



SAMOA LAW AND JUSTICE SECTOR

SIXTH MONTHLY PROGRESS REPORT

1 January – 30 June 2012

JULY 2012

Background:

The ***Samoa Law and Justice Sector Plan 2008-2012*** was approved by Cabinet Directive F.K (08) 44 (November 2008). The composition and selection of the Steering Committee to oversee the implementation of the Sector Plan was also approved in the same Cabinet Directive.

The ***Samoa Law and Justice Sector*** ('the Sector') submitted its first Progress Report to Cabinet for the period from the 1st January – 30th September 2010. In this first Report the Sector requested Cabinet endorsement for Sector Progress Reports to be submitted quarterly after this initial Report. Cabinet approved this first Report by Cabinet Directive F.K. (10) Faapitua 17, issued on the 10th November 2010. In this same Cabinet Directive, the Sector was advised to refer to the Sector Plan's term as 2010-2012 to reflect the fact the Sector Plan was only launched in May 2010.

The second Progress Report was for the period from the 1st October – 31st December 2010. This second Report also included a request for the reporting period to be changed from quarterly to six monthly. The second Progress Report was approved under Cabinet Directive F.K.11 (06) issued on the 16th February 2011.

The first six monthly Progress Report was submitted for the period from 1st January - 30th June 2011, and approved by Cabinet in Cabinet Directive F.K. 11(31) – 14 September 2011. The most recent six monthly Progress Report submitted for the period 1st July - 31 December 2011, was approved by Cabinet on the 22nd February 2012 in F.K. 12(07).

The Steering Committee, which is chaired by the Attorney General continues to meet monthly to discuss the progress of the Sector, its project and budget issues; making determinations on the direction of the Sector and how to implement its activities towards achieving the goals of the Sector as per its Sector Plan (2008-2012) – for ***“A Safe and Stable Samoa”***, launched in May 2012.

The Four (4) Goals of the Sector being:

1. *Increased* COMMUNITY SAFETY;
2. *Improved* ACCESS TO JUSTICE;
3. *Harmonising* FORMAL and CUSTOMARY/COMMUNITY JUSTICE SYSTEMS; and
4. *Promoting* INTEGRITY and GOOD GOVERNANCE.

This Report has been prepared for the Inaugural Partners Meeting between the Sector's Steering Committee and AusAID as requested by AusAID under its current Direct Funding Agreement with the Sector. The Progress Report covers the progress and activities of the Sector over the period from 1st January – 30th June 2012.

Funding:

AusAID and therefore the Government of Australia is the main donor that has enabled the implementation of the Sector's project activities under its current

Sector Plan. There is only one (1) other project that has been mostly funded under NZAid.

As per the record, the first tranche of funding received by the Sector to go mostly towards the implementation of Sector project activities was in December 2010 for AUD\$500,000.00. Part of this tranche was for the operation of the Secretariat.

In June 2011, a further AUD\$500,000.00 was made available for the same purpose as the first. Unlike the first tranche the Secretariat did not set aside funds for its operations, instead this whole second tranche was dedicated to the implementation of projects. Because of the late launch of the Sector Plan, there was a drive to implement as many of the Sector Plan activities in the 2011 calendar year.

The implementation phase for the Sector began officially in 2012 with the launch of the *Digitisation of the Land and Titles Court Records* (MJCA), in February 2012. Some pilot projects were carried out in November 2010 (*Fau-Tasi* and *SLRC Pilot Consultations*), however these were funded using funds provided for the establishment of the Sector's Secretariat as the 'Projects Budget' only became available in December 2010, with the first tranche mentioned above.

By January 2012, which is the beginning of the period covered by this Progress Report, there were no more funds left in the GDP Account for the Sector held in the Ministry of Finance. The Account went into a negative balance to ensure salaries continued to be paid for the Secretariat, the *Digitisation Project* and the Senior Returnees Officer for the *Samoa Returnees Charitable Trust – Reintegration Assistance Project*. Therefore, many projects set for the 2011/2012 Financial Year which began in July 2011, were put on hold, or could not commence for lack of funds.

Some 2011/2012 project activities commenced in the first half of the financial year (July-December 2011), and this was done by utilising funds remaining from the first two (2) tranches that had been allocated for 2010/2011 project activities.

In April 2012 the Prime Minister signed to officially receive the new tranche for the 2011/2012 financial year which was for AUD\$2 million or ST\$4,400,200.00. These funds became available for project activities at the beginning of May 2012.

The Chair and the Steering Committee notes their gratitude for the continued support from the Government of Australia through AusAID in improving the Law and Justice services of the Government of Samoa.

The following notes the progress of various Sector Project Activities over the months of January – June 2012, with the financial enabling of AusAID.

Key Achievements

- **COMMUNITY SAFETY:** Work continues on the *Separation of the Prisons Function from Samoa Police* which is being overseen by the Prisons Review Taskforce of the Steering Committee, chaired by the Commissioner of Police. Key documents to guide the Separation (Implementation Plan), *Legislation* (Bill/Act and Regulations) have all been completed. The rest of the implementation awaits the enactment of the legislation. On the practical side of the Project and to note tangible impacts, improvements/renovation/extension continues on housing at Olomanu and Tafaigata Women's Prison. The NZ Department of Corrections seconded Steve Dunnington and Brenden Makinson to Samoa under the MOU between the Samoa Police and the New Zealand Department of Corrections to consider Prisons Management, Training and a Human Resource (Recruitment and Selection) Policy for the proposed Samoa Prisons and Corrections Service (SPCS). Addressing corrections separately from Police matters will impact positively on rehabilitation and the reduction of re-offending which will enhance Community Safety.
- **ACCESS TO JUSTICE:** The *Digitisation of Land and Titles Court Records Project* (MJCA) which began the scanning process in December 2011 scanned a total of 250,931 pages, which is equivalent to 5,659 files, by June 2012. The Judiciary, Court Officers and the Public have begun accessing the scanned files where and when necessary for Land and Titles Court (LTC) matters. The Project has made access to these documents much faster which has meant more efficiency in service delivery. The LTC is by far Samoa's busiest Court.
- The AGO continued with their *Mentoring of Government Lawyers Project*. The Mentoring program is offered to all Government lawyers, in some cases those 'trained' under the programme are those in the AGO (about 20-30 lawyers), sometimes they are joined by Police Prosecutors (about 5-10), sometimes they assist other Government lawyers (5-10) if they have a particular issue for they seek the Mentor's assistance. Closely related to building the capacity of Government Lawyers is a project to draft a *Prosecutors' Manual* (AGO). Well trained and well equipped lawyers will improve law and justice outcomes for the State and should further facilitate Access to Justice.
- In early May a team consisting of two (2) members from AustLII and one (1) from PacLII visited to assist the SamLII Sub-Committee (MJCA/SLJS) in establishing SamLII (Samoa Legal Information Institute). SamLII would allow free access to all Legal Information pertaining to Samoa such as Court decisions, SLRC Reports, Commissions of Inquiry Reports and such like plus Statutes of Samoa. While the team was here they also carried out some training for Judges Associates and Transcribing officers (10 ladies) on the preparation of judgments to decrease the need for editing services and therefore speed up the updating of Samoan Legal Information. The team also gave presentations to the members of the Sector Steering Committee,

(10), the Judiciary (3), and other members of the MJCA Management (12), as MJCA provides administrative support for the Judiciary as well as SamLII. SamLII was officially launched on Friday 8 June 2012 as part of the celebrations for the Golden Jubilee of Samoa's Independence. This project is another in a suite of projects whereby the Sector, in the interest of facilitating Access to Justice or at least law and legal services is utilizing advances in modern technology. The fact access (in the case of SamLII) is free means access is definitely improved.

- **CUSTOMARY & COMMUNITY-BASED JUSTICE:** A Legislative Drafter was selected in February to draft amendments to the *Village Fono Act 1990*. The Steering Community carried out nationwide public consultations on this legislation in September 2011 and submitted its report and recommendations to Cabinet at the conclusion of the consultations. The Steering Committee's report was submitted in November 2011 and was approved in January 2012. The Sector is awaiting the approval of the SLRC's Final Report on this same legislation before the selected Legislative Drafter commences work on the amendments. This initial project addressing issues surrounding the harmonization of the Customary concepts or process with the Formal Justice System is a step in the right direction to achieving this Sector Goal.
- **INTEGRITY & GOOD GOVERNANCE:** The Office of the Ombudsman's ISP which began in July 2011 carried out in collaboration with the Pacific Ombudsman Alliance (POA) and Commonwealth Ombudsman Australia (COA), has seen the review of many key documents and processes by which the Office handles various complaints and investigations. One key agreement in the 'watch dog' role of the Office was the signing of the MOU with the Professional Standards Unit of the Ministry of Police and Prisons enabling its audit by the OMB. The Project has also assisted in formulating communications products to raise the profile of the Office and the vital service it provides.
- **SECRETARIAT:** Ms. Vanessa Barlow-Schuster was engaged as the Consultant to assist in the review of the current Sector Plan and the drafting of a new Sector Plan for 2012-2016.
- The Secretariat began working with LeSa Telecommunications Services to design a website for the Sector.

Issues and Challenges

The Sector has, not only over the last six (6) months but since the launch of the current Sector Plan in May 2010, faced challenges in all of the following areas:

- a) *Governance;*

- b) *Finances;*
- c) *Sustainability; and*
- d) *Gender Equality.*

The main reasons for the challenge the Sector has met in relation to these four (4) areas are:

1. **Delay:** The delay in the launch of the Sector Plan; delay in setting up the Coordination Unit; delay in preparing all the necessary tools for the Sector to see it Sector Plan implemented; delay in funding; delay in implementation. Delays for various reasons has meant the Sector has always been on the back foot; always lagging and reacting to different scenarios as opposed to being prepared and being ready and equipped to move from planning, to transition, to implementation; which is the ideal; and possible when there aren't any delays.
2. **Adjustment:** The Sector Wide Approach is new for the law and justice services and relevant sector agencies/stakeholders. Yet, all concerned had to do everything at the same time meaning: familiarise, learn, be convinced to cooperate, change, and adjust as well as plan and implement - all contemporaneously. The result is that some of the issues outlined above such as governance, sustainability, gender equality and many others such as communication, data collection, drivers of crime, research, to name a few, were only considered when they arose.

The result being that the work of the Sector, though highly commendable because of the less than ideal circumstances it has operated under; this first attempt with the current Sector Plan has been somewhat ad hoc and piecemeal. In saying that, the learning curve, though steep, has been invaluable for the future of the Sector and the planning for the new Sector Plan 2012-2016.

Risk Management

Annex 4 of the current Direct Funding Agreement notes the Risk Management Plan for the Sector and continues to reflect the current state of affairs for the Sector with regard to risk; it needs no further revision after the past six (6) months.

Work Plan

Annexed to this Report is a copy of the Updated Activities Matrix as approved by the Steering Committee at its July meeting (Sc 07/12 – Thursday 26 July 2012). The revised matrix notes the reallocation of the funds received from AusAID in the current Direct Funding Agreement (ST\$4,400,200.00). The funds are reallocated pursuant to re-prioritisation recommended by the Projects Sub-Committee and endorsed by the Steering Committee after its regular assessment of proposed project activities aimed at meeting the Sector's goals and objective under its current Sector Plan.