OFFICE OF INSPECTOR GENERAL

# AUDIT OF USAID/JORDAN'S FISCAL REFORM PROJECT II

AUDIT REPORT NO. 6-278-14-003-P
DECEMBER 11, 2013 [Revised]

CAIRO, EGYPT

*Office of Inspector General*

December 11, 2013

**MEMORANDUM**

**TO:** USAID/Jordan Mission Director, Beth Paige

**FROM:** Regional Inspector General, Catherine M. Trujillo /s/

**SUBJECT:** Audit of USAID/Jordan's Fiscal Reform Project II (Report No. 6-278-14-003-P) [REVISED]

This memorandum transmits the revised final report on the subject audit. In finalizing the audit report, we considered your comments on the draft report and have included them in Appendix II. The original audit report has been revised to clarify our evaluation of management comments. These revisions do not impact the report's recommendations or the mission's management decisions thereon.

This report contains five recommendations to help the mission improve the overall effectiveness of the Fiscal Reform Project II. The mission agreed with two recommendations, partially agreed with one, and disagreed with two. After reviewing information that the mission provided in its response to the draft report, we acknowledge that the mission made management decisions on all recommendations. We disagreed with the management decision on recommendations 4 and 5; since the mission has stated that it will not implement the recommendations, we consider final action has been taken on recommendations 4 and 5 effective the date of this report. Final action has not been completed on recommendations 1 through 3.

Please provide the Audit Performance and Compliance Division with the necessary documentation to achieve final action on all recommendations.

We also considered the mission's response to the other matter reported, which it disagreed with.

Thank you for the cooperation and courtesy extended to the audit team during this audit.

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# CONTENTS



**Abbreviations**

The following abbreviations appear in this report:

| | |
|---|---|
| ADS | Automated Directives System |
| CDCS | Country Development Cooperation Strategy |
| COR | contracting officer’s representative |
| DAI | Development Alternatives Inc. |
| FRP I and II | Fiscal Reform Projects I and II |
| GFMIS | Government Financial Management Information System |
| PMP | performance management plan |
| PPP | public-private partnerships |

# SUMMARY OF RESULTS

Although the Jordanian Government's debt as a percentage of gross domestic product decreased during the past few years, reforms in the national government and economic challenges necessitate further fiscal restraint and increased revenue to keep that debt at "acceptable" levels, according to USAID. To help the government, USAID/Jordan launched the Fiscal Reform Project II (FRP II), which provides technical assistance to the Ministry of Finance.

On October 30, 2009, the mission signed a 5-year, $38.5 million time and materials task order contract with Development Alternatives Inc. (DAI) to carry out the project. The contractor was to implement a variety of activities under five core objectives with the goal of achieving macroeconomic stability and economic growth through improving the Jordanian Ministry of Finance's public financial management and fiscal policy. The core objectives are to:

1. Improve efficiency of public resources through stronger public financial management.

2. Implement a results-oriented government.

3. Improve revenue administration and collect more revenue.

4. Adopt resource-saving reforms through sound policy analysis initiated from the Ministry of Finance.

5. Increase efficiency in trading across borders.

As of July 16, 2013, the mission had increased the contract ceiling to $43 million, obligated approximately $40.7 million, and disbursed $32.5 million for the project.

The Regional Inspector General/Cairo conducted this audit to determine whether USAID/Jordan's Fiscal Reform Project II was achieving its main goals of macroeconomic stability and economic growth through improving the Jordanian Ministry of Finance's public financial management and fiscal policy.

The project was partially meeting its goals. People at the Ministry of Finance and other counterparts said FRP II has provided valuable technical assistance and analysis. For example:

- FRP II's energy team hired short-term technical advisers and consultants to prepare several studies and a plan for the Ministry of Energy and Mineral Resources to develop a new energy strategy. An updated strategy could help solve the energy crisis, which started three years after the program began.

- FRP II's advisers helped build macroeconomic tools that should help develop strategies for better fiscal management.

- Auditors for the Jordanian Government are being trained on best practices and international standards for government performance audits to help build trust and accountability within the Government.

- The Jordanian Government is adopting a government-wide financial information system so all ministries and agencies are on the same computer platform.

- Assistance to Jordanian Customs has helped increase efficiency and reduce time to clear imports and exports.

Also to its credit, the mission took action in areas where reforms were stalled. The FRP II team responsible for advising the Income and Sales Tax Department had a contentious relationship with the department's director general, which resulted in scaling back assistance because of the lack of commitment to reform. FRP II's new chief of party recognized the difficulty in providing additional assistance to the General Budget Department to make more reforms with results-oriented budgeting. Therefore, the mission and the contractor scaled back some activities (page 4).

Despite these successes and proactive measures, the audit identified the following ongoing problems.

- FRP II has expanded beyond the original intent of fiscal reform (page 5). The project has increased the number of counterparts from just one—the Ministry of Finance—to several including the Ministry of Public Sector Development, the Ministry of Energy and Mineral Resources, and nonministerial offices and organizations.

- The sustainability of the government's system for financial management information was uncertain (page 6). FRP II was staffing and supervising the project management office at the Ministry of Finance, which was supposed to oversee the implementation of the system before the project took it over.

- The mission needs to determine if further assistance to Jordanian Customs is needed (page 7). Customs has received assistance almost continually from three previous USAID-funded programs since 1998.

- USAID/Jordan's performance monitoring was inadequate (page 9). Unsupported results were found in the contractor's performance management database.

- The mission did not document project experience to guide the development of a follow-on project (page 10). A final report for the previous project, FRP I, could not be found in the official contract files or in USAID's electronic Development Experience Clearinghouse. Additionally, the mission had not conducted a midterm evaluation of FRP II, as required.

- The mission did not manage trade and investment funds effectively (page 11). FRP II received funding from two program areas: trade and investment, and macroeconomic foundations for growth. Obligations and disbursements of funds for the trade and investment program area exceeded amounts that supported this sector.

- The mission did not document requirements for using other than full and open competition (page 14). The Acting Assistant Administrator approved an action memorandum allowing the mission to increase the contract ceiling by $4.5 million, but the action memo did not document a key assumption—that FRP II would be impaired without the additional funding.

To address these problems, this report includes five recommendations. We recommend that USAID/Jordan:

1. Require DAI to prepare a sustainability plan so the Ministry of Finance will be able to continue the project management office without continued support from USAID/Jordan during any new follow-on or stand-alone project (page 7).

2. Adopt USAID's standardized mission order on performance monitoring earlier than December 10, 2013; establish penalties for noncompliance with the mission order; and inform all individuals responsible for performance monitoring of their responsibilities and the repercussions for noncompliance (page 10).

3. Perform an evaluation or assessment that covers the remainder of FRP II's implementation and looks at previous assistance, accomplishments, and lessons learned from other USAID/Jordan projects to provide a vision and design for any new fiscal reform or other related project after FRP II ends (page 11).

4. Deobligate $3,727,670 of funds from the trade and investment program area that will not be spent for trade-related activities, and reprogram the funds as necessary (page 13).

5. Implement procedures to allocate disbursements that match the nature of the expense (page 13).

The details of our audit findings are in the sections that follow. The audit's scope and methodology are described in Appendix I. Our evaluation of management comments is on page 15, and the full text of management comments, without attachments, is included in Appendix II.

# AUDIT FINDINGS

## Mission and Contractor Took Initiative to Scale Back Activities

FRP II established independent teams to work with certain counterparts in the Jordanian Government. Two of those teams were dedicated to work with the Income and Sales Tax Department and the General Budget Department. The goal of providing assistance to the tax department was to improve taxpayer compliance and the department's efficiency, while assistance to the budget department was to facilitate government-wide implementation of results-oriented budgeting, which helps governments plan for and administer funding. DAI developed activities and annual plans involving these departments to help accomplish the project goals.

As of July 2013, the mission had started to reduce these activities. The contracting officer's representative (COR) and the chief of party said assistance to the two departments had reached a point of diminishing returns and that the funds could be better used to advance other components. As of January 2013, the project had already spent about $12 million, more than 40 percent of its funding on these two departments. Despite this investment, results have not been commensurate with project plans. In the case of improving taxpayer compliance, the number of reported delinquent taxpayers increased from 101,330 in the project's first year to 126,605 in the third year.

Several factors contributed to the decision to scale back assistance. The first was willingness; the COR said the success of interventions relied heavily on the counterpart's political will and support to implement recommended changes. USAID had already provided the tools and training to help improve tax collection, the COR added, and it was now up to the department to carry out these new practices.

The second contributing factor was the counterpart's capacity and readiness to change. Changes needed time to take hold within the ministries, and the chief of party decided that adding additional resources would not necessarily expedite progress since the counterparts did not have the capacity to absorb all the information. Drawing upon his experiences with results-oriented budgeting in Chile, he explained that introducing such a large-scale change required a significant amount of time.

The third factor was friction. The FRP II team responsible for advising the Income and Sales Tax Department had a contentious relationship with the department's director general, which resulted in scaling back assistance because of the lack of commitment to reform. And the last factor was the counterpart's lack of authority to collect taxes. Both the Income and Sales Tax Department and the General Budget Department needed certain laws to take effect to facilitate the planned changes.

Limiting assistance before a project ends does not mean that the previous work with these counterparts was wasted. This is particularly true in the case of implementing results-oriented budgeting. According to a study done by the German development organization Gesellschaft für Internationale Zusammenarbeit:

> [E]xperiences [have] shown that results orientation is often integrated at the budget-planning stage, but not during budget execution . . . Consequently, even the partial implementation of the results-oriented approach can produce added value.

By scaling back operations, the project will be able to direct funds to other areas where additional assistance is needed.

## Project Expanded Beyond Original Design

USAID/Jordan's contract with DAI identifies Jordan's Ministry of Finance as the main entity to receive technical assistance and lists improved economic opportunities as the project's main strategic objective. This objective is further described in the mission's Strategic Statement Jordan 2007-2011, the predecessor to the current Country Development Cooperation Strategy 2013-2017 (CDCS).

By Year 4, the project had expanded in scope and was assisting three main entities: the Ministry of Finance, the Ministry of Public Sector Development, and the Ministry of Energy and Mineral Resources. Other counterparts include the Audit Bureau, the Economic and Social Council, and journalists.

The expansion has made the project's objectives unclear. The new CDCS identifies three main development objectives with ten intermediate results. Given these updated objectives, it appears FRP II is now addressing two of the three objectives and four of the ten intermediate results. The project was not, as the Agency's Automated Directives System (ADS) instructs, being selective and focused on which ministries and organizations should receive technical assistance.[1]

The mission expanded the project's scope in response to economic and political conditions in Jordan and across the region.

- Starting in early 2011 widespread antigovernment protests and demonstrations erupted in the Middle East, a period referred to as the Arab Spring. In Jordan, the government responded by implementing reforms meant to increase transparency and accountability. To support the government's efforts, the mission expanded FRP II's scope to work with the Ministry of Public Sector Development and the Audit Bureau.

- Before 2011, Jordan had a cheap supply of natural gas from Egypt to generate electricity. Terrorists in the Sinai attacked the pipeline carrying the natural gas, however, and interrupted the supply. This in turn caused Jordan's National Electric Power Company to purchase alternative fuels for electricity production, such as expensive diesel gas, at higher prices on the international market, thus precipitating an energy crisis. Again, to help Jordan address these problems, the mission expanded FRP II's scope to assist the Ministry of Energy and Mineral Resources.

[1] ADS 200.3.1.3, "Apply Selectivity and Focus."

- After years of starts and stops by the mission and the government to coalesce on public-private partnership (PPP) initiatives, the mission said the Jordanian Government indicated in August 2012 that the Ministry of Finance would establish an office that would work with USAID on the initiatives. To make this happen quickly, USAID/Jordan modified the FRP II contract and charged DAI with implementing PPP activities on top of its other objectives.

As a result of all these events, FRP II was supporting development objectives that were never part of the original plan. Unless USAID/Jordan designs projects that are more selective and focused, it runs the risk of being too dependent on only one contractor to achieve the development objectives and intermediate results in the CDCS. DAI has been flexible and successful in meeting the demands of USAID/Jordan. However the FRP II contract ends in 2014, and the mission has yet to identify how the evolving activities will be carried out under new projects.

Because less than a year remains on DAI's contract and the mission has no other implementation mechanism in place to continue FRP II's activities, we do not make any recommendations directly for this finding. Instead, we make Recommendation 3 on page 11 to address the issue identified here.

## System for Financial Management Information Was Behind Schedule and Unlikely to Be Sustainable

According to ADS 200.3.1.5, "Build in Sustainability from the Start," the goal of development cooperation is "to enable developing countries to devise and implement their own solutions to key development challenges." Among other things, sustainability demands that implementers "build the skills and capacity of local stakeholders critical for maintaining gains after the program or project ends."

DAI's contract lists the implementation of the Government Financial Management Information System (GFMIS) as a major activity of FRP II. The contract also calls for continuing activities begun under FRP I (implemented from 2006 to 2009 by BearingPoint Inc.), such as helping "train [Ministry of Finance] and other ministries' budget-management staff and oversee the work of the firm executing the [Ministry of Finance's] contract to implement a [GFMIS]."

The system is only 57 percent complete. According to DAI, GFMIS was functioning in 57 percent—or 45 out of 79—of targeted government offices as of April 2013. This is 3 years later than the date set for implementing the system.

The project fell behind schedule for two reasons. First, the number of government offices using GFMIS increased from original estimates because the Jordanian Government wanted to have a uniform system used by all ministries and offices. In response, DAI extended the assistance. Second, in DAI's Year 1 annual report for FRP II, it described problems encountered between the GFMIS system implementer and the Ministry of Finance project team. They included mistrust and significant delays for what was supposed to be a 30-month implementation contract that started in 2008 under FRP I and was scheduled to end in 2010.

Because of the delays, DAI assumed management of the project management office overseeing the implementation of the system, and staffed 9 of 49 positions (18 percent). DAI also employed the director of the project management office. After DAI's contract ends in 2014, the director and staff that it employs are scheduled to leave and turn the system over entirely to the Ministry of Finance. DAI had not established a sustainability plan to ensure a smooth transition.

As a result, it was unclear whether GFMIS would last after FRP II ends. The Jordanian Government might ask USAID/Jordan to continue providing assistance, possibly under another multiyear award, costing the U.S. Government several million dollars more before Jordan has a fully functioning system it can manage.

> ***Recommendation 1.*** *We recommend that USAID/Jordan require Development Alternatives Inc. to implement a sustainability plan so the Ministry of Finance will be able to continue the project management office without continued support from USAID/Jordan.*

## The Mission Needs to Make a Decision if Further Assistance to Jordan Customs is Needed

ADS 200.3.1.3, “Apply Selectivity and Focus,” says the Agency should “invest resources in countries, sub-national regions, or sectors likely to have the greatest impact on a particular development objective.” Applying this guidance at the mission level means that USAID/Jordan needs to align future initiatives with strategic goals established in the new CDCS and design activities that will achieve the greatest results with available resources.

To meet development objectives, USAID/Jordan and DAI designed a work plan for FRP II that included a dedicated team working with Jordanian Customs to increase efficiency in trading across borders. Implementation of activities with Customs generally has been positive. Achievements include:

- *Streamlined procedures.* Before FRP II, customs operations were not integrated and did not operate efficiently. To clear imports, commercial brokers had to file paperwork with numerous government agencies not necessarily located near one another. The process was time-consuming. FRP II’s assistance helped improve the relationship between Customs and other government agencies and streamlined one-stop-shopping procedures, known in international customs circles as single-window procedures.

- *Implementation of risk-based inspection techniques.* FRP II helped implement and refine criteria to label and categorize imports into groups that need to be inspected and those that can be cleared without inspection.

- *Sustained Golden List participation.* FRP II and Customs continued the practice of advance screening of qualified companies. Those companies were put on what Customs calls the Golden List and given preferential treatment when importing goods.

- *Implementation of pilot initiatives for advance ruling and prearrival clearance processes*. Although the accomplishments of these processes cannot be fully quantified, traders and customs officials generally are supportive and enthusiastic about the possible efficiencies that might be gained. Successfully implementing both should mirror processes seen only in more advanced countries, like the United States.

Previous U.S. Government assistance[2] and the $4.4 million spent by FRP II's subcontractor Nathan Associates Inc. have resulted in Jordanian Customs taking ownership of the successful pilot initiatives and proving its commitment to change.

However, U.S. Government trade and economic development results and goals incorporated in USAID/Jordan's CDCS—such as increasing trade and investment (part of Intermediate Result 1, increasing private-sector competitiveness, which appears under Development Objective 1, accelerating broad-based, inclusive economic development)—might be better achieved by addressing the barriers to trade that are beyond Customs' control. For example, Nathan's *Survey of Trade Barriers and Facilitation Mechanisms in Jordan* and *Jordan Customs Time Release Study* identify some of those barriers. They included:

- *Other government agencies.* Now that Jordanian Customs centers follow single-window procedures, other agencies—e.g., Jordan's Food and Drug Administration, the Ministry of Agriculture—need to refine their risk profiling of imports to ensure timely processing of customs clearances and reduce the percentage of items they want to inspect.

- *Aqaba port operator and transport companies.* In Aqaba, delays for importing goods are not entirely the result of Customs processes; they can be the result of inefficient processes with the port operator and transport companies responsible for moving cargo.

- *Airport operations.* Bottlenecks at the airport customs center exist because Royal Jordanian—Jordan's national airline—is responsible for loading and unloading imported cargo. Royal Jordanian can become more efficient by committing additional labor to this process.

Continuing the same type of assistance to Jordanian Customs would generate a diminishing marginal return. Instead, assistance to Jordanian Customs could be scaled down or eliminated, and resources redirected to the government agencies and private companies that are creating trade barriers, thus increasing the likelihood of accomplishing the trade and economic development objectives and goals.

Moreover, continued U.S. taxpayer funding for Jordanian Customs would exacerbate dependence on USAID funding. For example, staff of USAID's Access to Microfinance and Improved Implementation of Policy Reform Program conducted a risk management workshop in February 2001—more than 12 years ago. One of the attendees at that workshop was the head of Jordanian Customs Risk Management. The same person is now the enforcement director at the Amman Airport Customs Center, and through FRP II is still getting training on risk management. Furthermore, a final report for the Achievement of Market-Friendly Initiatives and Results Program, issued in July 2006, states that the program provided 60 reports with 555 recommendations on improvements to customs processes. Given this record, continued assistance to Jordanian Customs might not be prudent.

Because there is less than a year left on DAI's contract, we do not make any recommendations here. Recommendation 3 on page 11 addresses this issue.

[2] Recent assistance includes Millennium Challenge Corporation's Customs Administration Modernization Program from 2007 to 2009; USAID's Achievement of Market-Friendly Initiatives and Results Program's subcomponent on customs reform and modernization from 2003 to 2006; and Access to Microfinance and Improved Implementation of Policy Reform from 1998 to 2002.

## USAID/Jordan's Performance Monitoring Was Inadequate

USAID/Jordan's April 16, 2012, mission order on performance monitoring and evaluation outlines the responsibilities of development objective teams—like the COR who is a member of that team. Specific responsibilities include the development, implementation, and assurance that performance management plans (PMPs) are used and data meet quality standards.

Data (e.g., performance indicators and intermediate results) in FRP II's annual PMPs for Years 1 through 3 were not supported adequately. They were based primarily on testimonial evidence such as e-mails from DAI employees. Ten of 13 indicators that auditors tested (out of 29) lacked adequate supporting documentation. For example, for indicators measuring import and export durations of goods being cleared through Customs for meeting the goal of trading across borders, DAI simply reported results based on e-mail evidence from the subcontractor working with Jordanian Customs. Additionally, for the indicator measuring tax administration efficiency, DAI reported the number of active taxpayers versus tax administration employees. However, the monitoring and evaluation specialist who recorded the result could not provide evidence showing where the numbers of employees and taxpayers came from. Lastly, for the indicator measuring the gap between forecasted and actual government revenues, DAI used statements from its staff because the spreadsheet that would have provided the evidence was a confidential Jordanian Government document.

Various factors led to the reliance on imprecise data.

1. DAI adopted a new monitoring and evaluation system during the project's implementation. When staff entered results into the new system, historical information and records were not entered and saved. Therefore, reported results for previous years could not be verified.

2. Frequent turnover in the monitoring and evaluation specialist position precluded continuity; consequently, data collection and verification methods varied from year to year.

3. The current FRP II monitoring and evaluation specialist was relegated to recording data in the PMP without independently collecting and verifying them.

4. The COR did not document trip reports as required in the mission order. The reports could have helped mission staff verify results in the PMP.

5. The COR did not document data quality assessments as required in the mission order.

As a result, although FRP II appeared to be meeting its planned indicators and intermediate results, USAID/Jordan and DAI have not verified that the information was accurate.

In June 2013 USAID's Bureau of Policy, Planning and Learning issued templates for mission orders that standardized processes like performance monitoring; all missions were required to adopt the standardized orders by December 10, 2013. The new mission order provides a clear, detailed interpretation of multiple ADS policies regarding responsibilities and roles for proper monitoring. To remedy the problems identified during FRP II, we make the following recommendation.

> ***Recommendation 2.*** *We recommend that USAID/Jordan adopt USAID's standardized mission order on performance monitoring earlier than December 10, 2013, establish penalties for noncompliance, and inform (in writing and through training), all individuals responsible for performance monitoring of their responsibilities and the penalties for noncompliance.*

## Mission Did Not Document Project Experience to Guide Design of Follow-on Project

ADS 201.3.12, "Principles of Project Design," identifies significant principles that development objective teams should apply when designing new projects. It states, "Project designs should not short-change rigorous analysis, and the collection of evidence from development experience and lessons learned should be derived from well-documented, rigorous evaluations."

The issue of evidence from development experience has great importance because staff in the Economic Growth Office, which is overseeing implementation of FRP II, said they were beginning to design a follow-on project. They planned to have the new project ready when FRP II ends. However, evidence for the follow-on design was insufficient: no final report from FRP I could be found, and the mission had not initiated a midterm evaluation for FRP II.

**FRP I Final Report Missing**. For FRP I, the contract required a final report to inform current and future stakeholders about the accomplishments and lessons learned during the project.

The Economic Growth Office could not locate the final report in the contract files, which should house all official records, according to ADS,[3] or in the Development Experience Clearinghouse, which is where ADS[4] requires missions to send final reports.

Mission officials said they did not know why the report was not in the contract files or in the clearinghouse. They said they were not sure whether it was even prepared.

**Midterm Evaluation Not Initiated.** According to USAID/Jordan's April 16, 2012, performance monitoring and evaluation mission order, "[E]valuations are <u>*required*</u> for all large projects generally above a threshold value of $25 million." The order ensures that USAID/Jordan will "use evaluative approaches whenever necessary, including to inform strategic planning, prior to designing new or follow-on projects, at the mid-term point of a project, and at the end of a project."

Mission officials also said that a midterm evaluation was planned for FRP II, but no scope of work had been prepared as of July 22, 2013.

Because no official records of required contract deliverables were kept, the Economic Growth Office does not have a record of important development experience gained from FRP I. Additionally, the office has not conducted a midterm evaluation for FRP II, which has 1 year left on a 5-year contract.

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[3] ADS 502.3.2, "Official Records."

[4] ADS 540.3.2.1, "Documentation That Operating Units Submit to the Development Experience Clearinghouse."

Without documentation of development experience, the Economic Growth Office cannot apply analytic rigor when designing the follow-on project. The best available evidence on what has worked, what has not worked, what has been accomplished, and what could not be accomplished under previous fiscal reform projects has not been preserved. Evidence of development experience would help follow-on planners avoid duplicating previous activities and prioritize future activities so that money is not wasted on approaches that will not work.

While this audit does not take the place of the required documents, it provides important information for planners to consider in designing a follow-on project. The audit documents the following problems with FRP II.

- Expanding work to multiple counterparts not originally in the project's design (page 5).
- Addressing multiple development objectives and intermediate results (page 5).
- Continuing GFMIS implementation from the previous fiscal reform project (page 6).
- Assisting the same Jordan Customs counterparts for more than a decade (page 7).
- Not following good performance monitoring practices (page 9).
- Missing a key final report (page 10).
- Not initiating a timely midterm evaluation (page 10).

Of particular value to planners is the development experience laid out in the finding on assistance to Jordan Customs (page 7). USAID has been providing nearly continuous assistance to this agency for 15 years.

The mission should undertake a larger fiscal reform evaluation or assessment to examine these issues. The evaluation should look at the history of USAID/Jordan's assistance in sectors that FRP II currently is active in and then identify achievements, lessons learned, and best practices. The evaluation also should outline a vision for how a follow-on project or other projects could fulfill the mission's new CDCS and the immediate and long-term needs of Jordan. Therefore, we make the following recommendation.

> ***Recommendation 3.*** *We recommend that USAID/Jordan perform an evaluation or assessment that covers the remainder of Fiscal Reform Project II and looks at previous assistance, accomplishments, and lessons learned from other USAID/Jordan projects to provide a vision and design for any new fiscal reform or related project.*

## Mission Did Not Manage Trade and Investment Funds Effectively

Internal control activities include accurate recording of transactions. In addition, the Government Accountability Office's *Standards for Internal Control in the Federal Government* notes that accurate recording of transactions is a control activity common to all federal agencies to assist management decision-making.

Contrary to this guidance, USAID/Jordan did not effectively manage the funds it obligated or disbursed for the trade and investment program area, causing transactions to be recorded inaccurately.

First, it overobligated. Because the Economic Growth Office planned for a follow-on project that did not start as planned, it used money reserved for that project for FRP II. A total of $10.4 million was recorded as an obligation for the trade and investment program area. Nathan was awarded a subcontract to work with Customs, which is a trade-related counterpart, and the work was valued at $6.7 million.

This caused FRP II to have $3.7 million in excess obligations not intended for trade and investment activities (Table 1). The mission should have recorded only the subcontract value and returned the excess money to the Middle East Bureau and asked that it be reprogrammed. Or, if USAID/Jordan intended to increase trade-related activities, the COR should have asked DAI to submit a revised work plan to include additional work with Jordan Customs and modify the Nathan subcontract with a higher estimated cost. The COR did not do this.

**Table 1. USAID's Excess Obligation for the Trade and Investment Program Area as of July 16, 2013 (Unaudited)**

| Type of Transaction | Amount ($) |
|---|---|
| Obligations recorded by USAID for trade and investment program area | 10,398,739 |
| Value of Nathan subcontract | 6,671,069 |
| **Excess** | **3,727,670** |

Second, the mission did not record disbursements correctly. They should match the costs incurred for the trade assistance provided. The mission did not include in DAI's contract a requirement to identify incurred costs by program area. Therefore, since the contract did not have a budget with specific contracting line items separating activities by program area, the company did not bill USAID by program area. Additionally, the COR administratively approved each voucher for payment without identifying for the voucher examiner which program area to charge. Because USAID's payment process calls for disbursements to be matched against the oldest obligation, the voucher examiner did just that and did not match the disbursement to an obligation based on the nature of the expense—i.e., by program area. Consequently, the mission reimbursed DAI $7.8 million for trade assistance that cost only $4.4 million (Table 2).

**Table 2. USAID's Incorrect Disbursements Through May 20, 2013, for the Trade and Investment Program Area (Unaudited)**

| Type of Financial Transaction | Amount ($) |
|---|---|
| Disbursements recorded by USAID for trade and investment program area | 7,766,070 |
| Costs incurred by Nathan for trade activities | 4,427,150 |
| **Amount incorrectly disbursed** | **3,338,920** |

Because USAID/Jordan obligated excess funds and disbursed funds incorrectly for the trade and investment program area, the financial information produced by USAID's financial system is not accurate and reliable for management decision-making. FRP II activities did not cost what USAID paid for them. When USAID, or the Ambassador for Jordan for that matter, gives approval for funding certain program areas, and then reports accomplishments from those program areas in the operating plan and performance plan and report for Jordan, the Agency has a responsibility to ensure that costs for activities being implemented are recorded accurately in all financial transactions. Otherwise, financial information approved or distributed by the Ambassador and mission director will be wrong or misleading to the users of the information—i.e., Congress, Agency management, and U.S. taxpayers. To address this problem, we make the following recommendations.

***Recommendation 4.*** *We recommend that USAID/Jordan deobligate $3,727,670 of funds from the trade and investment program area that will not be spent for trade-related activities, and reprogram the funds as necessary.*

***Recommendation 5.*** *We recommend that USAID/Jordan implement procedures to allocate disbursements that match the nature of the expenses.*

# OTHER MATTER

## Acquisition Regulations Requirements Were Not Documented Clearly

According to USAID Acquisition Regulation 706.302-70 (b)(3)(i), full and open competition does not need to be carried out for:

> An award for which the Assistant Administrator responsible for the project or program makes a formal written determination, with supporting findings, that compliance with full and open competition procedures would impair foreign assistance objectives, and would be inconsistent with the fulfillment of the foreign assistance program.

The Agency did not follow this regulation when the mission justified the use of other than full and open competition to amend its task order with DAI. The mission prepared an action memorandum seeking $4.5 million for work on PPP projects in Jordan, increasing the task order ceiling and expanding the statement of work. The mission requested approval to issue a no-bid (sole-source) modification for this work under its FRP II task order, stating that the activities were critical to achieving the economic growth goals and would be most cost-effective if accomplished under the project.

The acting assistant administrator of the Middle East Bureau approved the justification but did not document for the contract files how FRP II would be impaired or adversely affected. That person has since retired, however, so the audit could not determine why the bureau believed the program might be impaired or adversely affected and allowed the increase in the contract ceiling.

The mission’s request was prompted by Jordan’s request for immediate assistance to increase its capacity for developing, managing, and tendering public-private partnerships. However, as of June 30, 2013, the project had not done any significant work on PPP activities as envisioned because Jordan had not endorsed a law on public-private partnerships, and the unit responsible for these activities in the Ministry of Finance was not fully organized or staffed. As a result, the $4.5 million in increased funds will be used for other activities. Mission officials said this is permitted because the other activities are within the scope of the contract.

Through July 16, 2013, USAID/Jordan disbursed $32.5 million for FRP II. Disbursements have not reached the original contract ceiling of $38.5 million. USAID/Jordan could save the U.S. Government $4.5 million if the COR required DAI to revise its final year work plan and budget in line with the original contract ceiling. This would reduce the scope of activities, which USAID/Jordan has already acknowledged is appropriate because only limited work is being conducted on PPP activities. Because the mission’s contract with DAI is a time and materials task order with a total estimated cost, USAID/Jordan is not required to spend every dollar estimated in completing the scope of work if the work as planned does not transpire.

# EVALUATION OF MANAGEMENT COMMENTS

In its comments on the draft report, USAID/Jordan agreed with two recommendations, partially agreed with one, and disagreed with two. We acknowledge management decisions on all recommendations and final action has been taken on recommendations 4 and 5. A detailed evaluation of management comments follows.

**Recommendation 1.** The mission stated that it is currently developing a sustainability plan in the Year 5 project work plan, which will anticipate ending USAID's involvement with GFMIS. Based on the mission's planned actions, we acknowledge that the mission made a management decision. Final action will be taken when the Year 5 work plan is completed and the GFMIS sustainability plan is approved and shared with the contractor around February 15, 2014.

**Recommendation 2.** The mission stated that USAID/Washington extended the deadline to adopt the standardized mission orders until January 31, 2014. The mission stated it would need the additional time to adapt the mission order for its particular environment.

While we acknowledge the mission has made a management decision and plans to adopt the standardized mission order as required by USAID/Washington, the mission disagreed with the second part of the recommendation—to establish penalties when individuals do not comply with the new standardized order. It stated, "As for accountability and sanctions both the current USAID/Jordan Mission Order and the proposed Standard Mission Order from Washington are silent on the issue. We intend to proceed with the language in the Standardized Mission Order."

Mission officials believe the kind of deviation recommended would be outside their purview to establish policy. Our recommendation does not suggest that the mission address how to hold officials responsible within the context of the mission order. History of this program shows that a mission order on performance monitoring by itself does not guarantee compliance. Therefore, we maintain our position that the mission identify and communicate to responsible officials what the penalties are for not adhering to the mission order and inform them of this decision in writing and through training.

Final action will be taken when the standardized mission order on performance monitoring is adopted and the mission establishes penalties for noncompliance and holds individuals accountable for the order.

**Recommendation 3.** The mission stated that it is in the final state of procuring a monitoring and evaluation contract. Once completed, the mission will conduct a full performance evaluation covering the remainder of the project, previous assistance accomplishments, and lessons learned. Additionally, it has started a separate assessment that will assess the fiscal environment and help inform the mission on the design of future fiscal activities. Based on the mission's planned actions, we acknowledge that the mission made a management decision. Final action will be taken when the performance evaluation and fiscal environment assessment are completed around February 28, 2014.

**Recommendation 4.** The mission disagreed with the recommendation and stated that the additional obligation in the trade and investment program area cannot be deobligated because the project plans to start working with the Ministry of Finance on PPPs. The mission states PPPs would focus largely on promoting investment in Jordan and that $3.5 million of incremental funding will target this area.

We disagree with the mission for the following reasons: lack of documentation on how the technical assistance it plans on providing falls under the trade and investment framework; lack of specificity on what types of activities it intends to fund in the final months of the project; and lack of documentation supporting the $3.5 million it intends to spend on PPP activities.

The mission did not provide documentation on how technical assistance to the Ministry of Finance's PPP unit falls under trade and investment. *The Foreign Assistance Standardized Program Structure and Definitions* for the trade and investment program area includes subelements only for trade activities. Furthermore, the *Foreign Assistance Dashboard Categories and Sectors* describe the trade and investment sector as "[s]upport[ing] the institution of international agreements and trade facilitation techniques which allow countries to exchange goods and services and make financial investments without fear of loss."

It is important that the mission accurately report and fund projects using the foreign assistance structure and dashboard because USAID is expected to respond and comply with the Office of Management and Budget's Bulletin No. 12-01, "Guidance on Collection of U.S. Foreign Assistance Data."

Contract modification number seven, which created PPP and energy objectives for the project, mentions capital and infrastructure projects as the possible areas within the Ministry of Finance where technical assistance for PPPs will be provided. If the mission plans to provide technical assistance on public or private investment on capital and infrastructure projects, then it should be reported and funded through the infrastructure program area. That program area is separate from trade and investment, and has subelements for energy infrastructure and transport infrastructure, which align better with the type of technical assistance DAI's combined PPP and energy team are actually providing. The dashboard describes the infrastructure sector as "[s]upport[ing] the creation, improvement and sustainability of physical infrastructure, and related services, in both urban and rural areas, to enhance the economic environment and improve economic productivity."

Additionally, the mission did not provide documentation on the type and cost of PPP technical assistance during the final months of the project's implementation. Through June 30, 2013, the project had not done any significant work on PPPs. DAI's team responsible for PPP activities is also responsible for energy activities and has focused most of their efforts on energy issues because there was no unit within the Ministry of Finance to work with on PPPs. Through April 30, 2013, this team incurred approximately $1,423,951, according to DAI's invoice submitted for reimbursement to USAID/Jordan; the vast majority of costs were for energy-related technical assistance.

The mission stated that it anticipated spending approximately $3.5 million on PPPs in its response, but the documentation it provided did not discuss this amount. The only document provided during the audit that discussed spending on PPPs was a negotiation memorandum on the contract's modification, which gave a cost analysis on PPP and energy combined. Because $1.4 million has been spent already by the combined PPP and energy team, the maximum that the mission could spend on PPP activities if it stopped all work on energy activities (as of

April 30, 2013) would be $2.1 million, which is significantly less than the amount indicated in the mission's response of $3.5 million.

Because the mission has stated that it will not implement the recommendation, we consider final action has been taken effective the date of this report.

**Recommendation 5.** Mission officials disagreed with the recommendation because they stated that current disbursements match the nature of the expense and that the draft audit report did not consider a second component to the trade and investment program area.

We disagree with the mission for the reasons indicated in the audit report and further discussed in our response to Recommendation 4. DAI had not done significant work on PPP activities through June 30, 2013. The majority of DAI's technical assistance was focused on energy issues—not trade and investment. Therefore, the mission is incorrectly recording disbursements against obligations because disbursements do not match the nature of the expense. However, because the mission has stated that it will not implement the recommendation, we consider final action has been taken effective the date of this report.

Office of Management and Budget's Bulletin No. 12-01 (mentioned above) establishes a policy that states, "Data should be published with the level of detail, quality, and speed needed to enhance government development planning and empower citizens to hold their government accountable. This should include detail on where, when, on what, and to what effect (i.e. results) assistance is planned, obligated, and spent." By not correctly allocating disbursements that match the nature of the expense, the quality and timeliness of the data and information on what is planned, obligated, and spent for this project is not reliable.

**Other Matter.** The mission disagreed with our interpretation of Federal Acquisition Regulations and USAID's Acquisition Regulation. While the mission might have made a good faith effort to comply with the regulations, no supporting documentation was provided by the USAID Competition Advocate in Washington, D.C., or the mission to show that a foreign assistance objective would be impaired, which is necessary to determine whether the mission was justified in not using full and open competition when modifying the contract.

Additionally, we still encourage the mission to save up to $4.5 million because PPP activities did not transpire and the mission has still not provided documentation that PPP activities will commence during the final months of the contract.

# SCOPE AND METHODOLOGY

## Scope

The Regional Inspector General/Cairo conducted this audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe the evidence obtained provides that basis.

The purpose of this audit was to determine whether USAID/Jordan's FRP II was achieving its main goals of macroeconomic stability and economic growth through improving the Jordanian Ministry of Finance's public financial management and fiscal policy.

The audit was performed in Jordan from June 30 through July 24, 2013, and covered activities from the project's start on November 1, 2009, through June 30, 2013. As of July 16, 2013, approximately $40.7 million had been obligated and $32.5 million disbursed. The audit tested these amounts by comparing financial data from the Agency's accounting system with the various vouchers submitted to USAID/Jordan for reimbursement. The audit used cumulative totals from the May 2013 voucher, which totaled $32 million.

The team conducted site visits with counterparts in the Ministry of Finance, Ministry of Public Sector Development, and Ministry of Energy and Mineral Resources. We assessed the project's significant controls: PMP, annual work plans, data quality assessments, annual and quarterly reports, contract modifications, and approvals for other than full and open competition. We also reviewed and assessed the internal controls in place to monitor project activities, including the site visit reports, monitoring and evaluation data systems, and procedures.

## Methodology

To answer the audit objective, we first identified the project's main goals, core objectives, and various component activities. We met with key personnel in Amman at the contractor's office and at the mission, and reviewed relevant documentation provided throughout the audit. We gained an understanding of the project design and learned how USAID planned to monitor and measure the results.

To analyze the performance of the project, the audit team selected a judgmental sample of performance indicator data that DAI reported during Years 1 through 3 and verified supporting documentation. We used judgmental sampling because some planned outputs, outcomes, and results were modified each year or were not being met during fieldwork. The results of our testing cannot be projected to the intended population. We also interviewed individuals from DAI and the Jordanian Government, and we compared planned work plan activities with what was completed and with the level of effort expended. We conducted interviews during site visits to validate that activities were completed and to gain an understanding of how technical assistance has advanced the reforms sought by the government.

We made site visits to Jordanian Customs facilities, which included headquarters, Amman Airport, Customs Houses in Amman and Sahab, and Aqaba Customs Center. Interviews in

Amman were conducted at offices in the Ministry of Finance, GFMIS project management office, Audit Bureau, Ministry of Public Sector Development headquarters and complaint management unit, Income and Sales Tax Department, General Budget Directorate, Economic and Social Council, Electricity Regulatory Commission, and the National Electric Power Company.

# MANAGEMENT COMMENTS

USAID | JORDAN
FROM THE AMERICAN PEOPLE

**MEMORANDUM**

| | |
|---|---|
| **TO:** | Catherine M. Trujillo, Regional Inspector General |
| **FROM:** | Beth S. Paige, Mission Director /s/ |
| **DATE:** | November 20, 2013 |
| **SUBJECT:** | Audit of USAID/Jordan's Fiscal Reform Project II<br>(Audit Report No. 6-278-14-00X-P) |
| **REFERENCE:** | CTrujillo/BPaige Memo dated October 15, 2013 |

Thank you for providing the Mission with the opportunity to review the subject draft audit report. Discussed below are the Mission's comments on the recommendations and findings in the report.

**I. Response to Audit Recommendations**

***Recommendation 1.*** *We recommend that USAID/Jordan require Development Alternatives Inc. to implement an exit strategy and sustainability plan so the Ministry of Finance will be able to continue the project management office without continued support from USAID/Jordan.*

**Mission Response:** USAID/Jordan concurs with this recommendation and is aware that the Government Financial Management Information System (GFMIS) needs to be wholly sustainable by the Government of Jordan by the end of the project.

However, the Mission suggests deleting the language regarding the implementation of an exit strategy given that the sustainability plan - currently under development - anticipates the ending of USAID's involvement upon the completion of the project.

**Actions Planned:** USAID/Jordan is currently developing a sustainability plan with the project to be included in the $5^{th}$ year work plan that is expected to be approved by the end of December 2013. At that time, the sustainability plan will be shared with and instructions provided to Development Alternatives Inc. (DAI) for implementation.

**Target Completion Date:** February 15, 2014**.** The Mission deems that a management decision has been reached on Recommendation 1.

***Recommendation 2.*** *We recommend that USAID/Jordan adopt USAID's standardized mission order on performance monitoring earlier than December 10, 2013, establish penalties for noncompliance, and inform (in writing and through training), all individuals responsible for performance monitoring of their responsibilities and the penalties for noncompliance.*

**Mission Response:** USAID/Jordan concurs with the recommendation to moving as quickly as possible to the Standardized Mission Order. USAID/Washington has devised a series of Standardized Mission Orders which Missions have been instructed to review and adapt to each Mission's particular environment and has estimated that the process will take each Mission between 60 and 75 days to reasonably complete. Further, the December 10th deadline was extended by USAID/Washington to January 31, 2014 to take into account that adaptation period when the emission of their templates was late in being sent to Missions. As for accountability and sanctions both the current USAID/Jordan Mission Order and the proposed Standard Mission Order from Washington are silent on the issue. We intend to proceed with the language in the Standardized Mission Order. The Mission believes the kind of deviation recommended would be outside the Mission's purview to establish policy. Therefore, we urge the RIG revise this recommendation to reflect Washington's approach to managing compliance issues.

**Actions Planned:** USAID/Jordan concurs with USAID/Washington that it will take the Mission the allowed time to properly adapt the Standard Mission Orders and the Mission is set to comply with the deadline.

**Target Completion Date:** January 31, 2014. The Mission deems that a management decision has been reached on Recommendation 2.

***Recommendation 3.*** *We recommend that USAID/Jordan perform an evaluation or assessment that covers the remainder of Fiscal Reform Project II and looks at previous assistance, accomplishments, and lessons learned from other USAID/Jordan projects to provide a vision and design for any new fiscal reform or related project.*

**Mission Comments:** USAID/Jordan concurs with this recommendation and acknowledges the need to conduct a performance evaluation of the project.

**Planned Action:** The Mission is in the final procurement stages of a Monitoring and Evaluation (M&E) contract. Upon awarding the contract, the Mission will conduct a full performance evaluation of the project that will, among other things, cover the remainder of the project, look at previous assistance accomplishments, and lessons learned. In addition, the mission has contracted to have an assessment conducted of the project as well as of the fiscal environment to help inform the Mission for the design of any future fiscal related activity. The assessment team has started its work this month.

**Target Completion Date:** February 28, 2014. Based on the above, the Mission deems that a management decision has been reached on Recommendation 3.

***Recommendation 4:*** *We recommend that USAID/Jordan deobligate $3,727,670 of funds from the trade and investment program area that will not be spent for trade-related activities and reprogram the funds as necessary.*

**Mission Response:** USAID/Jordan does not concur with this recommendation as it is based on the assumption that the trade and investment program area for this project includes one component only – namely the Nathan contract in the amount of $6.2M. It must be noted that the trade and investment area for the project also includes the Public-Private Partnerships (PPPs) component. In August 2012, the Mission approved an AAD Amendment that increased the ceiling of the project by $4.5M. One of the primary purposes of this expansion was to establish a unit in the Ministry of Finance that would assist the GOJ with creating new PPPs (Attachment 1). The unit has now been formally established and the director of the unit, reporting to the Minister of Finance, has been appointed. On December 18, 2012, a modification was processed increasing the ceiling of the project by $4.5M, obligating the funds, and extending the period of performance (Attachment 2). It was anticipated that newly established PPPs would largely focus on promoting investment in Jordan. Over $3.5M of the incremental funding action will target the investment component of the trade and investment program area. Thus, the intended purpose of the additional obligation is in line with trade and investment. As a result, funds cannot be deobligated.

The Mission kindly requests the RIG consider deleting the recommendation.

***Recommendation 5.*** *We recommend that USAID/Jordan implement procedures to allocate disbursements that match the nature of the expenses.*

**Mission Response:** USAID/Jordan does not concur with this recommendation. As stated in the Mission's response to Recommendation 4, a second component to the trade and investment area for this project was not considered in the report. Accordingly, the Mission does not need to implement procedures to allocate disbursements as current disbursements match the nature of the expenses.

Based on the above, the Mission kindly requests the RIG consider deleting the recommendation.

**II. Mission Comments to "Other Matter: Mission Did Not Follow Requirements for Using Other than Full and Open Competition" Statement.**

While the Mission recognizes that there are issues with the regulation and its implementation at the Agency level, the Mission disagrees with this observation in its entirety.

The title "Mission Did Not Follow Requirements for Using Other than Full and Open Competition" of this observation is incorrect -- nowhere does this observation describe that the Mission failed to follow either the Federal Acquisition Regulation (FAR) or the USAID Acquisition Regulation (AIDAR).

The process that the Mission must follow in the FAR is very specific:  The contracting officer is required to ensure that each sole source action is documented as a written justification (FAR 6.303-1) with specific content (FAR 6.303-2), that is approved in accordance with FAR 6.304. The specific content mandated by FAR 6.303-2 requires the justification to cite the statutory authority permitting other than full and open competition (FAR 6.303-2(b)(4)).  The action memorandum referenced in the observation (Action Memorandum to the Assistant Administrator, September 11, 2011) cites the authority as AIDAR 706-302-70(b)(3)(i), "An award for which the Assistant Administrator responsible for the project or program makes a formal written determination, with supporting findings, that compliance with full and open competition procedures would impair foreign assistance objectives, and would be inconsistent with the fulfillment of the foreign assistance program."  In the AIDAR, the use of this particular citation modifies the FAR requirement:

> AIDAR 706-302-70(c)(2):  The contract file must include appropriate explanation and support justifying the award without full and open competition, as provided in FAR 6.303, except that determinations made under 706.302-70(b)(3) will not be subject to the requirement for contracting officer certification or to approvals in accord with FAR 6.304.
>
> AIDAR 706-302-70(c)(3): The authority in 706.302-70(b)(3)(i) shall be used only when no other authority provided in FAR 6.302 or AIDAR 706.302 is suitable. The specific foreign assistance objective which would be impaired must be identified and explained in the written determination and finding. Prior consultation with the Agency Competition Advocate (see 706.501) is required before executing the written determination and finding, and this consultation must be reflected in the determination and finding.

Note that there is no guidance, format, or content specified for the determination and finding.

In summary, then, the contracting officer must ensure (1) there is a written justification, and (2) the justification contains the specific elements required in FAR 6.303-2. The justification does not require contracting officer certification and does not have to be approved in accordance with FAR 6.304. The Assistant Administrator must (1) make a formal written determination, (2) with supporting findings, (3) stating that compliance with full and open competition procedures would impair foreign assistance objectives, (4) identify the specific foreign assistance objective that would be impaired, (5) explain this in the written determination and finding, and (6) document consultation with the Agency Competition Advocate in the determination and finding.  The regulations separate the responsibilities of the Mission and the responsibilities of the Assistant Administrator.

As a practical approach, the action memorandum referenced in the audit observation combined the Mission and Assistant Administrator responsibilities into one document. The action memorandum states in its subject line "Justification for Other Than Full and Open Competition" and on pages 3-9 details each of the 12 paragraphs required by FAR 6.303-2, following the regulation in both form and format. Therefore the Mission fulfilled its specific regulatory responsibilities and did follow the requirements for using other than full and open competition.

Regarding the Assistant Administrator's requirements, the action memorandum documents consultation with the Agency Competition Advocate (page 9) and states "Assistant Administrator Determination" (page 10), which cover requirements (1) and (6). Page 4 states "…which would undermine US foreign policy goals and objectives" – essentially the same as stating it impairs foreign assistance objectives, given that foreign policy objectives and foreign assistance objectives are required to be aligned. Therefore requirement (3) has been met. Page 5 of the memorandum contains several paragraphs of findings related to the decision; therefore requirement (2) has been met.

The information for requirements (4) and (5) are contained on page 5 of the memorandum. Given that there is no specific guidance on what constitutes a "Foreign Assistance Objective", it is difficult to ascertain at what level the objectives must be identified. The term is not used in ADS 200 or 201, so it is unclear what constitutes a Foreign Assistance Objective. A type of foreign assistance objective is mentioned in the second paragraph on page 5: "Increased use of PPP's fit squarely with the FRP II's objective of improving public resource use, developing a results oriented government and fostering stronger policy analytics of the Ministry of Finance." The associated findings are listed in the paragraph just above.

Therefore, the Mission disagrees that the Mission did not follow Agency regulations, and furthermore does not agree that the Agency did not follow these regulations. It is reasonable to observe that the information could have been presented with greater clarity and perhaps in another format, but it is not a definitively supportable conclusion that the Agency failed to follow the regulations as written. It is also reasonable to observe that Agency regulations could be written with more clarity, using Agency specific terminology (such as "Development Objective" rather than "Foreign Assistance Objective", a term that is in the Country Development Cooperation Strategy and that is clearly rationalized with Foreign Policy Objectives). Given the magnitude of the assertion – and legal implications – that the Agency did not follow sole source regulations, it seems odd to imply that the Acting Administrator's retirement created a dead-end for the audit. It would seem that the audit would have more thoroughly investigated how the bureau treats justifications of these types: who supports the Assistant Administrator in providing analysis of the justification, how the ADS requirements for the Assistant Administrator are accomplished at the Bureau level, and the Agency Competition Advocate's role in the process.

The third and fourth paragraphs of the observation are not related to the issue of sole source justification and are therefore not properly identified under this topic. The observation that the PPP activities are not implemented is a matter that occurred post-modification and is better treated as a performance issue, although the observation seems to state the delayed performance was excusable because of delays by the Government of Jordan. It is unclear what issue is being raised by this paragraph. It also contains a remark that "Mission officials say reprogramming is permitted…" without any comment whether the Auditor believes this is appropriate. The remark appears to be more innuendo than substantiated issue.

There may be some confusion as to the role that the Justification and Approval serves in later determining the course and direction of the contract – it serves no purpose whatsoever in how the contract is later managed. The purpose of the Justification and Approval is only to establish whether a proposed modification should be sole-sourced. It does not justify the technical requirement. The Assistant Administrator's determination that a Foreign Assistance Objective is impaired also does not justify the technical requirement, only whether a sole-source action is justified. Technical requirements are justified through other processes. Therefore, a sole-source justification cannot be used later to assess the technical direction of an activity, unless the allegation is that the justification intentionally misinformed the approval authority.

In the last paragraph of the observation, the assertion that the U.S. could save $4.5 million by revising the final year work plan is unsupported. It is not the general purpose of the Mission to save money by simply not spending it. If that were the case, we could have saved $38.5 million by not awarding the contract in the first place. The issue the audit appears to be raising is whether the $4.5 million could be put to better use in some other manner, that the funds are being wasted as currently applied in the program, or that the funds could not be expended within the remaining life of the contract. However, all of these assertions would require a deeper analysis than what has been provided in the audit. The audit does not conclude elsewhere that the project is unsuccessful and should be curtailed.

Attachments:

1- August 2012 AAD Amendment
2- Contract Modification #7

cc: M/CFO/APC
DMD: DBall
EG: PBrunning
OFM: RShire
RLA: WLeishman
RCO: BMcFarland
OPM: TCornell

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