract. In addition, for all projects, the Borrower is required to prepare and submit to the Bank, a draft General Procurement Notice as well as an initial procurement plan which will be updated in accordance with the applicable sections of the Policies and the loan agreement.
- 6.2 **Exception to Bank Procurement Policies.** The operation does not foresee any exception to the Bank's procurement policies.
- 6.3 **Procurement of Goods, Works, and Non-Consulting Services.** In accordance with Section 1.2 of GN-2349-9, "the responsibility for the implementation of the project, and therefore for the award and administration of contracts under the project, rests with the Borrower". In accordance with the findings of the ICAS for this loan and given the level of risk as identified above, all procurement activities will be carried out under ex ante supervision as described in the following section of the present Annex III.
- 6.4 **Procurement of Consulting Services.** In accordance with Section 1.4 of GN-2350-9, "The Borrower is responsible for preparing and implementing the project, and therefore for selecting the consultant, and awarding and subsequently administering the contract." As such, the Borrower is responsible for preparing and implementing the scheduled activities, and therefore for preparing the TORs, short lists, selecting the consultants, awarding the contract and subsequently administering it. In accordance with the findings of the ICAS for this loan and given the level of risk as identified above, all procurement activities will be carried out under ex ante supervision as described in the following section of the present Annex III.
- 6.5 **Sole Source Selection and/or Direct Contracting.** The execution of the programme does not foresee Direct Contracting.
- 6.6 **Selection of Individual Consultants.** Individual consultants are employed in accordance with Section V (Selection of Individual Consultants) of GN-2350-9.
- 6.7 **Recurring Expenses.** Include payment of utilities and other office operating expenses of the Executing Unit, if any.
- 6.8 **Advance Contracting/Retroactive Financing.** No advance contracting is foreseen under the present operation.
- 6.9 **Domestic Preference.** Domestic Preference is not requested under this loan.

6.10 **Country Threshold.** Table (US\$ Thousands) www.iadb.org/procurement.

| International Competitive Bidding Threshold* | | National Competitive Bidding Range ** (complex works and non-common goods) | | Consulting Services |
|--|----------|--|----------|--------------------------|
| Works | Goods | Works | Goods | International Short List |
| >1,000,000 | >100,000 | <1,000,000 | <100,000 | > 100,000 |

* When procuring simple works and common goods and their amount is under the International Competitive Bidding thresholds, Shopping may be used.

** When procuring non-complex works or common goods with amounts under the NCB range, Shopping shall be used.

6.11 **Procurement Plan.** The on-line Electronic Procurement Execution System (known by its Spanish acronym as SEPA) will be used for the publication and updates of the Procurement Plan during project execution. It is expected that the EA will use the SEPA programme (or any other system deemed appropriate by the Bank) for management of its procurement activities. The Procurement Plan will be updated annually or whenever necessary, or as required by the Bank (www.iadb.org/procurement; <http://www.iniciativasepa.org/bid/sitio/guyana/index-ing.htm>).

6.12 The initial procurement plan for the operation lists all procurement activities foreseen under this operation. The previous table includes the list of the main procurement activities for this loan.

Main Procurement Activities:

| No. | Category and Description of Procurement Contract | Method of Procurement | Review (ex ante or ex post) |
|----------------------------|--|-----------------------|-----------------------------|
| WORKS | | | |
| 1 | Space refurbishing of offices | NCB | Ex ante |
| GOODS | | | |
| 1 | Software – for scheduling, case management system and IT equipment | Shopping | Ex ante |
| 2 | Network infrastructure maintenance for case management system and IT equipment | Shopping | Ex ante |
| CONSULTING SERVICES | | | |
| 1 | Firm consultancy to review protocols and design risk assessment tools | QCBS | Ex ante |
| 2 | Firm consultancy for training of magistrates in the use of alternatives to pre-trial detention | CQS | Ex ante |
| 3 | Firm consultancy for training of DPP and Police prosecutors | CQS | Ex ante |

6.13 **Supervision.** The supervision modalities for this operation are tailored to keep with the most efficient execution mechanism while ensuring compliance with the applicable procurement rules and procedures. Under the present loan, procurement activities (i) will be subject to ex ante review given the level of risk as identified above; (ii) will be explicitly listed in the approved and updated procurement plan in SEPA; (iii) will be launched once all technical specifications

- and/or terms of reference are validated by the Bank's Sector Specialist; and (iv) will be documented in accordance with the general filing guidelines that will be provided as part of the inception training of the fiduciary staff and in accordance with the applicable Bank Policies.
- 6.14 All modifications to the present arrangement are subject to a prior written agreement between the Executing Agency and the Bank. The evaluation of capacity and the level of risk may vary during the project's execution depending on the findings of the regular supervision activities that will be conducted during the project's lifespan. As such, supervision modalities may vary as capacity increases.
- 6.15 **Records and Files.** All records and files will be maintained by the EA, according to accepted best practices and to the general guidelines that will be provided by the Bank at the initial training of the fiduciary staff. All records must be kept for seven (7) years beyond the end of the operation's execution period. It is also recommended, and yet not mandatory, that the Executing Agencies developed electronic filing so as to avoid losing all paper files.

DOCUMENT OF THE INTER-AMERICAN DEVELOPMENT BANK

PROPOSED RESOLUTION DE-___/16

Guyana. Loan ____/BL-GY to the Co-operative Republic of Guyana
Support for the Criminal Justice System

The Board of Executive Directors

RESOLVES:

That the President of the Bank, or such representative as he shall designate, is authorized, in the name and on behalf of the Bank, to enter into such contract or contracts as may be necessary with the Co-operative Republic of Guyana, as Borrower, for the purpose of granting it a financing to cooperate in the execution of a program of support for the criminal justice system. Such financing will be for the amount of up to US\$4,000,000 from the resources of the Single Currency Facility of the Bank's Ordinary Capital, corresponds to a parallel loan within the framework of the multilateral debt relief and concessional finance reform of the Bank, and will be subject to the Financial Terms and Conditions and the Special Contractual Conditions of the Project Summary of the Loan Proposal.

(Adopted on _____)

DOCUMENT OF THE INTER-AMERICAN DEVELOPMENT BANK

PROPOSED RESOLUTION DE-___/16

Guyana. Loan ____/BL-GY to the Co-operative Republic of Guyana
Support for the Criminal Justice System

The Board of Executive Directors

RESOLVES:

That the President of the Bank, or such representative as he shall designate, is authorized, in the name and on behalf of the Bank, to enter into such contract or contracts as may be necessary with the Co-operative Republic of Guyana, as Borrower, for the purpose of granting it a financing to cooperate in the execution of a program of support for the criminal justice system. Such financing will be for the amount of up to US\$4,000,000 from the resources of the Bank's Fund for Special Operations, corresponds to a parallel loan within the framework of the multilateral debt relief and concessional finance reform of the Bank, and will be subject to the Financial Terms and Conditions and the Special Contractual Conditions of the Project Summary of the Loan Proposal.

(Adopted on _____)