



OFFICE OF INSPECTOR GENERAL

EBOLA EXPERIENCE HIGHLIGHTS OPPORTUNITIES TO STRENGTHEN USAID'S AWARD PROCESS AND REPROGRAM FUNDS

AUDIT REPORT NO. 9-000-17-001-P
DECEMBER 27, 2016

WASHINGTON, DC



Office of Inspector General

December 27, 2016

MEMORANDUM

TO: USAID/M/OAA, Acting Director, Mark Walther

FROM: IG/A/GSAD, Director, Van Nguyen /s/

SUBJECT: Ebola Experience Highlights Opportunities To Strengthen USAID's Award Process and Reprogram Funds (9-000-17-001-P)

This memorandum transmits our final report on the subject audit. Our objective in performing the audit was to determine if USAID selected suitable types of awards for responding to Ebola, and if it made and modified the awards appropriately. In finalizing the report, we considered your comments on the draft report and included them in their entirety, excluding attachments, in appendix II.

The report contains seven recommendations to help you improve internal controls over the awards process. After reviewing information provided in response to the draft report, we acknowledge management decisions on recommendations 1, 5, 6, and 7 and final action on recommendations 2, 3, and 4. Please provide evidence of final action to the Audit Performance and Compliance Division.

Thank you and your staff for the cooperation and assistance extended to us during this audit.

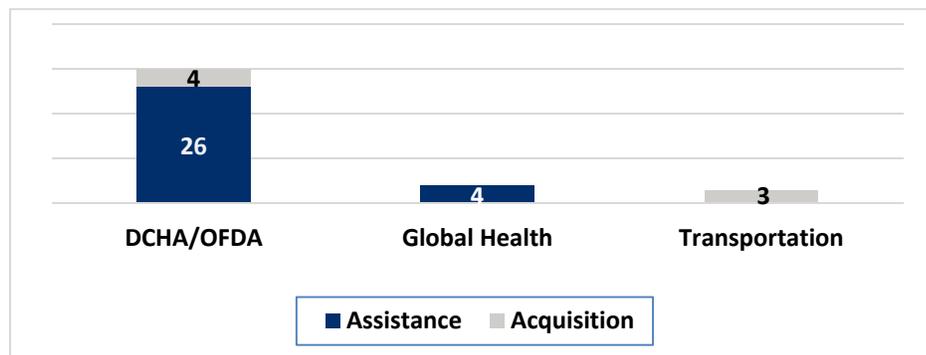
INTRODUCTION

In March 2014, the World Health Organization announced an outbreak of the Ebola virus in Guinea that was quickly spreading to Liberia, Sierra Leone, and other West African countries. As part of the U.S. Government’s response to the crisis, Congress appropriated \$2.5 billion to USAID to (1) control the outbreak, (2) mitigate second-order impacts, (3) build coherent leadership and operations, and (4) strengthen the global health security response.¹ USAID’s Office of U.S. Foreign Disaster Assistance (OFDA) deployed a disaster assistance response team to carry out these objectives. The Ebola outbreak required fast action. USAID staff rushed to respond, taking on larger-than-normal workloads.

USAID’s Office of Acquisition and Assistance (OAA) played a critical role in these efforts. It provides the professional staff and services to make awards to an array of implementers, such as nongovernmental organizations, public international organizations, and for-profit contractors. OAA aligns its staff with corresponding USAID bureaus to provide support for managing award instruments.

We conducted this audit to determine if USAID selected suitable types of awards for responding to Ebola, and if it made and modified the awards appropriately. To conduct our work, we reviewed 37 (out of 166) awards from three OAA divisions (figure 1): the Democracy, Conflict and Humanitarian Assistance (DCHA) Division, which provides acquisition and assistance services for the DCHA Bureau, including OFDA and the Office of Food for Peace (FFP); the Global Health Division, which provides acquisition and assistance services for the offices in the Global Health Bureau; and the Transportation Division, which provides acquisition and assistance services for the offices in the DCHA Bureau and the U.S. Air Force, as requested, for transportation and commodity management.

Figure 1. Ebola Awards Reviewed, by Division and Type



The 37 awards accounted for approximately \$598.1 million (out of approximately \$959.8 million) in obligated funds and \$220.2 million (out of approximately \$316.9 million) in disbursements for the Ebola response as of July 1, 2015. The awards audited had effective dates that ranged from March 7, 2014, through July 6, 2015. For awards that were modified, we extended the scope to September 30, 2015. We also conducted interviews and reviewed key documents. Appendix I presents our scope and methodology.

¹ Second order impacts are defined as economic, social or political consequences that go beyond the direct impacts of Ebola-related illness and caregiving.

SUMMARY

Our review of 37 awards showed that OAA's DCHA, Global Health, and Transportation Divisions selected the most appropriate award instruments for Ebola response, including grants, cooperative agreements, and simplified acquisition contracts. Further, our review of 25 elements for each award indicated that these divisions generally made and modified the awards appropriately. We found that all 37 were processed in the allotted time, and all identified a contracting or agreement officer. Thirty-four of the awards had a completed memorandum of negotiations or similar documentation, which helps contracting or agreement officers ensure they have complied with Agency policy and procedures in the award process. However, the Transportation Division was responsible for the three awards that did not use the memorandum of negotiations, and it did not make the awards appropriately.

Despite OAA's success in selecting, making, and modifying appropriate awards, we identified some internal control deficiencies. First, the Transportation Division lacked approved policies and procedures for certain transportation procurements. For example, we found no policies and procedures to justify using less than full and open competition as part of the awards process, or management approval to do so. The Transportation Division also emailed solicitations to a list of preapproved vendors but lacked policies and procedures for authorizing use of the list. Second, we identified \$11.5 million in excess Ebola funds that had not been timely deobligated so they could be put to better use. Third, we found award files were not fully entered into USAID's electronic record-keeping system to ensure that key decisions and records are documented, preserved, and readily available for auditing. For example, of the 37 awards, 25 had incomplete award files in the system and 7 had no files at all. Agreement officer's representatives also performed duties they were not designated in writing to do.

We made seven recommendations to address these deficiencies by strengthening OAA's internal controls and encouraging consistent adherence to them. USAID agreed with all seven recommendations.

BACKGROUND

The Foreign Assistance Act of 1961, as amended, provides flexibility in selecting the most appropriate type of award for responding to crises. USAID's internal guidance, the Automated Directives System (ADS), chapter 304, "Selecting Between Acquisition and Assistance (A&A) Implementing Instruments," provides specific criteria for determining which instrument is most appropriate and for managing each type, shown in the following table.²

² ADS 304 was fully revised on April 18, 2016, after substantive audit testing ended. The audit testing is based on ADS 304, partially revised on December 30, 2011. The ADS revision did not materially affect the audit answers, results, or conclusions.

Award Types and Instruments

Award Type	Instrument	Primary Purpose
Acquisition	Contract	The acquisition—by purchase, lease, or barter—of property or services for the direct benefit or use of USAID or another U.S. Government entity. ^a
Assistance	<ul style="list-style-type: none">• Grant• Cooperative agreement	The transfer of money, property, services, or anything of value to the recipient to carry out a public purpose of support or stimulation authorized by Federal statute. ^b

^a ADS 304.3.1.a.

^b ADS 304.3.1.b.

In addition to ADS, USAID's bureaus and independent offices often develop and use standard operating procedures, guidebooks, templates, checklists, and other documents. They give employees technical information and instructions for carrying out their responsibilities and achieving intended goals. For employees developing and managing awards, these policies and procedures help ensure that the work performed is consistent with applicable laws, regulations, and policy decisions.

FINDINGS

USAID SELECTED PROPER AWARD INSTRUMENTS AND MADE MOST AWARDS APPROPRIATELY

USAID staff are required to consider the principal purpose of an award in selecting the most appropriate award instrument.³ We determined that OAA's DCHA, Global Health, and Transportation Divisions selected suitable types of awards to respond to the Ebola outbreak using the appropriate instrument in accordance with the purpose of the 37 audited awards. For example, the DCHA Division relied on grants and cooperative agreements to fund nongovernmental organizations and public international organizations to carry out public purposes by providing disaster relief and food assistance. In contrast, the Transportation Division used simplified acquisition contracts for awards such as commercial commodity shipments of protective equipment for health-care workers.

In addition, according to our review of 25 elements for the 37 awards, OAA generally made and modified awards appropriately. Audit testing revealed that all 37 awards were processed in the allotted time, and all of the awards identified a contracting or agreement officer. Of the 37 awards tested, 34 had a completed memorandum of negotiations or similar documentation, which helps contracting or agreement officers ensure they have complied with appropriate procedures and policy in the award process.

³ ADS 304.

Specifically, we found that the DCHA and Global Health Divisions generally made and modified awards appropriately, using memorandum of negotiation templates to document key decisions and processed awards within the time allotted. However, the Transportation Division was responsible for the three awards that did not use the memorandum of negotiations, and it did not make these awards appropriately. This division also lacked formal, documented policies and procedures to guide awards for transporting OFDA's emergency commodities. Consequently, staff did not use required OAA templates to document key award decisions or enter all award files into USAID's electronic record-keeping system—both measures designed to provide transparency and accountability.

EXCEPTIONS SHOWED A NEED FOR STRONGER CONTROLS IN THE AWARDS PROCESS

We identified some exceptions in the Ebola award process that point to the need for stronger internal controls. OAA's Transportation Division lacks key internal controls, including policies and procedures to guide certain transportation procurements. We also identified \$11.5 million in excess Ebola funds that were not deobligated and could be put to better use. Additionally, some Ebola awards were not uploaded to USAID's electronic awards portfolio, Agency Secure Image and Storage Tracking (ASIST) database, and did not have designation letters to document which AOR is responsible for each award.

Transportation Division Lacks Key Internal Controls for Making Awards

We found that OAA's Transportation Division lacks key internal controls to guide certain transportation procurements. According to ADS 101, "Agency Programs and Functions," the division is responsible for "administering, developing, and monitoring the policies, regulations, and statutes governing the transportation of commodities financed by USAID."⁴ Given these responsibilities—and the ADS call for Agency management to "ensure that internal controls are incorporated into strategies, plans, guidance, and procedures that govern programs and operations"—the division should establish a system of internal control to guide these procurements.⁵

However, our review of the Transportation Division's emergency transportation awards revealed the following control deficiencies.

- Essential award decisions, including award justifications, were not documented in required negotiation memorandums.
- The standard operating procedure for emergency transportation procurements has not been approved by management. It was developed by a former employee and did not have a management signature and date authorizing and approving it.
- Full and open competition through FedBizOpps.gov was not used to solicit the emergency commodity transportation awards. However, we found neither policies and procedures justifying this practice, nor management approval to use other than full and open

⁴ ADS 101.3.1.6.C.5.

⁵ ADS 596, "Management's Responsibility for Internal Control."

competition as part of the award process.⁶ The decision to restrict competition was not reviewed and approved by senior OAA management or the Office of the General Counsel.

- The Transportation Division emailed solicitations to a list of preapproved vendors but lacked policies and procedures authorizing the use of the list, and under what circumstances the list may be used. Furthermore, the only publicized information for vendors wishing to compete for emergency transportation awards, other than word-of-mouth and business contacts, was on USAID's Web site. However, the Transportation Division's contact information on the Web site was for an employee who left the Agency years ago, and his replacement was unaware of the Web site. A Transportation Division official said neither OAA management nor the Office of the General Counsel approved the list restricting competition.
- The procurement process largely depended on the efforts of one contracting officer, raising concerns about segregation of duties. The contracting officer was primarily responsible for independently issuing solicitations, making awards, maintaining the standard operating procedure, and managing the qualified bidders list.

An official confirmed that the Transportation Division is operating without policies and procedures. He emphasized that while the division is proficient in transportation acquisitions, it is not adequately staffed, experienced, or qualified to develop and document policies and procedures for a strong system of internal control. He also said that he tried unsuccessfully to obtain assistance from offices such as OAA's Policy Division, the Office of the General Counsel, and OAA management.

\$11.5 Million Left on One Award Was Not Deobligated for Better Use

According to USAID guidance, the contracting officer or agreement officer should start closeout no more than 3 months after award completion.⁷ The Code of Federal Regulations indicates a contract is complete when goods have been delivered and accepted, services have been performed, or the Government has given the contractor a notice of contract termination.⁸ At that point, the contracting officer should deobligate any excess funds.

In December 2014, USAID awarded a contract valued at approximately \$11.6 million to supply personal protective equipment to Ebola-affected areas. Roughly 4 months into the contract, USAID's contracting officer issued a notification of termination for cause, citing the contractor's failure to complete the terms of the contract. At that time, the contractor had incurred \$86,231 in expenses toward the contract, with more than \$11.5 million remaining.

However, a year after the contract was terminated and considered complete, USAID had not completed the administrative procedures necessary to close it out and deobligate the \$11.5 million. A USAID official acknowledged this lack of action and did not know of any pending litigation or protest impeding contract closeout and deobligation. According to another official working on this contract, her high workload of Ebola emergency response awards and prioritization of more immediate needs delayed the contract's closeout and deobligation. Timely completion of contract closeout demonstrates the Agency's financial, legal, and program

⁶ The audit did not determine whether there was a justifiable basis for restricting competition.

⁷ ADS 302sat, "Guidance on Closeout Procedures for A&A Awards," an Additional Help Document for ADS chapters 302 and 303.

⁸ 48 CFR 4.804-4(a)(2).

accountability. In particular, the timely review of unliquidated balances during the closeout process helps ensure excess funds are deobligated and put to better use.

Some Ebola Awards Were Not Uploaded to ASIST and Did Not Have Designation Letters

To provide bureaus and missions easy access to the Agency's vast awards portfolio, USAID requires contracting officials to use ASIST to maintain all official files for all acquisition and assistance awards issued on or after April 1, 2014. USAID's "Agency Secure Image and Storage Tracking (ASIST) and File Standardization Guide" also states that the contracting or agreement officer must verify that all award documents are properly filed in ASIST prior to signing or executing any award or modification, and must then ensure that all final signed documents are properly filed. This requirement aligns with Federal internal control standards, which call for management to document internal controls and all transactions and other significant events in a manner that allows the documentation to be readily available for examination.⁹

However, of the 37 selected Ebola awards reviewed, 25 did not have complete award files uploaded to ASIST, and another 7 did not have any award files uploaded to ASIST. An OAA official agreed that acquisition and assistance personnel do not always follow the rules to use ASIST as the Agency's document retention system. A USAID official said, "ASIST has been mandatory for some time now but not always enforced."

In addition, although ADS states that agreement officers must designate an AOR for each award as early as practicable through a formal designation letter, four OFDA Ebola awards did not have ADS-required designation letters for agreement officer's representatives.¹⁰ If the AOR changes during the life of the award, the agreement officer must issue a designation letter to each new AOR. However, several individuals performed AOR tasks on four awards without designation letters authorizing them to do so. The tasks performed included issuing an acknowledgment letter for a no-cost, period-of-performance extension and conducting fact-finding analyses to support the agreement officer's negotiations of award modifications. USAID officials acknowledged that valid designation letters were not in place for these individuals, although we could not determine the reason for the omissions.

CONCLUSION

For Ebola, USAID led a large U.S. Government response to a global health crisis. While USAID's Office of Acquisition and Assistance performed well overall, its divisions should not compromise the rigor of its internal controls, even when speed is paramount. By implementing internal control improvements, USAID will better promote transparency and accountability for emergency response dollars and ensure that awards are made in compliance with laws and regulations. USAID also has the opportunity to put unused Ebola funds to better use and promote greater participation in emergency transportation solicitations. Strengthening policies and procedures to address deficiencies identified during the Ebola crisis will also benefit any future emergency response efforts.

⁹ United States Government Accountability Office, "Standards for Internal Control in the Federal Government," September 2014.

¹⁰ ADS 303.3.15, "Designation of the Agreement Officer's Representative (AOR)."

RECOMMENDATIONS

To address internal control deficiencies, we recommend that the Director of OAA:

1. Implement policies and procedures for procurements related to transporting the Office of U.S. Foreign Disaster Assistance's emergency commodities. Policies and procedures should require the segregation of duties—so that Transportation contracting officers have clear lines of authority and adequate management oversight—and routine updates to the division's Web page so that it contains current, accurate information.
2. Update the Transportation Division's portion of USAID's Web site to reflect current information, and provide guidance to potential contractors on the procurement process for Office of U.S. Foreign Disaster Assistance emergency commodity transportation.
3. Initiate the closeout of award AID-OAA-O-15-00003.
4. Deobligate the reported unliquidated balance of \$11,532,247 from award no. AID-OAA-O-15-00003, and put the funds to better use.
5. Review its Ebola portfolio, and verify that each applicable award file is entered completely into the Agency Secure Image and Storage Tracking database.
6. Review its current training program on the use of the Agency Secure Image and Storage Tracking database, and incorporate identified improvements to promote greater policy compliance.
7. Review its Office of U.S. Foreign Disaster Assistance Ebola portfolio and confirm that each of the awards has an agreement officer's representative designated by the agreement officer and that the designation letter is in the official award file.

EVALUATION OF MANAGEMENT COMMENTS

We provided USAID with our draft report on October 31, 2016, and on December 12, 2016, received its revised response, which is included as an appendix to this report. USAID agreed with all seven recommendations. USAID made management decisions on recommendations 1, 5, 6, and 7 and took final action on recommendations 2, 3, and 4.

While we acknowledge the Agency's decision on recommendation 1, we maintain that the existing standard operating procedures are informal and need to be approved by management to ensure they appropriately govern the contracting officer's responsibilities. Additionally, guidelines on how the vendors list was compiled and when to use it would provide transparency and speed response. The Transportation Division should issue procedures, approved by management, that describe specifically how the division does business in line with government principles such as the FAR. We believe final action requires not only providing the memorandum of negotiation, but also formalizing the standard operating procedures and guidance on using the vendors list.

SCOPE AND METHODOLOGY

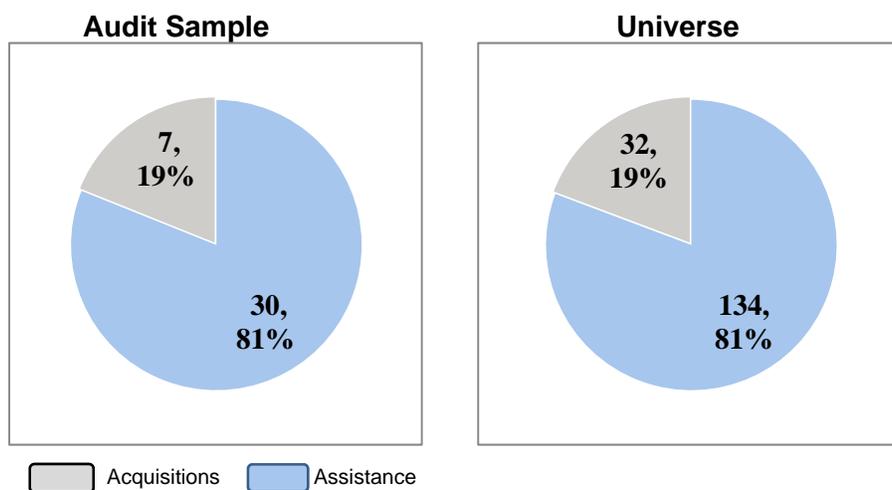
Scope

We conducted this performance audit in accordance with generally accepted government auditing standards. They require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions, in accordance with our audit objective. We believe that the evidence obtained provides that reasonable basis.

The audit objective was to determine if USAID selected suitable types of awards for responding to Ebola, and if it made and modified the awards appropriately. To accomplish this objective, we sampled 37 Ebola awards totaling \$598.1 million in obligated funds and \$220.2 million in disbursements as of July 1, 2015. The awards audited had effective dates that ranged from March 7, 2014, through July 6, 2015. For modified awards, we extended the scope to September 30, 2015. These awards were issued by three OAA divisions: DCHA, Global Health, and Transportation.

The audit scope covered 166 USAID Ebola awards from Pillars I, II, and IV, as reported in the quarterly report, "Ebola Response and Preparedness: Section 9004 Report (U.S. Department of State and U.S. Agency for International Development), July 2015."¹¹ The total amounts obligated and disbursed at that time were approximately \$959.8 million and \$316.9 million, respectively.¹² Figure 2 illustrates the number and percentages of acquisition and assistance awards in the universe and sample, respectively.

Figure 2. Acquisition and Assistance Awards, July 1, 2015



¹¹ The four pillars are Pillar I - Controlling the Outbreak; Pillar II - Mitigate the Second Order Impacts of Ebola; Pillar III - Coherent Leadership and Operations; and Pillar IV - Global Health Security.

¹² The total obligations and disbursements under Pillar III totaled \$9.1 million and \$4.8 million, respectively. These amounts represent less than 1 percent of the total obligations and 1.5 percent of total disbursements.

In planning and performing the audit, the audit team identified and reviewed significant internal controls over the acquisition and assistance process as contained in USAID's ADS; bureau-specific policies and procedures; and the reporting requirements in section 9004 of Division J of the Consolidated and Further Continuing Appropriations Act of 2015, Public Law 113-235. These included awards, award modification(s), preaward letters, memorandums of negotiation, information for negotiation and award, preaward checklists, requisitions, requests for proposal, concept papers, program and budget proposals, SF-425 (Federal Financial Report) forms, and contract/agreement officer representatives' designation letters.

To answer the audit objective, the audit team tested performance in meeting the administrative requirements and the suitability of award instruments. In doing so, the team tested 25 elements of 37 awards, selecting the elements from administrative requirements that USAID bureaus use to ensure oversight of the award process.

To gain an understanding of the Ebola award process and response strategies, the team held meetings with USAID's Bureaus for Management; Democracy, Conflict, and Humanitarian Assistance; Global Health; and Africa. We did not contact the sampled award recipients or verify their financial or performance data submissions. Some awards' performance periods continued beyond our audit scope and could have undergone substantial modifications subsequent to the team's testing. We ended substantive audit testing on April 15, 2016. In cases in which Agency officials could not produce requested documents on or before this date, the team assumed the documents did not exist.

We conducted audit fieldwork from March 23, 2015, to June 15, 2016, at USAID's headquarters in Washington, DC, and held the exit conference on June 15, 2016.

Methodology

We reviewed laws, regulations, and policies and procedures that govern USAID's use of acquisition and assistance implementing instruments. We interviewed USAID officials to identify selected administrative elements for testing each of the 37 Ebola awards.¹³ The Federal and Agency requirements reviewed included the following:

- Consolidated and Further Continuing Appropriations Act of 2015, Public Law 113-235
- Foreign Assistance Act of 1961, Public Law 87-195, as amended
- Federal Acquisition Regulation, Title 2 of the U.S. Code of Federal Regulations (200 and 700) – Uniform Administrative Requirements
- Cost Principles and Audit Requirements for Federal Awards (applicable to USAID)
- USAID's ADS—chapters 300 (Agency Acquisition and Assistance Planning), 302 (USAID Direct Contracting), 303 (Grants and Cooperative Agreements to Non-Governmental Organizations), 304 (Selecting the Appropriate Acquisition and Assistance Instrument), 306 (Interagency Agreements), and 308 (Awards to Public International Organizations)
- Bureau policies

The judgment used to select the administrative elements included substance and availability of information, and the potential material impact that negligence or omission would have.

¹³ Some awards in our sample lacked some of the elements selected; some awards for disaster relief, for example, had eligibility restricted according to ADS 303.3.6.5.b.(1).

Below is a brief summary of those elements.

- To determine if OAA selected suitable types of implementing instruments, we reviewed the awards against the requirements of ADS 304, which provides criteria for selecting acquisition versus assistance awards, identifying the intended purpose of the award, and selecting a grant versus a cooperative agreement.
- To determine if OAA made and modified awards appropriately, we reviewed the awards to make sure salient parts of the planning and solicitation processes were captured and documented. This includes reviews, as applicable, of the award authority, justification, and competition; designations of agreement officer/contracting officer and agreement officer's representative/contracting officer's representative; awardee eligibility based on the System for Award Management and the Excluded Parties List System; funding information; timely execution of the award; approvals by the General Counsel; and changes to the award's scope and funding via modifications.

Next, the audit team identified the USAID Ebola awards as of July 1, 2015, and reconciled them with the July 2015 Ebola Response and Preparedness Section 9004 Report provided to Congress. From the universe, the team selected 37 awards (22 percent of 166 awards), representing approximately \$598.1 million in obligations (out of \$959.8 million) and \$220.2 million of disbursements (out of \$316.9 million). Those awards were judgmentally selected based on (1) high-dollar obligations (20 awards) and (2) a nonstatistical random sample (17 awards) to ensure a representative sample of Ebola acquisition and assistance awards were tested.

To evaluate whether each award in the sample met the tested attributes, the audit team reviewed the award file using ASIST and applicable financial reports. Pertinent documents reviewed (as applicable) consisted of the award, award modification(s), preaward letter, memorandum of negotiation, information for negotiation and award, preaward checklist, requisition, requests for proposal, requests for information, program and budget proposals, SF-425 (Federal Financial Report) form, contract/agreement officer's representative designation letter, and no-cost extension letters. The audit team compiled the test information to assist in answering the audit objective and, when necessary, applied auditor judgment in reaching the overall conclusion.

The audit team relied on computer-processed data from USAID's Phoenix Financial Management System to develop a universe of Ebola awards for fieldwork testing. We verified the data through independent reconciliations to USAID operating reports during our audit planning and relied on OIG's audit of USAID's financial statement audits for fiscal years 2015 and 2014 (0-000-16-001-C, November 16, 2015). These tests and assessments led us to conclude the data were sufficiently reliable to be used in answering the audit objective. The results of our sample cannot be projected to the universe.

MANAGEMENT COMMENTS



December 12, 2016

MEMORANDUM

To: IG/A/GSAD, Director, Van Nguyen

From: M/OAA, Acting Director, Mark A. Walther

Subject: M/OAA Management Comments in Response to the USAID Office of Inspector General, Ebola Experience Highlights Opportunities to Strengthen USAID's Award Process and Reprogram Funds, Draft Audit Report No. 9-000-17-001-P, Dated October 31, 2016

The purpose of this memo is to provide M/OAA management comments in response to Ebola Experience Highlights Opportunities to Strengthen USAID's Award Process and Reprogram Funds, Draft Audit Report No. 9-000-17-001-P, Dated October 31, 2016.

Recommendations:

- 1. Implement policies and procedures for procurements related to transporting the Office of U.S. Foreign Disaster Assistance's emergency commodities. Policies and procedures should require the segregation of duties—so that Transportation contracting officers have clear lines of authority and adequate management oversight—and routine updates to the division's Web page so that it contains current, accurate information.**

M/OAA Response:

In response to the Ebola outbreak in 2015, the USAID Office of Disaster Assistance (OFDA) tasked M/OAA/T with the requirement to urgently and immediately obtain transportation assets and services to move critical medical supplies from the United States to several West African nations, in the attempt to stem the spread of the disease. In its response, M/OAA/T followed the Federal Acquisition Regulation (FAR) procedures as described herewith. FAR Part 13 (Simplified Acquisition Procedures) and FAR Part 12 (Acquisition of Commercial Items) were the primary procedures utilized to procure the necessary services.

M/OAA/T acknowledges that three of the contracts awarded during the period did not contain Memorandums of Negotiations and were not filed as timely as required in the agency's ASIST

program. In response, M/OAA/T has developed specific processes for these type procurements, which have been approved by the agency's Office of General Counsel to ensure compliance. As well, M/OAA/T now has a dedicated Transportation Contracting Officer and a Transportation Specialist working specifically on OFDA emergency response contracts. Oversight of Contracting Officer and Transportation Specialist is in accordance to FAR part 1.102-4(a)-- Role of the Acquisition Team, which states "Government members of the Team must be empowered to make acquisition decisions within their areas of responsibility, including selection, negotiation, and administration of contracts consistent with the Guiding Principles. In particular, the contracting officer must have the authority to the maximum extent practicable and consistent with law, to determine the application of rules, regulations, and policies, on a specific contract related to management oversight. M/OAA/T's Web page has also been updated.

A. Essential award decisions, including award justifications, were not documented in required negotiation memorandums.

Response: After reviewing the initial IG recommendations provided during the 2015 Ebola Response exit conference, the M/OAA/Transportation division recognizes and understands that the audited files were deficient of Memorandums of Negotiations and were not filed as timely as required into the Agency Secure Image & Storage Tracking System (ASIST). Moving forward, the division has implemented practices as Agency policy requiring that Memorandums of Negotiations are included with each contract. The format and content have been reviewed and approved by GC. M/OAA/T confirms that all current contracts contain Memorandum of Negotiations and all relevant contractual documents are being uploaded into ASIST once GLAAS has generated the file in ASIST. A sample Memorandum of Negotiations is to be provided on or before December 31, 2016.

B. The standard operating procedure for emergency transportation procurements has not been approved by management. It was developed by a former employee and did not have a management signature and date authorizing and approving it.

Response: When procuring commodities and services, M/OAA/Transportation, as with other divisions within the Office of Acquisition and Assistance, strictly adheres to the policies as set forth in the Federal Acquisition Regulation (FAR), AIDAR and the ADS. These procedures were followed thoroughly throughout the procurement process during USAID's emergency response to the Ebola epidemic in West Africa. Specifically, the procurements for transportation services followed by M/OAA/Transportation during the period were performed in accordance with the Federal Acquisition Regulations (FAR) Part 12 – Acquisition of Commercial Items. As per, FAR Part 12.102 and the definition in FAR 2.101(f), transportation services are deemed to be commercial services.

In combination with FAR Part 12, components of FAR Part 13 - Simplified Acquisitions Procedures (SAP) were used where and when appropriate, for all Ebola Response acquisitions. In addition to these contracting methods, Performance Based contracting procedures were utilized in all of the subject procurements, which allows the potential contractors to best utilize their commercial experience to create efficient and low cost

solutions to the government's requirements. As the services were assessed to be Commercial Items and the Independent Government Estimates (IGE) were determined to be below the Simplified Acquisition Threshold (SAT), the principal contracting procedures incorporated for the procurements were performed according to FAR Part 13. These procedures are specifically designed to streamline the acquisition process and facilitate the procurement of goods and services quickly and easily. These procedures provide a much faster contracting process, requiring less administrative work for both the government and the contractor, resulting in a lower cost solution. M/OAA/T therefore determined that this contracting method was an optimal solution for the Ebola emergency response scenario since the goal was to respond to the epidemic as quickly, effectively and cost efficiently as possible.

As stated above FAR part 1.102-4(a)-- Role of the Acquisition Team, states "Government members of the Team must be empowered to make acquisition decisions within their areas of responsibility, including selection, negotiation, and administration of contracts consistent with the Guiding Principles. In particular, the contracting officer must have the authority to the maximum extent practicable and consistent with law, to determine the application of rules, regulations, and policies, on a specific contract. Creating a new office policy separate from the FAR, AIDAR, and ADS will constrain the contracting officer's independent discretion provided by the FAR, AIDAR, and ADS.

C. Full and open competition through FedBizOpps.gov was not used to solicit the emergency commodity transportation awards. However, we found neither policies nor procedures justifying this practice, nor management approval to use other than full and open competition as part of the award process. The decision to restrict competition was not reviewed and approved by senior OAA management or the Office of the General Counsel.

Response: In regard to procedures that, "full and open competition through Fed Biz Opps.gov was not used to solicit the emergency commodity transportation awards."

M/OAA/T acknowledges that the Ebola Emergency transportation solicitations were not advertised on FBO.gov, but rather they were solicited and competed in accordance with FAR Part 13 (Simplified Acquisition Procedures). As such, commercial services advertisement and publication on FBO.gov is not required on the portal. Under the FAR's Simplified Acquisition Procedures, the Contracting Officer must "promote competition to the maximum extent practicable." FAR 13.104 states, "The contracting officer must promote competition to the maximum extent practicable to obtain supplies and services from the source whose offer is the most advantageous to the Government, considering the administrative cost of the purchase.

(a) The contracting officer must not—

(1) Solicit quotations based on personal preference; or

(2) Restrict solicitation to suppliers of well-known and widely distributed makes or brands.

(b) If using simplified acquisition procedures and not providing access to the notice of proposed contract action and solicitation information through the Government wide point of entry (GPE), **maximum practicable competition ordinarily can be obtained by soliciting**

quotations or offers from sources within the local trade area. Unless the contract action requires synopsis pursuant to 5.101 and an exception under 5.202 is not applicable, **consider solicitation of at least three sources to promote competition to the maximum extent practicable.** Whenever practicable, request quotations or offers from two sources not included in the previous solicitation.” (Emphasis added.)

M/OAA/T clearly solicited quotation following this regulation, including soliciting to over 40 potential contractors which is far above the recommended number of three.

. “[M]aximum practicable competition ordinarily can be obtained by soliciting quotations or offers from sources within the local trade area.” For these reasons, M/OAA/Transportation complied with FAR requirements for promoting competition.

- D. The Transportation Division emailed solicitations to a list of preapproved vendors but lacked policies and procedures authorizing the use of the list, and under what circumstances the list may be used. Furthermore, the only publicized information for vendors wishing to compete for emergency transportation awards, other than word-of-mouth and business contacts, was on USAID’s Web site. However, the Transportation Division’s contact information on the Web site was for an employee who left the Agency years ago and his replacement was unaware of the Website. A Transportation Division official said neither OAA management nor the Office of the General Counsel approved the list restricting competition.

Response: M/OAA/T followed the regulation as provided for in FAR 13.104. All procurements undertaken by M/OAA/T in support of the Agency’s Ebola Response, included RFP solicitations being distributed to over forty pre-qualified vendors specializing in emergency response contracting. Pre-Qualification vetting is performed by M/OAA/T due to the emergency (urgent and compelling) nature of the services sought. This approach is not prohibited by the FAR. A minimum of five proposals were received in response to each of the solicitations and the awards were made as per the stated requirements listed in the solicitation on a Best Value to the Government basis according to programmatic need. All procedures were performed per FAR Part 13, as the Contracting Officer sought to promote competition to the maximum extent possible from sources competent in performing the specialized work in consideration of the cost. FAR Part 13.104(b) was appropriately cited and utilized under all of the solicitations and only written proposals were accepted. All contracts awarded by M/OAA/T in support of the Ebola Emergency Response were Firm Fixed Price Contracts, where the contractor assumes all the primary cost risk, mitigating most principal risk to the U.S. Government.

- E. The procurement process largely depended on the efforts of one contracting officer, raising concerns about segregation of duties. The contracting officer was primarily responsible for independently issuing solicitations, making awards, maintaining the standard operating procedure, and managing the qualified bidders list.

Response: M/OAA/T acknowledges that a single principal Contracting Officer was selected to perform all transportation contracts in support of the Ebola response. This included, accepting the requirements from the program office through to completion of delivery of commodities to the medical facilities in the foreign country. This procedure was purposely implemented within

the division to ensure uniformity and consistency of product and duties throughout the contracting cycle. Internal files were kept for each of the procurements by M/OAA/T and contained the following documents: Emergency Transportation Request (OFDA program requirement request to M/OAA/T), RFP/Solicitation, Funding Request and Commitment, Copy of each Proposal, Award Determination Letter, Copy of Contract Form SF 1449 (signed/countersigned) and Public Notice to the trade of selected Vendor (including price and reasoning for award). Due to the heavy volume of contracts performed by M/OAA/T, files were uploaded into the Agency filing system ASIST at a later date. All past performance classifying was completed for each contract in the U.S. Government - Contract Performance Assessment Reporting System (CPARS) upon completion of contract performance.

Per FAR 1.602-2 – Responsibilities, Contracting Officers are responsible for ensuring performance of all necessary actions for effective contracting, ensuring compliance with the terms of the contract, and safeguarding the interests of the United States in its contractual relationships. In order to perform these responsibilities, contracting officers should be allowed wide latitude to exercise business judgment. Contracting officers shall --

- (a) Ensure that the requirements of 1.602-1(b) have been met, and that sufficient funds are available for obligation;
- (b) Ensure that contractors receive impartial, fair, and equitable treatment;
- (c) Request and consider the advice of specialists in audit, law, engineering, information security, transportation, and other fields, as appropriate;
- (d) Designate and authorize, in writing and in accordance with agency procedures, a contracting officer's representative (COR) on all contracts and orders other than those that are firm-fixed price, and for firm-fixed-price contracts and orders as appropriate, unless the contracting officer retains and executes the COR duties. See 7.104(e). A

In awarding the Ebola Response contract, the Contracting Officer requested and considered the advice of specialists in the program office concerning transportation, disaster response, and other field as appropriate.

Based on FAR procedures followed by M/OAA/T in support of USAID's Ebola response, all contracts were completed as scheduled, requiring no additional funding from original award and no claims were filed against any contract. There was no heightened probability for potential contract mismanagement or fraud, waste and abuse of U.S. Taxpayer money. It should be strongly noted that M/OAA/T chose to utilize the Federal Acquisition Regulation (FAR) contracting methods and procedures that most effectively minimize risk to the government.

Management Comment: M/OAA agrees with the recommendation and proposes this recommendation be closed on or about December 31, 2016 pending receipt of the agency Memorandum of Negotiation document.

2. Update the Transportation Division's portion of USAID's Web site to reflect current information, and provide guidance to potential contractors on the procurement process for Office of U.S. Foreign Disaster Assistance emergency commodity transportation.

M/OAA Response:

M/OAA/T agrees with the recommendation to update the Web site, and the various programs on the external website have been updated so that any potential contractor can contact M/OAA/T using an established division email address: oceantransportation@usaid.gov. The USAID website cited in the OIG report was established by USAID immediately after the second Iraq War specifically to gather and provide information on the reconstruction of the Port of Umm Qasr, Iraq. As that requirement has long ago been fulfilled, the requisite site has now been removed from USAID's website. The website was not related in any way to USAID's Ebola Response.

Management Comment: Request this recommendation be closed

3. Initiate the closeout of award AID-OAA-O-15-00003.

M/OAA Response:

Modification to terminate and de-obligate the funds in the amount of \$11,532,247 issued on September 28, 2016. A copy of the modification is attached. Additionally, contract file has been sent to the M/OAA Closeout Team for final action.

Management Comment: M/OAA agrees with the recommendation and proposes this recommendation be closed in accordance with the response above, and attached modification and GLAAS screen shots.

4. Deobligate the reported unliquidated balance of \$11,532,247 from award no. AID-OAA-O-15-00003, and put the funds to better use.

M/OAA Response:

Modification to terminate and de-obligate the funds in the amount of \$11,532,247 issued on September 28, 2016. A copy of the modification along with the GLAAS screen shots to confirm the de-obligation was processed in GLAAS and Phoenix is attached.

Management Comment: M/OAA agrees with the recommendation and proposes this recommendation be closed as supported by the modification and GLAAS screen shots, attached.

5. Review its Ebola portfolio, and verify that each applicable award file is entered completely into the Agency Secure Image and Storage Tracking database.

M/OAA Response:

As a follow up to the Exit Conference, a list of 30 awards was provided on June 22, 2016. Subsequently, the following awards have been added, confirmed as entered completely in the Agency Secure Image and Storage Tracking Database (ASIST) as noted below:

DCHA/OFDA

AID-OFDA-G-15-00017

AID-OFDA-G-15-00016

AID-OFDA-IO-15-00051
AID-OFDA-G-14-00177
AID-OFDA-IO-15-00001
AID-OFDA-G-15-00004
AID-OFDA-G-15-00014
AID-OFDA-G-15-00013
AID-OFDA-G-15-00002
AID-OFDA-IO-15-00006
AID-OFDA-IO-15-00005
AID-OFDA-IO-15-00014
AID-OFDA-IO-15-00022
AID-OFDA-G-15-00035
AID-OFDA-G-15-00018
AID-OFDA-G-15-00046
AID-OFDA-G-15-00080
AID-OFDA-G-14-00202
AID-OFDA-G-15-00006
AID-OFDA-IO-15-00035
AID-OAA-C-15-00008
AID-OAA-O-15-00003

DCHA/FFP

FFP-IO-15-00004
AID-FFP-IO-15-00018
AID-FFP-IO-15-00014
AID-FFP-G-15-00049

Screenshots from ASIST, showing the inclusion of the above files, is attached herein for the above.

Regarding Award No. AID-FDA-P-00-05-00024, this award was signed by DCHA/OFDA under a limited authority within their office.

Similarly, the following two awards were signed by DCHA/FFP under a limited authority within their office. .

895-XXX-624-14007
895-XXX-669-2014

Management Comment: M/OAA agrees with the recommendation and proposes the following corrective action. M/OAA will follow up with the DCHA/OFDA and DCHA/FFP awards to ensure file is in ASIST by December 31, 2016.

- 6. Review its current training program on the use of the Agency Secure Image and Storage Tracking database, and incorporate identified improvements to promote greater policy compliance.**

M/OAA Response:

Initially provided through classroom training, ASIST training is currently provided through on-line training E-Modules. To promote greater compliance, various training, guidance, and Q&A information is provided within the M/OAA Website at: <https://pages.usaid.gov/M/OAA/agency-secure-image-storage-tracking-asist-acquisition-assistance-document-management-aadm>.

Management Comment: M/OAA agrees with the recommendation to improve policy compliance and proposes the following corrective action. Prior to December 31, 2016, M/OAA, in accordance with ADS 303.3.12(b), will remind COs/AOs of the requirement to stipulate and confirm in negotiation memorandums that award file is entirely uploaded in ASIST.

- 7. Review its Office of U.S. Foreign Disaster Assistance Ebola portfolio and confirm that each of the awards has an agreement officer's representative designated by the agreement officer and that the designation letter is in the official award file.**

M/OAA Response:

As a follow up to the Exit Conference, a list of 30 awards was provided on June 22, 2016. Subsequently, the following awards have been confirmed as including the AOR/COR letter included in the file, as well as within the ASIST file, or as otherwise noted below (please note a few awards from the Office of Food For Peace (in addition to OFDA) are included as well):

Award No.	AOR Letter Status
AID-OFDA-G-15-00017	In File
AID-OFDA-G-15-00016	In File
AID-OFDA-IO-15-00051	In File
AID-OFDA-G-14-00177	In File
AID-OFDA-IO-15-00001	In File
AID-OFDA-G-15-00004	In File
AID-OFDA-G-15-000014	In File
AID-OFDA-G-15-00013	In File
AID-OFDA-G-15-00002	In File
AID-OFDA-IO-15-00006	In File
AID-OFDA-IO-15-00005	In File
AID-OFDA-IO-15-00014	In File
AID-OFDA-IO-15-00022	In File
AID-OFDA-IO-15-00035	In File
AID-OFDA-G-15-00018	In File
AID-OFDA-G-15-00046	In File

AID-OFDA-G-15-00080	In File
AID-OFDA-G-15-00202	In File
AID-OFDA-G-15-00006	In File
AID-OFDA-IO-15-00035	In File
AID-FFP-IO-15-00004	In File
AID-FFP-IO-15-00018	In File
AID-FFP-IO-15-00014	In File
AID-FFP-G-15-00049	In File
AID-OAA-O-15-00003	In File
AID-OAA-C-15-00008	In File

Identification of the AOR/COR letters as included in the file is identified as part of the ASIST Screen shots file, attached herein.

As mentioned in the Management Response for Number 5. above, award No. AID-FDA-P-00-05-00024 -- this award was signed by DCHA/OFDA under a limited authority within their office.

Similarly, the following two awards were signed by DCHA/FFP under a limited authority within their office.

895-XXX-624-14007

895-XXX-669-2014

Management Comment: M/OAA agrees with the recommendation and proposes the following corrective action. M/OAA will follow up with the DCHA/OFDA and DCHA/FFP awards to ensure AOR/COR letters are in ASIST by December 31, 2016.

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