

DOCUMENT OF THE INTER-AMERICAN DEVELOPMENT BANK

**COLOMBIA**

**PROGRAM FOR STRENGTHENING COLOMBIA'S NATIONAL AGENCY FOR  
LEGAL DEFENSE OF THE STATE**

**(CO-L1251)**

**LOAN PROPOSAL**

This document was prepared by the project team consisting of: Diego Arisi (ICS/CCO), Project Team Leader; Karina Ricaurte, Gerardo Ramírez (ICS/CCO); Aitor Cubo, Sonia Rojas (IFD/ICS); Eugenio Hillman and Miguel Orellana (VPC/FMP); Gastón Pierri (SPD/SDV); Camila Mejía (ICS/CEC); Javier Jiménez (LEG/SGO); Elizabeth Arciniegas, and Diego Hernán Pérez (Consultants).

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## ABBREVIATIONS

ANDJE	Agencia Nacional de Defensa Jurídica del Estado [National Agency for Legal Defense of the State]
CGN	Contaduría General de la Nación [General Accounting Office of the Nation]
CGR	Contraloría General de la República [Office of the Comptroller General of the Republic]
CHIP	Sistema Consolidador de Hacienda e Información Pública [Treasury and Public Information Consolidation System]
CONPES	Consejo Nacional de Política Económica y Social [National Economic and Social Policy Council]
DGPPN	Dirección General de Presupuesto Público Nacional [National Public Budget Office]
DNP	Departamento Nacional de Planeación [National Planning Department]
eKOGUI	Sistema Único de Información Litigiosa del Estado [State Litigation Information System]
GDP	Gross domestic product
ICB	International competitive bidding
ICT	Information and communications technology
LDS	Legal defense system
MIPG	Modelo Integrado de Planeación y Gestión [Integrated Planning and Management Model]
NCB	National competitive bidding
PEU	Program execution unit
PMC	Program management committee
PND	Plan Nacional de Desarrollo [National Development Plan]
SIGI	Sistema Integrado de Gestión Institucional [Integrated Institutional Management System]
SIIF	Sistema Integrado de Información Financiera [Integrated Financial Information System]

**PROJECT SUMMARY**

**COLOMBIA  
PROGRAM FOR STRENGTHENING COLOMBIA'S NATIONAL AGENCY FOR LEGAL DEFENSE OF THE STATE  
(CO-L1251)**

Financial Terms and Conditions						
<b>Borrower:</b>			<b>Flexible Financing Facility<sup>(a)</sup></b>			
Republic of Colombia			<b>Amortization period:</b>	14 years		
<b>Executing agency:</b>			<b>Disbursement period:</b>	4 years		
Agencia Nacional de Defensa Jurídica del Estado [National Agency for Legal Defense of the State] (ANDJE)			<b>Grace period:</b>	14 years <sup>(b)</sup>		
<b>Source</b>	<b>Amount (US\$)</b>	<b>%</b>	<b>Interest rate:</b>	LIBOR-based		
<b>IDB (Ordinary Capital):</b>	15,000,000	100	<b>Credit fee:</b>	<sup>(c)</sup>		
			<b>Inspection and supervision fee:</b>	<sup>(c)</sup>		
			<b>Weighted average life (WAL):</b>	13.6 years		
<b>Total:</b>	15,000,000	100	<b>Approval currency:</b>	U.S. dollar		
Project at a Glance						
<b>Project objective/description:</b> The general objective of the program is to help raise the efficiency of the ANDJE and the entities in Colombia's Legal Defense System (LDS) in terms of real potential savings on the judgment/claims ratio. The three specific objectives are to: (i) enhance the effectiveness of the ANDJE's management tools; (ii) extend the coverage of ANDJE intervention in legal proceedings; and (iii) improve knowledge transfer for the ANDJE and entities in the LDS.						
<b>Special contractual conditions precedent to the first disbursement of the loan:</b> The executing agency will submit evidence to the Bank that: (i) the Program Management Committee has been created and its members appointed pursuant to applicable legislation and the program Operating Regulations; (ii) the members of the program execution unit have been appointed based on the profiles and terms of reference included in the program Operating Regulations previously agreed upon with the Bank; and (iii) the program Operating Regulations have been approved and have come into force pursuant to the terms and conditions previously approved by the Bank (paragraph 3.4).						
<b>Exceptions to Bank policies:</b> None.						
Strategic Alignment						
<b>Challenges:<sup>(d)</sup></b>	SI	<input type="checkbox"/>	PI	<input checked="" type="checkbox"/>	EI	<input type="checkbox"/>
<b>Crosscutting themes:<sup>(e)</sup></b>	GD	<input type="checkbox"/>	CC	<input type="checkbox"/>	IC	<input checked="" type="checkbox"/>

<sup>(a)</sup> Under the terms of the Flexible Financing Facility (document FN-655-1), the borrower has the option of requesting changes to the amortization schedule, as well as currency, interest rate, and commodity conversions. The Bank will take operational and risk management considerations into account when reviewing such requests.

<sup>(b)</sup> Under the flexible repayment options of the Flexible Financing Facility, changes to the grace period are permitted provided that they do not entail any extension of the original weighted average life of the loan or the last payment date as documented in the loan contract.

<sup>(c)</sup> The credit fee and inspection and supervision fee will be established periodically by the Board of Executive Directors as part of its review of the Bank's lending charges, in accordance with the relevant policies.

<sup>(d)</sup> SI (Social Inclusion and Equality); PI (Productivity and Innovation); and EI (Economic Integration).

<sup>(e)</sup> 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, and rationale.

- 1.1 **Background.** Article 90 of the 1991 Political Constitution established the State's liability for administrative torts as a result of actions or omissions by public authorities.<sup>1</sup> Introduction of those provisions resulted in progress in the country's regulatory and institutional development<sup>2</sup> but did not go far enough. Since that date, there has been a rise in litigation that the State was unprepared for, resulting in an increase in payouts for judgments and settlements against the State from US\$106 million in 2000 to US\$137 million<sup>3</sup> in 2010.<sup>4</sup>
- 1.2 The National Agency for Legal Defense of the State (ANDJE) was created in 2011 to: (i) prevent administrative torts; (ii) improve legal defense in the courts; and (iii) reduce financial risks for the State.<sup>5</sup> The government requested the Bank's support in 2012, resulting in design of the Program to Strengthen the Legal Defense of the State (loan 2755/OC-CO) with the objective of strengthening the State's legal defense (see paragraph 1.13).
- 1.3 From its creation until the end of 2018, the ANDJE made progress in: (i) developing the State Litigation Information System (eKOGUI);<sup>6</sup> (ii) designing and assisting with implementation of prevention, reconciliation, and State defense policies; and (iii) direct intervention in cases, in which it achieved a success rate<sup>7</sup> of 86%.<sup>8</sup> The impact of the above measures in terms of fiscal savings was more than US\$24.751 billion<sup>9</sup> between 2013 and 2018.
- 1.4 Nonetheless, recent estimates indicate that the number of complaints and the amounts of the claims continue to be a significant issue for the public treasury. As of December 2018, the ANDJE had identified 398,064 active lawsuits equivalent to

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<sup>1</sup> Constitutional Court ruling C-333/96 defines administrative torts as damage resulting from acts or omissions by the authorities that the victim is not legally obliged to accept. The State's financial liability is therefore a means of protecting the public from an increase in public authorities' activities that may cause harm.

<sup>2</sup> The most notable progress includes: (i) National Economic and Social Policy Council (CONPES) document 3248 and document 3250 of 2003 established guidelines for strengthening the country's legal defense; and (ii) the creation in 2002 of the Office of Legal Defense of the State within the Ministry of Justice, as well as a master information system on litigation (Litigob).

<sup>3</sup> The calculations in this document are based on an exchange rate of Col\$3,112 to US\$1.

<sup>4</sup> Background, loan [2755/OC-CO](#).

<sup>5</sup> Law 1444 (2011) creates the ANDJE as a decentralized Special Administrative Unit attached to the Ministry of Justice.

<sup>6</sup> eKOGUI is an IT tool designed to manage the litigation-related information of government entities and agencies at the national level.

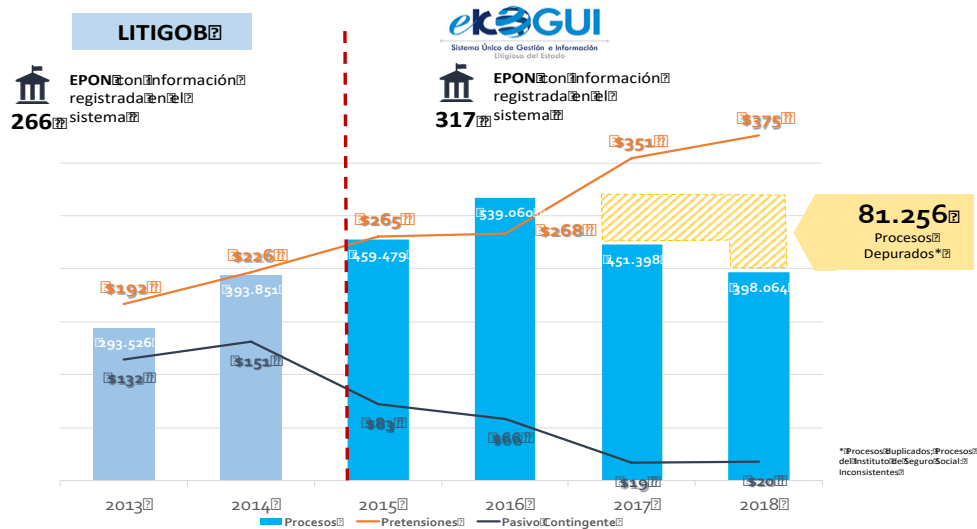
<sup>7</sup> The success rate is calculated as the number of favorable judgments out of the total number of judgments handed down.

<sup>8</sup> See [Final evaluation](#), loan 2755/OC-CO, page 50.

<sup>9</sup> Measured in terms of potential savings. Calculated as the sum of: (i) the total monetary value of claims for cases or lawsuits in which the courts ruled in favor of the State in which the ANDJE participated; (ii) smaller payouts in cases or lawsuits in which the courts ruled against the State in which the ANDJE participated; (iii) the total amount recovered as a result of the ANDJE's participation; and (iv) savings from claims not paid by the State due to reconciliation agreements reached with the help of the ANDJE.

US\$120 billion in claims<sup>10</sup> (see Figure 1). At the international level, investment disputes with foreign enterprises<sup>11</sup> increased significantly over an 18-month period, from US\$3.1 billion in June 2017 to US\$5.8 billion in December 2018.

Figure 1. Trends in the number of cases (national), amounts claimed, and contingent liabilities 2013-2018



Source: ANDJE-eKOGUI. As of: 31 December 2018.

- 1.5 The objective of this program is to help strengthen the capacities of the ANDJE and the country's Legal Defense System (LDS),<sup>12</sup> building on the country's previous efforts in this area,<sup>13</sup> which have been supported by the Bank to enhance the sustainability of the results achieved.
- 1.6 **Problem and challenges.** The main problem identified is the relative inefficiency of the State's legal defense system in terms of real potential savings.<sup>14</sup> In terms of magnitude, the contingent liability for judgments and settlements is equivalent to

<sup>10</sup> Nonlabor administrative actions make up 91% of claims. Based on their size, the claims are classified as follows: 41% class actions; 33% direct indemnity; 15% annulment and reinstatement; 3.7% popular actions; 3.4% contractual disputes; 0.01% simple nullity.

<sup>11</sup> Agreements such as Free Trade Agreements incorporate investment dispute and investment protection tools that various companies have utilized. The disputes are in a variety of sectors, principally energy, mining, and communications.

<sup>12</sup> Decree 4085 of 2011 stipulates that the ANDJE will defend the country's legal interests, understood as litigation against an entity of the National Public Administration. According to the Civil Service Administrative Department, the country has 264 national entities, including ministries, administrative units, agencies, etc., which comprise the LDS.

<sup>13</sup> In 2018, as a result of the work performed under the umbrella of loan 2755/OC-CO, the ANDJE made headway in the design and approval of the Defense Plan, which involves creation of the Legal Defense System to improve governance of the ANDJE vis-à-vis the National Public Entities. The recently approved National Development Plan (PND) incorporated actions to strengthen the legal defense work in those entities, including specific annual monitoring targets. It also included an article stipulating the recognition of judgments and settlements as public debt in order to reduce interest charges and shorten payment periods.

<sup>14</sup> Ratio of claims to judgments (US\$120 billion\*0.3).

1.9% of gross domestic product (GDP).<sup>15</sup> The potential savings gap is US\$14.5 billion.<sup>16, 17</sup>

- 1.7 The specific problems identified are: (i) the existence of effectiveness gaps in the State's legal defense tools. Currently, 49% of lawsuits result in rulings against the State, and 83.8% of settlements do not have a favorable outcome;<sup>18</sup> (ii) the existence of gaps in coverage of ANDJE intervention in legal proceedings. The ANDJE currently intervenes in 5% of cases with the largest claims;<sup>19</sup> and (iii) the existence of gaps in knowledge transfer between entities of the ANDJE, and between the ANDJE and the entities in the LDS.<sup>20</sup> To date, 53% of attorneys involved in State lawsuits<sup>21</sup> do not have legal defense tools. The main challenges are:
- 1.8 **Insufficient capacity of entities to defend the State more effectively.** Actions taken by the entities to prevent administrative torts and reduce the number of lawsuits require greater efforts by the ANDJE: (i) 53% of entities that account for 80% of litigation against the State implement policies to prevent administrative torts;<sup>22</sup> (ii) the success rate in cases where the institutions directly assume their own defense is lower (51%) than when the ANDJE directly intervenes (86%);<sup>23</sup> and (iii) there has been an increase in the claims from lawsuits, mainly due to efforts to uphold the rights of victims of the armed conflict as part of the Peace Agreement,<sup>24</sup> and due to the development of sophisticated practices by attorneys specializing in suing the State.<sup>25</sup>

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<sup>15</sup> The contingent liability is made up of three items: judgments and settlements, public credit operations, and public-private partnership infrastructure projects. Based on data in the Medium-term Fiscal Framework, GDP was US\$166 billion in 2018.

<sup>16</sup> ANDJE, 2019. Report from the Planning Advisory Office. The gap corresponds to the difference between the total amount of claims/judgments (US\$38.56 billion) and actual savings (US\$24 billion). The savings gap is thus US\$14.56 billion.

<sup>17</sup> Total claims identified as of December 2018 equate to one-third of 2018 GDP, 45 times expected revenue from the most recent tax reform, 10 times the education budget, 14 times the healthcare budget, and 89 times the housing budget allocated in the prior year's National General Budget. If the 398,278 lawsuits currently filed against the State are upheld, each Colombian would hypothetically have to pay Col\$7.5 million (US\$2,167.07).

<sup>18</sup> Final evaluation, loan [2755/OC-CO](#).

<sup>19</sup> Report from the Office of Legal Defense of the State-ANDJE. May 2019. "Claims" refers to the amount of the lawsuit against the State. The largest claims are the highest amounts for which the lawsuits are filed. Currently, estimated claims for each lawsuit have a ceiling and are determined by the plaintiff.

<sup>20</sup> The knowledge gap depends on various factors. The ANDJE is a relatively new entity that has focused efforts on its launch and on providing defense and prevention assistance. The second phase is intended to make progress toward a more systematic transfer of knowledge through tools that enhance the efficiency and sustainability of that process.

<sup>21</sup> Report from the Policy and Strategies Office-ANDJE. March 2019.

<sup>22</sup> ANDJE, 2018. Internal planning presentation. December.

<sup>23</sup> Final evaluation, loan [2755/OC-CO](#), page 58.

<sup>24</sup> In light of the Peace Agreement signed in 2017, it is anticipated that reparation-related lawsuits will have significant repercussions given that the number of victims of the armed conflict in Colombia was eight million people in 2017. The official source is the National System for Victim Care and Full Restitution.

<sup>25</sup> Frivolous litigation refers to knowingly filing a lawsuit with no cause of action, thus abusing the jurisdiction, or resisting the opponent's claim.



- 1.9 **Lack of institutional coordination mechanisms** to prevent administrative torts and generate greater savings in the area of legal defense in Colombia: (i) there are currently 1,413 lawsuits between State entities for a total of US\$1.08 billion;<sup>26</sup> development and implementation of coordination guidelines for interagency disputes could potentially achieve significant savings for the country. In 2017, the ANDJE mediated 26 disputes between national public agencies, reaching seven settlements and generating savings of US\$114 million; and (ii) as of March 2019, there are 50,824 lawsuits involving two or more State entities, which corresponds to 61% of the State's total claims.<sup>27</sup>
- 1.10 **Limited use of information for case management.** Limited use is being made of data for strategic litigation and knowledge transfer.<sup>28</sup> Despite progress made since its inception, eKOGUI currently contains information on 400,000 lawsuits against the State (700,000 counting concluded lawsuits). However, it has been found that: (i) there are insufficient automated analysis tools tailored to the diversity of entities in the legal defense area; and (ii) there is a lack of tools to more directly link information from predictive and prospective analyses for legal defense, such as analytics, business intelligence, and big data.
- 1.11 **Limited tools to generate efficiencies in the use of information by the entities.** Tools currently used require specialized knowledge and skills in statistics that not all users have.<sup>29</sup> This makes it difficult to present the information quickly, intuitively, and in a user-friendly way to correlate the multiple variables necessary for decision-making, such as geographic viewers and georeferencing tools: (i) there is a lack of georeferencing tools<sup>30</sup> to support decision making at the management level; and (ii) a lack of tools enabling interaction between the various stakeholders involved in the ANDJE's processes, resulting in delays, duplication, and inconsistencies due to the independent use of multiple channels.<sup>31</sup>
- 1.12 **Bank experience and lessons learned.** The Bank has supported institutional development initiatives from which lessons have been learned that will be incorporated into this program (paragraph 1.5). In Colombia, loan 3154/OC-CO helped improve the quality and management of services provided by the public administration under the National Planning Department (DNP) in response to growing demands by citizens, public agencies, and the private sector. Loan 2977/OC-CO improved efficiency and transparency in the use of public investment funds through an integrated IT platform managed by the DNP. Those two operations financed development of management and transparency tools that

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<sup>26</sup> ANDJE, 2018. Total claims corresponding to national actions amount to US\$120 billion.

<sup>27</sup> ANDJE, 2019. Data from the Information Management Office.

<sup>28</sup> ANDJE. Strategic Plan for Legal Defense of the State, page 14.

<sup>29</sup> The cost-benefit analysis performed in 2017 determined that as of August of that year eKOGUI had 319 national public entities as active users. The information was recorded by 4,343 legal representatives and attorneys, 297 Heads of Legal Offices and administrators, and 255 internal control chiefs.

<sup>30</sup> These tools would facilitate analyses related to multiple filings of lawsuits in different jurisdictions, identification of attorneys that seek to profit from lawsuits in different departments, and more timely monitoring of the increase or decrease in lawsuits in cities identified as a source of overstated lawsuits in order to intervene quickly and prevent the progress of those suits.

<sup>31</sup> See [Technical Annex—Information and Communications Technology \(ICT\)](#).

- undergird the crosscutting macroprocesses of Colombia's public administration, including legal defense.
- 1.13 In addition, the previous operation with the ANDJE (loan 2755/OC-CO) (paragraphs 1.2 to 1.5) is an important benchmark for preparing this second strengthening program, and the lessons learned that have been taken into consideration include: (i) improvement in strategic management and knowledge management creates institutional incentives that improve the quality of legal defense work; (ii) creating institutional management and technology tools for defense of the State's interests is key to managing processes and making decisions; (iii) training in preventing administrative torts and legal defense should be monitored periodically and evaluated as a function of impact rather than solely the training in and of itself; and (iv) it is necessary to work not only with the entity issuing the relevant guidelines and policies, but also with the system of entities that implements them. It is also worth noting that the previous operation completed a new intervention through three components: (i) support setting up the new ANDJE; (ii) improving the management of the legal defense cycle; and (iii) strengthening information management, with the principal outcomes being that ANDJE's technical area, its management processes, technology and planning are in operation; processes have been established; and the eKOGUI has been created and holds information on 100% of claims received from national-level entities. The new operation aims to build on past gains in legal-defense effectiveness and incorporate management and technology tools to strengthen the work of ANDJE and the entities within the LDS.
- 1.14 At the regional level, the Bank implemented the Program for Institutional Modernization of the State Legal Defense Council (loan 2538/OC-CH) in Chile (implemented in 2011) with the objective of improving the effectiveness and quality of legal defense. The results and lessons learned from that operation serve as a benchmark for this program for purposes of defining defense tools as well as coordination arrangements, such as direct intervention in complex and recurring lawsuits in Colombia.
- 1.15 Articulation of the most relevant technologies with the ANDJE's current systems focuses on: (i) artificial intelligence and analytics tools for the agency's decision-making and processes throughout the defense cycle; (ii) georeferencing tools to facilitate transparency with a focus on territory, jurisdiction, gender, and differentials; (iii) tools to manage users and groups of value (attorneys for public entities, plaintiffs, experts); and (iv) electronic files, including digitized copies of physical documents as well as digital documents and electronic signature and authentication.
- 1.16 **Strategic alignment.** The program is consistent with the Update to the Institutional Strategy 2010-2020 (document AB-3008) and is strategically aligned with the development challenge of Productivity and Innovation as it strengthens the ANJDE through the use of ICTs to enhance the effectiveness of the State's legal defense. The program is also aligned with the crosscutting area of Institutional Capacity and Rule of Law in that it strengthens the effectiveness of the ANDJE and the entities in the LDS. The program is aligned with the Corporate Results Framework 2016-2019 (document GN-2727-6), specifically the following indicators: (i) Government agencies benefited by

projects that strengthen technological and managerial tools to improve public service delivery; (ii) more robust public registries; and (iii) projects that support innovation systems.

- 1.17 The program is also aligned with the Sector Strategy on Institutions for Growth and Social Welfare (document GN-2587-2) in the areas of anticorruption and transparency. It supports access to information and open government policies, particularly in legal proceedings with a potential impact on public finance. The program is also aligned with the IDB Group Country Strategy with Colombia 2019-2022 (document GN-2972) in the strategic area of public management effectiveness, and the strategic objective of supporting a fiscal compact to improve State revenues by enhancing the effectiveness of legal defense through the design and development of management and information tools to permit informed decision-making with respect to contingent liabilities and the Medium-term Fiscal Framework. This program is aligned with three of the government's strategies: (i) item B, objective 5 of Chapter 1 "A pact for legality: transparent justice and security so that we can all live with liberty and democracy" of the PND 2018-2022, which defines specific actions in the area of legal defense of the State; (ii) Ten-year Justice Plan 2017-2027;<sup>32</sup> and the Strategic Plan for Legal Defense 2019-2022,<sup>33</sup> which defines specific actions in the area of legal defense of the State and fiscal strategies to improve the flow of payments and to decrease the contingent liability associated with judgments, settlements, and awards. Lastly, the operation is included in the Update of the Annex III of the 2019 Operational Program Report (document GN-2948-2).
- 1.18 As a complement to the above, the program contributes to gender equity and diversity through certification in legal defense tools with a gender focus. For such purposes, the program will supply information on gender and diversity in the legal defense of the State. Based on current information, a gap cannot be determined. However, the information will be used as a baseline to begin monitoring the difference in certification between men and women and to thus identify any gaps. Progress can then be made in defining metrics and developing tailored policy measures as established in the Results Matrix.

## **B. Objectives, components, and cost**

- 1.19 **Objective of the program.** The general objective of the program is to help raise the efficiency of the ANDJE and the entities in Colombia's LDS in terms of real potential savings on the judgment/claims ratio.<sup>34</sup> The three specific objectives are to: (i) enhance the effectiveness of the ANDJE's management tools; (ii) extend the coverage of ANDJE intervention in legal proceedings; and (iii) improve knowledge transfer for the ANDJE and entities in the LDS.
- 1.20 **Component 1. Building the ANDJE's capacity to improve the performance of national entities in the LDS (US\$8.2 million).** This component is aimed at enhancing the effectiveness of management tools and at extending the coverage

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<sup>32</sup> [Ten-year Plan](#).

<sup>33</sup> [Strategic Plan for Legal Defense 2019-2022](#).

<sup>34</sup> See footnote 14.

of ANDJE intervention in lawsuits.<sup>35</sup> It will finance:<sup>36</sup> (i) design and implementation of the Comprehensive Legal-Defense Management Model,<sup>37</sup> which includes: (a) a diagnostic assessment based on the following inputs: design of organizational architecture, dimensioning and scope of legal defense in Colombia, analysis of crosscutting processes, characterization of stakeholders and entities in the LDS, case management process, results indicators for Agency-wide monitoring dashboard, structuring of financial tools and human talent, mechanisms for coordination with the LDS, relationship with the Integrated Planning and Management Model (MIPG),<sup>38</sup> risk management and alerts,<sup>39</sup> change management with respect to the LDS, and a comparative study to establish benchmarks and good practices at three levels: international, national, and local; (b) validation and piloting of the proposed model; and (c) phased adjustments and implementation; and (ii) design and implementation of institutional architecture, and product and services portfolio for LDS entities:<sup>40</sup> (a) development of the institutional architecture model (based on the outcome of the diagnostic assessment), design of the data, institutional,<sup>41</sup> and technology architecture based on defined milestones, and design of integration and interoperability architecture; (b) diagnostic assessment and optimization of current portfolio; and (c) design and implementation of the stakeholder and relationship management model, case management system, and electronic file system.

- 1.21 **Component 2. Strengthening of knowledge management based on evidence from the State's LDS (US\$5.8 million).** This component is geared toward improving knowledge transfer for the ANDJE and the entities in the LDS. It will finance:<sup>42</sup> (i) strengthening of the agency's information system architecture, including development of mission modules;<sup>43</sup> (ii) development of the predictive and prospective analysis model to increase efficiencies in the use of information, which includes: (a) diagnostic assessment with identification of requirements, cost analysis, identification of technology tools that incorporate new capacities for predictive and prospective analysis and development of those tools; and (b) diagnostic assessment of quality, completeness, timeliness, and confirmation

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<sup>35</sup> Either judicial or arbitration processes.

<sup>36</sup> Although these are the main ones, other tools may be explored that support development of the program.

<sup>37</sup> (Grafe and Straza, 2014) The effectiveness of the Agency's actions in terms of its ability to avoid payouts will depend more on the process management model than on whether all phases of the legal defense cycle have been assigned to it.

<sup>38</sup> Modelo Integrado de Planeación y Gestión (MIPG).

<sup>39</sup> Chile's Legal Defense Program. Institutional rigidities and management weaknesses, in a context in which litigation against the State is increasingly complex or broaches new territory, reduce both the effectiveness and quality of legal defense (loan 2538/OC-CH).

<sup>40</sup> Carrillo (2013). Some public entities are particularly vulnerable to litigation, especially social security institutions that together manage hundreds of thousands of pension claims. These entities require a different strategy than one that would be appropriate for an entity only occasionally taken to court (e.g., Banco de la República).

<sup>41</sup> For the ANDJE and the LDS.

<sup>42</sup> Although these are the main ones, other tools may be explored that support development of the program.

<sup>43</sup> "Mission modules" refers to potential developments in the framework of the eKOGUI system or other technology tools that may be required to improve legal defense.

of data; (iii) diagnostic assessment with identification of requirements, cost analysis, development and implementation of integration and interoperability architecture, and design and development of descriptive georeferencing tools;<sup>44</sup> (iv) diagnostic assessment, optimization, and implementation of knowledge management strategy;<sup>45</sup> and (v) cybersecurity and ICT services infrastructure: (a) development of cybersecurity protection tools;<sup>46</sup> and (b) procurement of ICT infrastructure and services.

1.22 **Program management.** Audit and monitoring and evaluation costs have been estimated at US\$1,072,500, equivalent to 7.15% of the program.

1.23 **Main beneficiaries.** The program's main beneficiaries will be citizens who benefit from new goods and services financed with the savings resulting from fewer payouts for judgments and settlements. Specifically, 7,000 children and youths will potentially benefit from new schools, 3,877 people from new two-year lease-to-buy subsidies under the "Semillero de Propietarios" program, 15,600 children from the "Hogares Comunitarios de Bienestar" [community welfare homes] program, among others. Moreover, users benefitting from the program will be employees of the ANDJE and LDS entities (364 national entities).

### C. Key results indicators

1.24 **Expected outcomes.** The main impact expected from the program is improved efficiency of the State's LDS in terms of real potential savings measured as savings in processes involving the intervention or assistance of the ANDJE<sup>47</sup> out of total judgments/claims. The expected outcomes will be greater efficiency of the LDS as a result of: (i) an increase in the efficiency of the State's legal defense tools measured by the percentage of prejudicial conciliation reports updated in eKOGUI; (ii) an extension of the coverage of ANDJE interventions in legal proceedings, measured as the percentage of cases with the largest claims in which the ANDJE intervenes;<sup>48</sup> and (iii) an increase in knowledge transfer for the ANDJE and entities

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<sup>44</sup> IDB, 2019. MapaInversiones is a tool to make public administration transparent, efficient, and effective, and to promote citizen participation. Using a georeferenced IT solution, multiple sources of public investment information are integrated so that, with support from mobile units and social networks, citizens and other stakeholders can consult key data, descriptive information, and indicators related to public investment projects.

<sup>45</sup> Chemin, 2009. Between 2001 and 2003, a judicial reform was introduced in Pakistan that sought to increase the productivity of judges in the country's 117 judicial districts. The program, financed by the Asian Development Bank and known as the "Access to Justice Programme," was aimed at alleviating congestion in the district judicial systems. Chemin found that training in 6 of the 117 judicial districts gave rise to a 25% increase in the productivity of those judges compared to their counterparts who did not receive the training.

<sup>46</sup> Refers to licenses, plans, and strategies required to implement the Security Plan according to the applicable guidelines established by the government, as specified in the [Technical Annex—ICT](#).

<sup>47</sup> 
$$= \sum \text{Value of initial claims} - \text{estimated value of judgment/claim for cases with a favorable ruling } ij + \sum (\text{initial claims with unfavorable rulings} - \text{estimated value of judgment/claim}) - \text{judgments } ij) + \sum \text{Claims in cases with favorable award } ij + \sum (\text{initial claims with unfavorable awards } ij - \text{judgments } ij) + \sum (\text{total judgments for government employees under action for restitution}) + (\text{total value of abatements on public resources that are not attachable}) + \sum (\text{initial claims } ij - \text{value of approved out-of-court settlements}).$$
 The real potential savings indicator was chosen rather than the potential savings because the intention is to show an impact attributable to the specific actions being implemented as part of the program according to the real possibilities of success and not the total claims without taking into account the judgment/claim ratio.

<sup>48</sup> ANDJE. As of March 2019, the ANDJE intervenes in 5% of cases with the largest claims (27/500).

in the LDS measured as the percentage of certifications in legal defense tools with a gender equity focus.<sup>49</sup>

- 1.25 **Economic evaluation.** The economic analysis deemed the program cost-effective under the baseline scenario where the productivity of attorneys increased by 25% with the development of management tools and training in their use. In this scenario, the social internal rate of return (IRR) is 18%, the program's cost-benefit ratio is 1.61, and the net present value (NPV) is US\$8,570,677. On the basis of the sensitivity analysis, the sensitive variables are: (i) productivity gains derived from the development of management and training tools; and (ii) average value per case, which explain 100% of the NPV variations. In the conservative scenario where the increase in productivity is 22.5%, the IRR drops to 13% and the cost-benefit ratio is 1.45. Accordingly, more than US\$1 is expected to be recouped for each dollar invested, which suggests that the program is still cost-effective in this scenario. In the optimistic scenario, the variable is 27.5% and the IRR rises to 24%, producing a cost-benefit ratio of 1.77, which means that the program would recoup US\$2.77 for each dollar invested (see [Economic Analysis](#)).

## II. FINANCING STRUCTURE AND MAIN RISKS

### A. Financing instruments

- 2.1 This operation is structured as a US\$15 million specific investment loan from the Bank's Ordinary Capital. Table 1 breaks down the consolidated budget by component, as detailed in the [itemized budget](#). The execution period (see Table 2) was defined based on the following criteria: (i) average time to design and implement the proposed activities; (ii) building on results achieved in loan 2755/OC-CO; and (iii) alignment with the Strategic Plan for Legal Defense of the State and the PND 2018-2022.

**Table 1. Estimated program costs (in U.S. dollars)**

Components	IDB	%
Component 1. Building the ANDJE's capacity to improve the performance of national entities in the LDS	8,157,450	54.38
Component 2. Strengthening of knowledge management based on evidence from the State's LDS	5,770,050	38.47
Administrative or other contingent expenses	1,072,500	7.15
<b>Total</b>	<b>15,000,000</b>	<b>100</b>

**Table 2. Tentative disbursement schedule (in U.S. dollars)**

Source	Year 0	Year 1	Year 2	Year 3	Year 4	TOTAL
IDB	150,000	3,454,000	5,500,000	4,000,000	1,896,000	15,000,000
%	1	23	36.7	26.7	12.6	100

Year 0. The program is due to be launched in the last quarter of 2019. For this year, resources are included for the technical readiness of the program, with consideration for the ANDJE's budget approval and release timetable authorized by the Ministry of Finance and Public Credit.

<sup>49</sup> ANDJE. During 2018, 396 women were trained, which is equivalent to 8% of women defending the State.

**B. Environmental and social safeguards risks**

2.2 According to the Environment and Safeguards Compliance Policy (Operational Policy OP-703), this has been classified as a category “C” operation. Since the program will not finance any physical infrastructure components, no environmental or associated social risks are anticipated.

**C. Fiduciary risks**

2.3 The ANDJE recently executed loan 2755/OC-CO, satisfactorily achieving the planned outcomes and objectives, thus demonstrating effective execution. In addition, part of the team from that operation has been retained in preparing this new operation. Accordingly, an institutional capacity assessment as such was not made. However, documented information is available concerning capacity and risk based on the periodic analyses made by the fiduciary team. Information available on the ANDJE indicates a low level of fiduciary risk, such that the level of development is satisfactory.

**D. Other key issues and risks**

2.4 The following risks were identified in the design phase:

- a. **Development.** The following medium risks were identified: (i) due to the recent change in administration, delays may occur in the exchange and preparation of information within the scheduled timeframe for structuring the program execution unit (PEU) and for achieving the readiness of the operation. As a mitigation measure, in May 2018 the ANDJE formulated and approved the Strategic Plan for Legal Defense, which includes creation of a National Legal Defense System. To that end, it incorporated lines of action aimed at creating that system in the PND 2018-2022 with respect to: bond issues for payouts related to judgments, settlements, and awards in order to reduce interest charges (currently equivalent to 30%); definition of the National Legal Defense Policy, and creation and strengthening of the Legal Defense System; and (ii) the entity may fail to promptly develop cybersecurity and sustainability guidelines that facilitate investments in technology-related areas. As mitigation measures, the ANDJE will implement the digital security measures defined in CONPES document 3854 of 2016. The agency has also taken actions aimed at maintaining IT equipment and modules based on experience gained during its first five years of operation.
- b. **Public administration and governance risks.** A medium risk identified was limited buy-in and participation of national public entities in the LDS. As mitigation measures, in May 2018 the ANDJE formulated and approved the Strategic Legal Defense Plan, which includes creation of a National Legal Defense System. To that end, it made progress in incorporating lines of action aimed at its creation. The recently approved PND 2018-2022 defined two targets to allow the entities to evaluate themselves in terms of legal defense performance: (i) effectiveness of legal defense and management measured as the percentage of favorable outcomes of lawsuits; and (ii) national entities with full documented policies or directives in the area of prevention of administrative torts.

- 2.5 **Sustainability.** In order to ensure the sustainability of the actions taken under this program, there is planned complementarity with legal defense initiatives undertaken by the government. First, based on the results of loan 2755/OC-CO, a strategy was designed and included in the PND-2018-2022 for payouts for judgments, settlements, and awards through government-issued treasury notes, recognizing those amounts as public debt in order to settle the debt during 2019. Second, the ANDJE has been developing initiatives in the areas of knowledge management, national and international defense, and the prevention of administrative torts, which will be strengthened by the activities established in the loan, thus enhancing their impact. Third, the PND-2018-2022 includes the specific objective (1.B.e.5) of making progress in strengthening the National Legal Defense System and developing strategies to reduce the fiscal impact. A CONPES document will also be formulated that sets out the public policy guidelines for the State's defense. Lastly, the program includes the development of plans for procurement of ICT services, as well as interoperability and cybersecurity tools, which is expected to allow the ANDJE to ensure the technical and financial sustainability of the activities both in the medium term and after the program ends (paragraphs 1.20 and 1.21).

### III. IMPLEMENTATION AND MANAGEMENT PLAN

#### A. Summary of implementation arrangements

- 3.1 **Execution mechanism.** The borrower will be the Republic of Colombia and the executing agency will be the ANDJE. The executing agency will have the support of a PEU comprising a team with at least: (i) one program manager; (ii) one procurement specialist with experience procuring information and communication technologies and services; (iii) one planning and monitoring and evaluation specialist; (iv) one financial specialist with multilateral banking experience; (v) one specialist in information management and information technologies; and (vi) one administrative assistant. The team will also have the necessary administrative and financial support.
- 3.2 **Internal coordination mechanisms.** Within the ANDJE the PEU will articulate the actions with the ANDJE's various units involved in program execution. Those units include the technical offices, working groups, the Secretary General's office, the General Director's office, and other pertinent units. The ANDJE will form a program management committee (PMC) and its technical secretariat will be headed by the PEU.<sup>50</sup> The General Director will head the PMC. The remaining members will be: the Secretary General, the Chief of the Planning Office, and the Program Manager. The PMC will be responsible for institutional coordination of the technical units involved in program operations, as well as for coordinating the exchange of information with the LDS. The execution mechanism will be described in greater detail in the [program Operating Regulations](#).
- 3.3 **External coordination mechanism.** The ANDJE will coordinate the work with national public entities, which report information in eKOGUI and receive some type of assistance (advisory, intervention in lawsuits). The ANDJE will also hold regular

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<sup>50</sup> Formation of the PEU is described in greater detail in the [program Operating Regulations](#).



meetings with the Legal Offices of these entities to provide information and training on prevention and defense guidelines. Performance will be enhanced by development of the technology and management tools proposed in this program. In the same vein, work specifically with the Ministry of Finance and Public Credit is key to ensuring the effective coordination of payouts for judgments and settlements.

- 3.4 **Special contractual conditions precedent to the first disbursement of the loan. The executing agency will submit evidence to the Bank that: (i) the PMC has been created and its members appointed pursuant to applicable legislation and the program Operating Regulations<sup>51</sup> to ensure the existence of a forum for communication, monitoring of execution, and strategic decision making for the program; (ii) the members of the PEU have been appointed based on the profiles and terms of reference included in the program Operating Regulations and previously agreed with the Bank, in order to have a qualified team that brings quality and balance to development of the program activities; and (iii) the program Operating Regulations have been approved and have come into force pursuant to the terms and conditions previously approved by the Bank, so that the guidelines, procedures, and coordination mechanisms to be followed for proper execution of the program are established.**
- 3.5 **Procurement of works, goods, and nonconsulting and consulting services.** Procurements financed all or in part with resources from the Bank will be carried out in accordance with the Policies for the Procurement of Goods and Works Financed by the Inter-American Development Bank” (document GN-2349-9) and the “Policies for the Selection and Contracting of Consultants Financed by the Inter-American Development Bank” (document GN-2350-9). The [procurement plan](#) contains the list of procurements to be made during execution of the program.
- 3.6 **Disbursements.** The disbursement method will be fund advances, based on liquidity needs for a maximum period of six months; and accounting for advances will be in accordance with the provisions of OP-273-12 “Amendment to the Financial Management Guidelines for IDB-financed Projects”. In addition to projected cash flow, the disbursement request should be accompanied by the reconciliation of the special account and the implementation status of technical and fiduciary performance commitments. Documentation of expenditures will use the exchange rate to convert funds disbursed in U.S. dollars (US\$) to Colombian pesos (Col\$), i.e., the monetization rate. Documentation will be reviewed ex post.
- 3.7 **Audits.** The program’s financial statements will be audited each year by an independent auditing firm acceptable to the Bank within 120 days of each fiscal year-end of the program during the original disbursement period or any necessary extension. The most recent audited financial statements will be submitted within 120 days of the date stipulated for the final disbursement in accordance with the procedures and terms of reference previously agreed with the Bank.

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<sup>51</sup> The program has [Operating Regulations](#) that define the functions of each of the units and entities involved and the members of the PEU and their profiles, as well as the mechanisms for coordination, information flows, documentation, and execution of activities. The program draws on the good practices of loan 2755/OC-CO.

**B. Summary of arrangements for monitoring results**

- 3.8 **Monitoring by the executing agency.** The executing agency will use the following documents to monitor the program: (i) Results Matrix; (ii) [program execution plan](#); (iii) monitoring and evaluation plan ([MEP](#)); (iv) procurement plan; (v) risk management matrix; (vi) semiannual progress reports; and (vii) the program's audited financial statements. The PEU will prepare and send semiannual progress reports for review by the Bank no later than 30 days after the end of each six-month period (30 January and 30 July).
- 3.9 **Monitoring by the Bank.** The Bank will supervise the program following the timetable defined in the [program execution plan](#), which identifies when technical supervision by the Bank is deemed necessary. For this purpose, it will conduct administrative missions or inspection visits, depending on the importance and complexity of program execution. The Bank will also use the Progress Monitoring Report to monitor the operation's progress, using the semiannual progress reports presented by the executing agency as the main input.
- 3.10 Joint semiannual meetings between the executing agency and the Bank will be held to discuss: (i) progress in the activities identified in the [annual work plan](#); (ii) the degree of fulfillment of the indicators established in the Results Matrix; (iii) the annual work plan for the following year; and (iv) the [procurement plan](#) for the next 12 months and possible budget adjustments by component. The executing agency agrees to maintain a program monitoring and evaluation system based on which the reports and data remitted to the Bank will be prepared. The PEU will have a specialist assigned to plan and monitor its activities.
- 3.11 **Evaluation.** A midterm evaluation will be conducted to verify attainment of the outcome and impact targets set forth in the Results Matrix (90 days after disbursement of 60% of the loan proceeds or 36 months into the program, whichever occurs first).
- 3.12 The Bank will make a final evaluation as part of the project completion report 90 days after the date of disbursement of 95% of the loan proceeds, which will determine progress in the indicators as a result of implementation of the various components of the proposed program. The report will rely on the following inputs: the periodic progress reports, results matrix indicators, audited financial statements, the results of the impact evaluation, and other results obtained. The final evaluation includes an ex post economic evaluation which will calculate the real cost-benefit of the intervention, replicating the cost-benefit analysis methodology developed for the ex ante economic analysis. The [MEP](#) details the applicable terms of reference to enable performance of the ex post evaluation.
- 3.13 In order to test the effectiveness of the interventions and the proposed outputs in the framework of the program, implementation of the portfolio of products and services in half of the 264 national public entities is proposed for the first phase. This intervention would make it possible to transfer knowledge from the ANDJE to the remaining entities, which have a success rate 35% below that of the ANDJE. Furthermore, it would produce causal evidence on these interventions so as to then be able to replicate them in the remaining countries of the region.
- 3.14 In order to evaluate the impact on the indicators of the intervention in the country's various legal entities, the results indicators must be analyzed in scenarios both

with and without the program. Contrasting those two scenarios will allow us to deduce which changes were due to training of the ANDJE. In order to model what would have happened in the absence of the knowledge transfer, we will follow the random controlled experiment methodology. There are 264 legal entities in Colombia that intervene in lawsuits filed against the State. A random sample of 132 entities will receive training and have the portfolio of products and services designed under this program implemented. The remaining entities will form the control group. All entities have an equal chance of being selected for the treatment group. See the [MEP](#).

Development Effectiveness Matrix		
Summary		CO-L1251
<b>I. Corporate and Country Priorities</b>		
<b>1. IDB Development Objectives</b>		<b>Yes</b>
Development Challenges & Cross-cutting Themes	-Productivity and Innovation -Institutional Capacity and the Rule of Law	
Country Development Results Indicators	-Government agencies benefited by projects that strengthen technological and managerial tools to improve public service delivery (#)* -Public registries strengthened (#)* -Projects supporting innovation ecosystems (#)*	
<b>2. Country Development Objectives</b>		<b>Yes</b>
Country Strategy Results Matrix	GN-2972	Support a fiscal compact to improve State revenues
Country Program Results Matrix	GN-2948-2	The intervention is included in the 2019 Operational Program.
Relevance of this project to country development challenges (If not aligned to country strategy or country program)		
<b>II. Development Outcomes - Evaluability</b>		<b>Evaluable</b>
<b>3. Evidence-based Assessment &amp; Solution</b>		<b>9.1</b>
3.1 Program Diagnosis		2.4
3.2 Proposed Interventions or Solutions		4.0
3.3 Results Matrix Quality		2.7
<b>4. Ex ante Economic Analysis</b>		<b>8.0</b>
4.1 Program has an ERR/NPV, or key outcomes identified for CEA		3.0
4.2 Identified and Quantified Benefits and Costs		3.0
4.3 Reasonable Assumptions		0.0
4.4 Sensitivity Analysis		2.0
4.5 Consistency with results matrix		0.0
<b>5. Monitoring and Evaluation</b>		<b>10.0</b>
5.1 Monitoring Mechanisms		2.5
5.2 Evaluation Plan		7.5
<b>III. Risks &amp; Mitigation Monitoring Matrix</b>		
Overall risks rate = magnitude of risks*likelihood		<b>Medium</b>
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		<b>C</b>
<b>IV. IDB's Role - Additionality</b>		
<b>The project relies on the use of country systems</b>		
Fiduciary (VPC/FMP Criteria)	Yes	Financial Management: Budget, Treasury, Accounting and Reporting. Procurement: Information System.
Non-Fiduciary	Yes	Strategic Planning National System.
The IDB's involvement promotes additional improvements of the intended beneficiaries and/or public sector entity in the following dimensions:		
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		

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

**Evaluability Assessment Note:**

The main objective of the operation is to contribute to the strengthening of the efficiency of ANDJE and the entities that are part of the State's Legal Defense system (EDJ) in terms of real potential savings over the conviction/pretenion's ratio.

To achieve this end, the loan defines three specific areas on which the project will intervene. The focus of the first area is improving the efficiency of ANDJE's management tools. The second focus area of focus is the coverage enhancement of the processes in which ANDJE intervenes. The third area of focus is the improvement of the knowledge transfer for ANDJE and the entities that are part of the EDJ.

The Project includes a description of the efficiency gaps in the state-level legal defense in terms of the real potential savings.

The economic analysis provides a quantification of savings by the benefits that can be obtained from the increase in productivity by the Agency's lawyers and the conviction/pretenion's ratio improvement. The analysis concludes with an actual net value of USD 8.570.677 and with an Internal Rate of Return of 18% (eighteen percent).

The monitoring is based on reports from ANDJE. The monitoring and evaluation plan includes an impact evaluation to identify the effects of closing knowledge gaps for ANDJE and EDJ on their effectiveness. The impact evaluation relays on the randomized control trial methodology. The rest of the results indicators will be measured using the before-and-after-method.

There are three medium rated risks and two low rated risks. The main risk identified in the program is related to the potential delay in the ANDJE and EDJ modernization reforms implementation; therefore, the creation of legal defense plans, among others, will be implemented as part of the mitigation measures.

**RESULTS MATRIX**

<b>Project objective:</b>	The general objective of the program is to help raise the efficiency of the ANDJE and the entities of Colombia’s Legal Defense System (LDS) in terms of real potential savings on the judgment/claims ratio. This includes three specific objectives to: (i) enhance the effectiveness of the ANDJE’s management tools; (ii) extend the coverage of ANDJE intervention in legal processes; and (iii) improve knowledge transfer for the ANDJE and entities in the LDS.
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**EXPECTED IMPACT**

Indicators	Unit of measure	Baseline	Baseline Year	Year 1	Year 2	Year 3	Year 4	Target level	Means of verification
<b>IMPACT 1. Improve the efficiency of the LDS in terms of real potential savings</b>									
Indicator 1. Real potential savings <sup>1</sup> in millions of dollars <sup>2</sup>	Real potential savings measured as savings in processes with either ANDJE intervention or assistance out of total judgments/claims	1,174	2018	1,200	1,586	2,538	3,173	3,173	eKOGUI SIIF [Integrated Financial Management System] CHIP [Treasury and Public Information Consolidation System]

<sup>1</sup> The judgment/claims ratio was calculated at 30% in 2018. The program will contribute through real potential savings measured as =  $\sum$ Value of initial claims - estimated value of judgment/claim for proceedings with a favorable ruling ij +  $\sum$ (initial claims with unfavorable rulings – estimated value of judgment/claim) - judgments ij) +  $\sum$ Claims in cases with favorable award ij +  $\sum$ (initial claims with unfavorable awards ij – judgments ij) +  $\sum$  (total judgments for government employees under action for indemnity) + (total value of abatements on public resources that are not attachable) +  $\sum$  (initial claims ij – value of approved out-of-court settlements. The real potential savings indicator was chosen rather than the potential savings because the intention is to show an impact attributable to the specific actions being implemented as part of the program according to the real possibilities of success and not the total claims without taking into account the judgment/claim ratio.

<sup>2</sup> Calculated at the exchange rate of US\$1 = Col\$3,151.

**EXPECTED OUTCOMES**

Indicators	Unit of Measure	Baseline	Baseline Year	Year 1	Year 2	Year 3	Year 4	Target Level	Means of Verification	Comments
<b><u>OUTCOME 1. Increase in the effectiveness of legal defense tools</u></b>										
1.1 Percentage improvement in updated reports in eKOGUI of prejudicial conciliation information	No. conciliations analyzed that were updated/No. conciliations analyzed	18	2018	18	19	21	23	23	eKOGUI	Taking, as a proxy for timeliness, the update to the information in eKOGUI on the state of conciliation for the entity (active / concluded) using information from the Inspector General's Office (PGN) for contrast
<b><u>OUTCOME 2. Increase in the coverage of ANDJE intervention in legal processes</u></b>										
2.1. Percentage of cases with the largest claims <sup>3</sup> in which the ANDJE intervenes	Cases with ANDJE intervention / Total cases	5	2018	5	10	15	20	20	eKOGUI	
<b><u>OUTCOME 3. Increase in knowledge transfer for the ANDJE and LDS</u></b>										
3.1. Percentage certified in legal defense tools with a gender equity focus <sup>4</sup>	Female attorneys certified in legal defense from ANDJE and LDS / Total number of attorneys from ANDJE and LDS	8	2018	8	16	24	30	30	eKOGUI	Pro-Gender

<sup>3</sup> The ANDJE defined a judicial intervention strategy for the 500 most costly lawsuits, which represent 68% of claims against the State and amount to US\$81 billion. The agency's strategy focuses on 381 judicial processes in the contentious-administrative jurisdiction (US\$34 billion) and 119 class-action lawsuits (US\$46.9 billion). The agency also designed and launched a negotiation strategy in 208 of the 1,490 inter-administrative cases, with claims equivalent to US\$960 million, i.e. 97% of total inter-administrative claims. The goal is to reach amicable settlements for the inter-administrative lawsuits, reducing their fiscal impact and improving inter-agency coordination.

<sup>4</sup> Of the total number of attorneys (4,771) defending the State, currently 32% are women, 396 of whom were trained in 2018 (8%).

OUTPUTS

Outputs	Unit of Measure	Baseline	Baseline Year	Year 1	Year 2	Year 3	Year 4	Target Level	Means of Verification	Comments
<b>Component 1. Building the ANDJE's capacity to improve the performance of national entities in the LDS</b>										
1.1 Comprehensive management-for-results model for prevention of administrative torts and for legal defense, designed and implemented	Model	0	2018	0	0	1	0	1	Planning system—ANDJE	
1.2. Data architecture model designed and implemented	Model	0	2018	0	0	1	0	1	Managing-for-results system—ANDJE	
1.3. Current portfolio of products and services diagnosed and optimized, and new products and services from the portfolio: (mainly case management, electronic file system, among others) designed	Products and services	0	2018	0	0	0	1	1	Managing-for-results system—ANDJE	Gender monitoring
1.4. Tool for managing stakeholders (Customer Relationship Management, CRM) designed and implemented	Tool	0	2018	0	0	0	1	1	Managing-for-results system—ANDJE	Gender monitoring
<b>Component 2. Strengthening of knowledge management based on evidence from the State's LDS</b>										
2.1 New eKOGUI modules designed and implemented (cumulative)	Modules	17	2018	17	18	19	20	20	eKOGUI	
2.2. Predictive and prospective model designed and developed (dashboard, model for analytics and quality of data, and descriptive georeferencing tools)	Tools	0	2018	0	0	0	1	1	Managing-for-results system—ANDJE	
2.3. Integration and interoperability architecture developed and implemented	Model	0	2018	0	0	0	1	1	Managing-for-results system—ANDJE	
2.4. Knowledge management strategy diagnosed, optimized, and implemented	Strategy	0	0	0	0	0	1	1	Managing for results system—ANDJE	Gender monitoring
2.5. Cybersecurity protection tools developed	Tools	0	0	0	0	0	1	1	Infrastructure and services plan (ICT)	
2.6. Procurement plan executed for ICT infrastructure and services <sup>5</sup>	Plan	0	2018	0	0	0	1	1	Infrastructure and services plan (ICT)	

<sup>5</sup> Aligned with the Strategic Information Technologies Plan (PETI).

## FIDUCIARY AGREEMENTS AND REQUIREMENTS

<b>Country:</b>	Colombia
<b>Project number:</b>	CO-L1251
<b>Name:</b>	Program for Strengthening Colombia's National Agency for Legal Defense of the State
<b>Executing agency:</b>	Agencia Nacional de Defensa Jurídica del Estado [National Agency for Legal Defense of the State] (ANDJE)
<b>Fiduciary team:</b>	Miguel A. Orellana, Fiduciary Financial Management Specialist (FMP/CCO); Eugenio Hillman, Principal Fiduciary Procurement Specialist (FMP/CCO)

### I. EXECUTIVE SUMMARY

- 1.1 The executing agency will be the ANDJE. To execute the program, the ANDJE will have a program execution unit (PEU) that reports directly to its Office of the Secretary General. The PEU will be responsible for the execution and technical supervision of the program. In determining the execution structure, the fiduciary team considered the program's technical characteristics, the agency's recent experience with execution of loan 2755/OC-CO, which concluded in February 2019, and the Bank's experience managing projects with similar challenges.
- 1.2 The ANDJE recently executed loan 2755/OC-CO with satisfactory achievement of the planned outcomes and objectives, thus demonstrating effective execution. In addition, part of the team from that operation has been retained in preparing this new operation. Accordingly, an institutional capacity assessment as such was not made. However, documented information is available concerning capacity and risk based on periodic analyses made by the fiduciary team. Available information on the ANDJE indicates a low level of fiduciary risk, such that the level of development is satisfactory.
- 1.3 According to the Public Expenditure and Financial Accountability (PEFA) evaluation, Colombia's public finance management system is mature and performs well in most areas, but is not yet fully compliant with international standards. In addition, while the public procurement system is considered adequate and consistent with internationally accepted practices from a regulatory standpoint, its use has not yet been accepted for purposes of Bank financing.

### II. THE EXECUTING AGENCY'S FIDUCIARY CONTEXT

- 2.1 The ANDJE will keep the accounting records for the program in the Integrated Financial Information System (SIIF) Nación 2. Based on that information, it will



- generate and prepare the financial reports required by the Bank. The Office of the Secretary General and the Planning Advisory Office, specifically the financial management group, will be responsible for coordinating financial and administrative procedures relating to the budget, cash management, accounting, and financial reports in general.
- 2.2 The ANDJE has an Integrated Institutional Management System (SIGI). Planning, provisioning, finance and accounting, human talent, and control functions are included in the scope of the systems comprising the Integrated Planning and Management Model (MIPG). The ANDJE documents all of the activities in that system, including the internal control system of the Office of Internal Control. Its functions are exercised across the Agency's operations and are adequate. The Office of the Comptroller General of the Republic (CGR) is responsible for the external control of the entities.
- 2.3 In order to increase the value for money in procurement and to ensure the availability of funds required for the program activities, the ANDJE will centralize the following in the PEU: planning of activities, financial planning, the entire procurement process, accounting, and reporting to third parties on program-related activities. For such purposes, it will incorporate personnel with experience applying Bank procurement policies and with the financial and accounting management of resources from external funding. The program team will be trained in Bank-financed procurement at the beginning of the program and every year thereafter.

### **III. FIDUCIARY RISK EVALUATION AND MITIGATION ACTIONS**

- 3.1 In designing the operation, the Bank conducted a risk management exercise following the applicable methodology and identified certain risks.
- 3.2 Two low-level fiduciary risks were identified: (i) the fiduciary financial management capacity of the executing agency to manage loan operations under the policies of the Inter-American Development Bank (IDB) and (ii) the executing agency's capacity to manage procurement according to IDB policies. The following mitigation measures are proposed to mitigate the risks identified: (a) creation of a PEU by contracting: (i) one program manager/coordinator; (ii) one financial specialist with experience in projects financed by the IDB or multilateral banks; (iii) one procurement specialist familiar with the Bank's operations; (iv) one Information and Communications Technology (ICT) expert to lead business architecture, analytics, and big data activities; and (v) one planning and monitoring and evaluation specialist; (b) design, implementation, and adoption of the program Operating Regulations; and (c) training of the project team in fiduciary matters related to both financial management and Bank-financed procurement at the beginning of the program and every year thereafter.

### **IV. CONSIDERATIONS FOR THE SPECIAL PROVISIONS OF CONTRACTS**

- 4.1 The ANDJE will supply documentation for expenditures using the exchange rate to convert the payments made from the special account in U.S. dollars to Colombian pesos (monetization rate).

- 4.2 The ANDJE will create budget line items for the program funds classified by component and allocated according to the “Cost and Financing” table in the Single Annex to the loan contract, so that the program’s financial reports can be automatically generated by SIF Nación 2.
- 4.3 The ANDJE will submit the financial statements audited by an independent auditing firm each year until the end of the operation. The auditing firm will be selected and contracted pursuant to the Bank’s policies, if possible on a multiyear basis, in accordance with the procedures and terms of reference previously agreed upon with the Bank.
- 4.4 The ANDJE will present a complete procurement plan for the program that is acceptable to the Bank and the annual procurement plan mentioned in Article 2.2.1.1.4.1. of Decree 1082 of 2015 for the first year of the program.

## V. AGREEMENTS AND REQUIREMENTS FOR PROCUREMENT EXECUTION

- 5.1 **Procurement of works, goods, and nonconsulting services.** Contracts for works, goods, and nonconsulting services to be procured under the program and subject to international competitive bidding (ICB) will be executed in accordance with document GN-2349-9 and the standard bidding documents issued by the Bank. Procurement subject to national competitive bidding (NCB) will be executed using the national bidding documents approved by the Bank. The program’s sector specialist is responsible for reviewing the technical specifications for procurements during preparation of the selection processes.
- 5.2 **Selection and contracting of consultants.** Contracts for consulting services to be procured under the program will be executed using the standard Request for Proposals (RfPs) approved by the Bank, or the standard bidding documents harmonized between the World Bank and Colombia Compra Eficiente.
- 5.3 The program’s sector specialist is responsible for reviewing the terms of reference for the procurement of consulting services.
- 5.4 **Selection of individual consultants.** Per document GN-2350-9.
- 5.5 **Training.** No special actions required.

Table 1. Table of thresholds (in U.S. dollars)

Works		Goods		Consulting services	
ICB	NCB (complex works) **	ICB	NCB (nonstandard goods) **	International advertising Consulting	Shortlist (without restriction on nationality)
Greater than or equal to 10,000,000	350,000 to 10,000,000	Greater than or equal to 1,000,000	50,000 to 1,000,000	Greater than or equal to 200,000	Less than or equal to 500,000

\*\* Simple works and off-the-shelf goods valued at below the ICB threshold may be procured through shopping.

\*\* Complex works or nonstandard goods valued at less than the range for NCB may be procured through shopping.

**Table 2. Table of thresholds for ex post review (in U.S. dollars)**

Threshold for ex post review***		
Works	Goods	Consulting services
10,000,000	1,000,000	200,000

\*\*\* The ex post review is subject to document GN-2349-9.

- 5.6 **Main procurement items.** Procurement items are reflected in the [procurement plan](#) as a required link to the main document.
- 5.7 **Procurement supervision.** The loan procurements will initially be reviewed ex ante. The ex post review modality will be evaluated by the program team and potentially implemented once ANDJE personnel have been trained. Direct contracting is the exception, which will always be reviewed ex ante.
- (i) Works: ex ante unless otherwise specified by the Bank.
  - (ii) Goods: ICB and NCB, ex ante unless otherwise specified by the Bank.
  - (iii) Shopping: initially ex ante and if the result is satisfactory reviews may be ex post.
  - (iv) Consulting firms: ex ante unless otherwise specified by the Bank.
  - (v) Individual consultants: ex ante unless otherwise specified by the Bank.
- 5.8 **Records and files.** The ANDJE will maintain complete documentation of the procurement process. Documentation of the procurement process will be managed by the PEU according to the Document Management guidelines defined in the program's Operating Regulations.

## VI. FINANCIAL MANAGEMENT

- 6.1 **Programming and budget.** The national government, through the National Public Budget Office (DGPPN) and the National Planning Department (DNP), is responsible for budgetary programming, a process that concludes with approval by Congress of the Annual Budget Act. The loan proceeds will be included in Colombia's national budget under the heading "ANDJE," and will be controlled through SIIF Nación 2.
- 6.2 **Accounting and information systems.** The lead agency for government accounting in Colombia is the General Accounting Office of the Nation (CGN), which provides guidelines on how the accounting records are to be kept. The official public accounting system is SIIF Nación 2, which is a source for downloading information that is then sent to the CGN through the Treasury and Public Information Consolidation System (CHIP). The ANDJE will use SIIF Nación 2 for the program's budgetary, accounting, and treasury control. Accounts will be recorded using the accrual method. However, the program's audited financial statements will be prepared on a cash basis and submitted annually to the Bank. For recording its operations and preparing its financial statements, the Agency uses the standards prescribed by the CGN, and for any matters not established therein it uses the accounting standards generally accepted in Colombia as set forth in Decree 2649 of 1993 and Law 1314 of 2009.

- 6.3 **Disbursements and cash flow.** Funds from external sources are executed through SIF Nación 2. For the program's treasury management, the ANDJE will open a special bank account (designated account) in foreign currency in Banco de la República (the central bank) in the program's name, to be used exclusively for the loan funds. The ANDJE will present disbursement requests to the Bank. The Bank will advance funds to satisfy the program's actual liquidity needs for a maximum period of six months. For future advances, at least 80% of the funds received must be accounted for, as stipulated in document OP-273-12, "Amendment to the Financial Management Guidelines for IDB-financed Projects". In addition to projected cash flow, the disbursement request must be accompanied by the reconciliation of the special account and the implementation status of technical and fiduciary performance commitments (where applicable). Documentation of expenditures will use the exchange rate to convert funds disbursed in dollars of the United States of America (US\$) to Colombian pesos (Col\$), i.e. the monetization rate. Documentation will be reviewed ex post.
- 6.4 **Internal control and internal auditing.** The ANDJE has an Office of Internal Control. Internal control is based on application of the Standard Internal Control Manual (MECI) 2014, and the principles of self-regulation, self-management, self-monitoring, and continuous improvement. Risk maps have also been prepared for each process included in the MIPG. The Office of Internal Control is responsible for conducting an independent evaluation of the internal control system through the internal audit tool to ensure compliance and to assist with plans to improve internal audits and the CGR.
- 6.5 **External control and reports.** External control of the ANDJE is performed by the CGR in the form of selective, ex post public audits for purposes of verifying compliance with regulations, proper use of resources, observance of processes and procedures, fulfillment of goals and objectives, etc. Given that the CGR is not currently eligible to audit Bank-financed projects, the program will use the services of an independent auditing firm.
- 6.6 The financial statements and the eligibility of program expenses will be audited annually by an independent auditing firm acceptable to the Bank. Audit services will be financed using funds from the program, with an estimated budget of US\$200,000. The program's audited financial statements will be sent to the Bank within 120 days of each fiscal year-end of the program during the original disbursement period or any necessary extension. The most recent audited financial statements will be presented within 120 days of the date of the final disbursement in accordance with the procedures and terms of reference previously agreed with the Bank.
- 6.7 **Financial supervision plan.** Based on the Bank's experience with the ANDJE and the level of fiduciary risk identified, the financial specialist will perform at least one on-site visit each year and desk reviews of the audited annual and final financial statements. The program auditor will verify that the funds are executed according to Bank rules and policies on fiduciary management and the conditions stipulated in the program Operating Regulations. The fiduciary supervision visits on financial management will include, inter alia, verification of the financial and accounting arrangements used for program administration, and monitoring of implementation of the recommendations issued by the program's independent auditor, where applicable.

- 6.8 There is no national policy on public disclosure of audit reports. However, according to the current policy on access to information and disclosure, the audited financial statements will be published in the Bank's systems.
- 6.9 **Execution mechanism.** The borrower will be the Republic of Colombia. The program's executing agency will be the ANDJE, with support from a PEU made up of the individuals listed in paragraph 3.2 of the loan proposal and from the Agency's crosscutting technical and operational areas. The PEU will report to the Office of the Secretary General. The program's Operating Regulations will define the functions of each participating unit and entity, as well as the mechanisms for coordination, information flows, documentation, and execution of activities.
- 6.10 **Other financial management agreements and requirements.** There are no agreements other than those described above. However, the fiduciary agreements and requirements included in this Annex may be revised as the program progresses, based on updates to the risk analysis and the institutional capacity assessment conducted during program execution.

DOCUMENT OF THE INTER-AMERICAN DEVELOPMENT BANK

PROPOSED RESOLUTION DE-\_\_\_/19

Colombia. Loan \_\_\_\_/OC-CO to the Republic of Colombia  
Program for Strengthening Colombia's National Agency  
for Legal Defense of the State

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 Republic of Colombia, as Borrower, for the purpose of granting it a financing to cooperate in the execution of the Program for Strengthening Colombia's National Agency for Legal Defense of the State". Such financing will be for the amount of up to US\$15,000,000 from the resources of the Bank's Ordinary Capital, 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 \_\_\_\_ 2019)