



# OFFICE OF INSPECTOR GENERAL

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## FOLLOW-UP AUDIT OF USAID/SOUTH SUDAN'S ROAD INFRASTRUCTURE ACTIVITIES

AUDIT REPORT NO. 4-668-12-010-P  
JUNE 13, 2012

PRETORIA, SOUTH AFRICA



*Office of Inspector General*

June 13, 2012

**MEMORANDUM**

**TO:** USAID/South Sudan Mission Director, Kevin Mullally

**FROM:** Regional Inspector General/Pretoria, Christine M. Byrne /s/

**SUBJECT:** Follow-Up Audit of USAID/South Sudan's Road Infrastructure Activities  
(Report Number 4-668-12-010-P)

This memorandum transmits our final report on the subject audit. We have considered carefully your comments on the draft report and have included them in their entirety in Appendix II.

The report includes 11 recommendations to strengthen USAID/South Sudan's road infrastructure activities. With the information you provided in your response to the draft report and in subsequent communications, we determined that management decisions have been reached on Recommendations 3, 5, 6, 7, 8, 9, 10, and 11, and final action has been taken on Recommendations 5, 6, and 10. Recommendations 1 and 4 remain open pending the contractor officer's determination of excess amounts owed USAID and a target date of collection. Recommendation 2 remains open pending the mission's setting a target date for implementing a policy requiring an independent contracting officer review of task orders. Please provide us a written response within 30 days on actions planned or taken to implement Recommendations 1, 2, and 4. Please also provide the Office of Audit Performance and Compliance Division with the necessary documentation to achieve final action on Recommendations 3, 7, 8, 9, and 11. Recommendations 5, 6, and 10 are closed upon report issuance.

I want to express my sincere appreciation for the cooperation and courtesy extended to my staff during the audit.

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**Abbreviations**

The following abbreviations appear in this report:

ANT	ANT Insaat Maden Sanayi Limited
COTR	contracting officer’s technical representative
Eyat	Eyat Roads and Bridges
FAR	Federal Acquisition Regulation
FY	fiscal year
Gulsan	Gulsan Insaat Sanayi Turizm
LBG	Louis Berger Group Inc.
PCL	Progressive Constructions Limited
RIG	Regional Inspector General

# SUMMARY OF RESULTS

One of USAID's biggest projects in South Sudan has been paving the 192-kilometer road between the capital of Juba and Nimule to the south on the Ugandan border. As of November 2011, the completed portion of this vital commercial artery was the only paved inter-city road in South Sudan.

The Juba-Numule road is part of USAID's Sudan Infrastructure Services Project, which the Louis Berger Group Inc. (LBG) carried out through a 5-year, \$700 million indefinite quantity contract that ended in September 2011.<sup>1</sup> On August 27, 2007, USAID/Sudan<sup>2</sup> started the road by signing a \$250 million cost-plus-fixed fee task order.<sup>3</sup> Initially the mission planned to work on other roads and bridges; but, as of August 2011, the Juba-Nimule road made up 98 percent of the task order's total budgeted cost of \$228.3 million.

Because LBG officials decided that the road project was too large for one subcontractor to finish on time, they separated it into three sections and put each one up for bid. In addition, the officials thought that if one subcontractor failed to perform, they could reallocate work to another one. The first section is 55 kilometers long and starts at the Ugandan border in Nimule; Section 2 is 70 kilometers long; and Section 3 is 67 kilometers long and ends at the Nile River Bridge leading into Juba. The map included as Appendix III shows the three sections in detail.

The Regional Inspector General in Pretoria (RIG/Pretoria) issued the initial audit of the mission's road infrastructure activities ("Audit of USAID/Sudan's Road Infrastructure Activities," Report No. 4-650-09-009-P) on September 28, 2009. The audit found that, while the Juba-Nimule road was likely to achieve its main goals, the project was over budget and behind schedule. At that time, the road was 8 months behind and had an estimated completion date of November 2010. Moreover, the cost of the road had more than doubled to \$163.8 million. As of the end of audit fieldwork, LBG had completed bridge repairs, demining, and graded the road site, but the subcontractors had not started paving. Through these subcontractors, LBG still had to:

- Place culverts and other catchments, clear brush, and establish embankments.
- Lay the subbase and base layers of aggregate.
- Seal the road with two coats of bitumen and gravel, as shown in the photo on page 2.
- Paint the lines, erect signs, and place guardrails where necessary.

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<sup>1</sup> An indefinite quantity contract gives USAID the ability to get an indefinite quantity of supplies or services from a contractor during a period of time for a set price. Each time the Agency needs the supplies or services, it issues a task order to the contractor.

<sup>2</sup> Upon the formal independence of South Sudan on July 9, 2011, the USAID office in Juba was designated USAID/South Sudan, while the USAID mission in Khartoum remained USAID/Sudan. Because the Juba-Nimule road predates formal independence and the USAID officials involved in the project have been based in Juba, this audit refers to USAID/South Sudan even when the Juba office was part of USAID/Sudan.

<sup>3</sup> A cost-plus-fixed-fee contract pays the contractor a negotiated fee that is fixed at the inception of the contract. The fixed fee does not vary with actual cost, but may be adjusted because of changes to the work performed under the contract. This task order included a \$9.6 million fixed fee.



**A truck spreads a layer of gravel on the Juba-Nimule road, a major conduit for commerce in South Sudan. (Photo by RIG/Pretoria, November 4, 2011)**

RIG/Pretoria conducted this follow-up audit at USAID/South Sudan to determine (1) whether the Juba-Nimule road was on track to be completed on schedule and within budget and (2) whether USAID/South Sudan built sustainability into the mission's road infrastructure activities.

The audit determined that the road was neither on track nor within the budget that was set as of the end of the last audit (page 5). The audit also determined that although USAID/South Sudan built sustainability into the project, it is unlikely that the benefits from the road will be sustained because the Government of South Sudan is unlikely to maintain the road physically (page 13) and because other factors could offset those benefits (page 15).

Despite these findings, the audit team did see that the sections of road that have been completed were well built, and the increase in traffic indicated that the road has linked South Sudan to Uganda and other neighbors to the south successfully.

The audit also identified the following findings:

- The task order between USAID and LBG did not define deliverables (page 8), as required by the Federal Acquisition Regulation (FAR). This oversight may have cost U.S. taxpayers \$6.5 million.
- LBG did not communicate appropriately with USAID (page 9). LBG did not communicate with the contracting officer before or during negotiations with a subcontractor, which may have a direct effect on the price of the Juba-Nimule road. Additionally, USAID/South Sudan officials said LBG had not notified them about claims from subcontractors that could affect

USAID's financial liability. As a result, LBG was claiming up to \$5.9 million more than was allowable following negotiations with a subcontractor, and USAID/South Sudan was unaware of the liability related to subcontractor claims.

- USAID did not complete required contractor evaluations (page 12). Although USAID should have completed several evaluations, LBG officials said they had received only one, and it was not for the task order related to the Juba-Nimule road. U.S. Government officials making decisions about future procurements will not have all of the information about LBG's prior performance without completed contractor evaluations.

To resolve these problems, this report recommends that USAID/South Sudan:

1. Determine whether the fixed fee in Task Order Two<sup>4</sup> of the Sudan Infrastructure Services Project can be reduced based on the reduction in the scope of work, document this determination, and recover the excess amount from LBG (page 8).
2. Develop and implement a policy to have a second-level review by a contracting official of task orders worth more than a certain dollar amount to confirm they are structured to encourage contractors to fulfill their end of the agreement on time and within budget (page 9).
3. Develop and implement a plan to provide consistent contracting support for agreements managed by the mission (page 11).
4. Determine the final amount for the contract between Eyat Roads and Bridges (Eyat) and LBG, and recover from LBG any excess due USAID (page 11).
5. Arrange for staff members to represent USAID's interest during any negotiation, arbitration, or litigation (page 12).
6. Define and document the roles and responsibilities of officials who oversee the LBG contract, as well as the specific information that LBG needs to share with USAID, and provide this information to LBG (page 12).
7. Prepare all overdue contractor evaluations for LBG under the Sudan Infrastructure Services Project (page 13).
8. Designate an official in writing to confirm that contractor performance evaluations are completed as required (page 13).
9. Train all mission personnel on their roles and responsibilities related to contractor performance evaluations (page 13).
10. Identify and document the most significant threats to the maintenance of the Juba-Nimule road and engage the Government of South Sudan to address these threats (page 15).

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<sup>4</sup> Task Order Two was the task order signed on August 27, 2007 that included the Juba-Nimule road, as discussed on page 1 of this report.

11. Include in its next portfolio review a discussion on whether any of its planned activities could or should address the obstacles that prevent the Juba-Nimule road from achieving its full potential (page 16).

Detailed findings appear in the following section, and the scope and methodology appear in Appendix I. Management comments are in Appendix II, and our evaluation of management comments are on page 17.

# AUDIT FINDINGS

## Juba-Nimule Road Was Over Budget and Behind Schedule

The September 2009 audit noted that the Juba-Nimule road was projected to cost \$163.8 million and to be completed in November 2010.

Since then, the estimated cost has grown to \$223.2 million, and the estimated completion date is now November 2012. Most of these budget overages and delays arose from the need to replace both road construction subcontractors, Progressive Constructions Limited (PCL) and Eyat. In addition, the replacement subcontractors have caused further delays. Table 1 shows estimated cost increases since the previous audit.

**Table 1. Estimated Cost Increases for the Juba-Nimule Road (Audited)**

Item	Amount (\$ million)
Estimated cost in September 2009	163.8
PCL replacement	34.1
Eyat replacement	17.4
Other increases*	7.9
Estimated cost in November 2011	223.2

\* Other costs were incurred by additional demining, hiring extra security, and building another bridge. The September 2009 estimate included only 65.5 percent of the fixed fee because the estimated cost of the road was 65.5 percent of the task order ceiling. Because the Juba-Nimule road forms 98 percent of the total estimate for the task order, the November 2011 estimate includes 98 percent of the fixed fee, an increase of \$3.1 million.

**Termination of PCL Subcontract.** On May 1, 2009, LBG selected PCL, an Indian company, to construct Sections 1 and 2 of the road because PCL was the lowest bidder. However, it failed to meet multiple contract requirements and, most significantly, did not get its staff or equipment to the site on schedule; a senior LBG official recalled seeing only a few pieces of equipment and a few employees during a site visit in July 2009. After numerous warnings, LBG terminated the PCL contracts on November 4, 2009.

Before then, however, USAID officials were aware of PCL's poor performance and appropriately communicated their concerns to LBG. According to LBG officials, they were taking steps to address PCL's substandard performance, including meetings and formal notices regarding the rate of progress. In August 2009, an LBG official noted, "The progressive nature of our communications with PCL is representative of our growing concern that they have neither the financial resources nor the institutional capacity to organize the appropriate corporate resources to meet their contracted obligations."

Rather than re-advertise the subcontracts, LBG solicited bids from specific companies because it decided that advertising would delay the project further and because it had identified capable companies in the initial competition.

The two bidders selected to replace PCL were two Turkish companies, ANT Insaat Maden Sanayi Limited (ANT) and Gulsan Insaat Sanayi Turizm (Gulsan). Despite having the lowest bids, their costs were still substantially higher than PCL's subcontract amounts. Consequently, the additional cost for both sections was \$34.1 million, including extra costs for building camps for staff and supplies and additional costs for LBG to oversee the work. However, the cost increase was supported by the fact that the lowest bidders during the previous solicitation (Eyat and PCL) had failed to perform, and the next highest bidders were closer to the prices of ANT and Gulsan.

LBG was trying to recoup damages from PCL for nonperformance, and, at the time of audit fieldwork, was preparing for arbitration. If LBG is able to recover performance security and other damages, such amounts could offset the cost of replacing PCL. While LBG may seek damages equal to the amount of losses incurred as a result of PCL's termination and the resulting re-procurement costs, damages actually awarded by the arbitration panel may differ. Additionally, the arbitration process is incurring legal fees.

**Termination of Subcontract With Eyat.** Eyat, a Sudanese company headquartered in Khartoum, was responsible for Section 3 of the Juba-Nimule road. Although it was more effective than PCL, insufficient or incapable management led to missed deadlines, and much of the work that was completed needed to be redone. For example, USAID's engineering consultant explained that most construction companies would lay out only a few hundred meters of material at a time to minimize the work lost if it rained. However, Eyat laid more than a kilometer of material at a time and subsequently lost time when it rained. Between the money Eyat received for expenses and the charges incurred by hiring a new subcontractor, the cost of Section 3 rose by about \$17.4 million.

LBG officials said Eyat was not meeting its deadlines, but because they had fewer doubts about Eyat's corporate capabilities than they did about PCL's, they believed that Eyat might resolve its issues; the officials also said they did not terminate Eyat as quickly as PCL because Eyat was the lowest bidder and would be costlier to replace. In addition, South Sudanese ministers asked USAID not to terminate Eyat. USAID/South Sudan officials noted that this pressure from the Government of South Sudan was because Eyat was a Sudanese contractor.

LBG initially responded to Eyat's poor performance by allocating about half of its section to ANT, one of the contractors that had replaced PCL, dividing the section into 3A and 3B. However, 129 days after the contract was supposed to be done, less than 25 percent of the work Eyat was supposed to do was finished. So USAID consented to LBG's request to terminate Eyat's contract and to replace it with ANT.

**Delays With New Subcontractors.** In addition to increasing costs, replacing PCL and Eyat added significant time to the schedule, as shown in Table 2. Moreover, at the time of audit fieldwork, the new subcontractors did not expect to meet their established deadlines, delaying the project further. However, these subcontracts provide for liquidated damages<sup>5</sup> that could allow USAID to recover some of the additional costs incurred by LBG to oversee these subcontractors for longer than expected, although LBG is responsible for applying liquidated damages.

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<sup>5</sup> Liquidated damages are used to compensate the U.S. Government for probable damages because of nonperformance. They are not punitive.

**Table 2. Delays Caused by Subcontractor Terminations**

Section	Original Subcontractor	Original Completion Dates	Replacement Subcontractor	Revised Completion Dates	Estimated Completion Dates	Estimated Delay of New Subcontractors (Days)
1	PCL	Oct. 30, 2010	ANT	Aug. 26, 2011	Dec. 15, 2011	111
2	PCL	Oct. 10, 2010	Gulsan	Sept. 7, 2011	Nov. 15, 2012	435
3A	Eyat	Oct. 30, 2010	ANT	Feb. 25, 2012	June 15, 2012	111
3B	Eyat	Oct. 30, 2010	ANT	June 25, 2012	Sept. 15, 2012	82

While LBG may be able to recover some costs from the new subcontractors for their delays, the subcontractors can file claims for extensions of time and additional costs. For example, LBG gave ANT a 68-day extension to complete Section 3A because the community did not allow the subcontractor to move into LBG's site alongside the road. ANT and Gulsan also notified LBG that they intend to file claims for extra time and costs related to delays caused by a variety of reasons, such as the Sudanese People's Liberation Army closing the road on certain days, a generator that fell off a truck while being transported through Kenya, and rock being harder than anticipated. A USAID/South Sudan official speculated that the subcontractors were trying to find any reason to defray the liquidated damages for which the subcontractors will be liable.



**Men gather on the Kimbi bridge, the only other activity done in the Sudan Infrastructure Services Project. (Photo by LBG, July 2008)**

The cost and time needed to build the Juba-Nimule road have limited the amount of infrastructure improvements USAID has been able to make in South Sudan. Originally the task order included using more than \$170 million of the total \$250 million for other projects.

However, because of the cost overruns on the Juba-Nimule road, the task order wound up paying for only one other infrastructure project: refurbishing the Kimbi bridge in Yei (Central Equatoria State), shown in the photo above, which cost \$25,170.

This report does not make any recommendations related to this finding because the findings below include recommendations related to these cost overages.

## **Task Order Between USAID and Louis Berger Group Did Not Define Deliverables**

The Juba-Nimule road is part of a cost-plus-fixed-fee completion task order with a ceiling price of \$250 million and a fixed fee of \$9.6 million. The FAR<sup>6</sup> requires task orders to “clearly describe all services to be performed or supplies to be delivered so the full cost or price for the performance of the work can be established when the order is placed.” In addition, the FAR states that use of a completion contract “normally requires the contractor to complete and deliver the specified end product . . . within the estimated cost, if possible, as a condition for payment of the entire fixed fee.”<sup>7</sup>

Despite this requirement, the task order did not describe all of the services LBG was to provide; the only project defined was the Juba-Nimule road. The contracting officer who was involved in awarding the task order said he could not recall why it did not define all of the services to be provided. The omission was even more questionable because before the task order went into effect, LBG estimated that the Juba-Nimule road would cost approximately \$80 million (including a 4 percent fee for LBG)—a good indication that the \$250 million task order would include substantially more work than the road.

Deliverables were not defined because USAID policy did not require extensive reviews of task orders and required only one contracting officer to be involved. Had USAID/South Sudan conducted an independent review, the problems with LBG’s task order might have been resolved and documented before it was signed. Additionally, if USAID/South Sudan had used LBG’s estimated cost of \$80 million in the task order, the company’s fee would have been \$3.1 million instead of \$9.6 million—saving U.S. taxpayers \$6.5 million.

Also, LBG had little incentive to keep costs down on the Juba-Nimule road. By going over budget on the road, for example, LBG received the same fee without having to undertake any other infrastructure projects in South Sudan.

The task order’s scope of work was reduced substantially by limiting the work completed predominantly to the Juba-Nimule road. Therefore, the audit makes the following recommendation.

***Recommendation 1.*** *We recommend that USAID/South Sudan determine whether the fixed fee in Task Order Two of the Sudan Infrastructure Services Project can be reduced based on the reduction in the scope of work, document this determination, and recover the excess amount from the Louis Berger Group.*

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<sup>6</sup> Section 16.505(a)(2).

<sup>7</sup> Section 16.306(d)(1).

There was no justification for the amount the task order was worth, yet the mission signed the contract, thereby obligating USAID to pay LBG \$9.6 million to complete work that had not been defined. Had mission policy required an independent review of the task order by someone other than the awarding official, the content could have been corrected, or at least the justification for the deliverables and amounts within the current task order would have been documented. Therefore, the audit is making the following recommendation.

***Recommendation 2.*** *We recommend that USAID/South Sudan develop and implement a policy to have a second-level review by a contracting official of task orders worth more than a certain dollar amount to confirm they are structured to encourage contractors to fulfill their end of the agreement on time and within budget.*

## **Louis Berger Group Did Not Communicate Appropriately With USAID**

**Lack of Communication During Contractor Termination Negotiations.** The indefinite quantity contract between LBG and USAID says:

The contracting officer is the sole authority authorized to approve changes in any of the requirements under this contract . . . These changes include, but will not be limited to the following areas: scope of work, price, quantity, technical specifications, delivery schedules, and contract terms and conditions. In the event the Contractor effects any changes at the direction of any other person other than the contracting officer, the change will be considered to have been made without authority.

Although LBG got USAID/South Sudan's approval to subcontract with ANT, it did not communicate with the contracting officer before or during negotiations with Eyat, which had a direct effect on the price of the Juba-Nimule road. The combination of increased costs incurred by hiring ANT, payments made to Eyat, and payments to LBG for costs it bore on behalf of Eyat added \$17.4 million to the project, some of which USAID should be able to recover. LBG initially negotiated with Eyat the amount to be recovered on USAID's behalf. However, the USAID/South Sudan contract specialist responsible for the LBG contract identified some items that could have been charged to Eyat:

1. LBG retained almost \$1.8 million in funds from Eyat during the contract period as performance security to make sure the subcontractor would not default. The USAID contract specialist said these funds were forfeited because Eyat defaulted.
2. LBG and USAID agreed that Eyat owes liquidated damages for late performance and that the maximum amount of liquidated damages would apply. However, they disagreed on what base to use when calculating the amount. LBG contended that the base should be 15 percent of the completed work (about \$7 million), and USAID contended it should be 15 percent of the final contract value (about \$17 million). The difference between the two amounts is about \$1.6 million.
3. Both mobilization and security are covered by lump sum amounts in the contract. Because Eyat provided security and mobilized its equipment and employees, LBG contended that the

subcontractor should get the full amount (more than \$3.4 million). The USAID contract specialist said the amounts were for the full performance of the contract, but because less than 25 percent of the work was completed, Eyat should receive only that percentage of the lump sum. However, the USAID/South Sudan contracting officer's technical representative<sup>8</sup> (COTR) agreed with LBG that Eyat should be paid because it mobilized its equipment and provided security for the term of the contract. The difference between these amounts is \$2.6 million.

The USAID/South Sudan COTR and the engineering consultant agreed with the contract specialist about the performance security and the liquidated damages (points 1 and 2 above). However, they agreed with LBG about the security and mobilization costs (point 3). Table 3 shows these differences in detail.

**Table 3. Different Calculations of Eyat Termination Costs (audited)**

Item	Value LBG Negotiated (\$)	Value According to USAID COTR (\$)	Value According to USAID Contract Specialist (\$)
Works/services delivered	3,535,610	3,535,610	3,535,610
Security	2,350,000	2,350,000	584,870
Mobilization	1,080,000	1,080,000	268,791
Sale of camp/vehicles	272,550	272,550	272,550
Eyat expenses paid by LBG	(215,813)	(215,813)	(215,813)
Payment to security	(272,574)	(272,574)	(272,574)
Liquidated damages	(1,053,352)	(2,645,407)	(2,645,407)
Performance security	-	(1,763,605)	(1,763,605)
Payments to date	(2,842,352)	(2,842,352)	(2,842,352)
<b>Balance</b>	<b>2,854,068</b>	<b>(501,591)</b>	<b>(3,077,931)</b>

These discrepancies occurred because LBG did not communicate with the USAID contracting officer about its prenegotiating position. However, LBG did communicate with other USAID/South Sudan staff members several times before and during negotiations with Eyat. Specifically, LBG:

- Sent an e-mail to the COTR notifying him that LBG intended to purchase vehicles and a portion of the work camp from Eyat on April 27, 2011.
- Met with the economic growth team leader and the COTR on May 28, 2011, when the team leader noted that LBG should withhold liquidated damages.
- Met with the USAID deputy mission director on June 6, 2011, after the last meeting with Eyat, to discuss the negotiations.

<sup>8</sup> A contracting officer's technical representative (COTR) assists in monitoring or administering a contract. Effective January 1, 2012, USAID changed the terms contracting officer's technical representative and agreement officer's technical representative to contracting officer's representative to align with changes in the FAR.

The deputy mission director wrote that she recalled discussing LBG's proposal of returning Eyat's performance security funds. However, she said, "We never asked that the performance security/liquidated damages be returned to Eyat, and clearly, our contracting officer (who was not at the meeting) has the final authority to approve LBG's proposal." Although LBG communicated with several USAID officials, none of these officials had the authority to approve changes to the contract price.

After this initial miscommunication, USAID/South Sudan should have been more proactive about resolving the disagreements between the contracting specialist and LBG. However, USAID/South Sudan did not have consistent staffing in the contracting officer position; a LBG official said he believed nine had been assigned to the project to date. However high turnover does not preclude consistent coverage; the official said he did not have problems with a contract he managed between LBG and USAID/Iraq in which 27 contracting officers were involved over a 3-year period.

Despite the staffing issue with USAID/South Sudan, it was LBG's responsibility to confirm that the contracting officer approved any change to the contract's price. Because this had not yet occurred, USAID was not obligated to abide by the terms negotiated by LBG.

USAID's rejection of LBG's terms will cause a dispute between Eyat and LBG. This dispute may not be easy to settle amicably because of the months that have elapsed since the negotiations took place. However, this situation does not permit USAID/South Sudan to reimburse LBG for expenses that are not allowable. Therefore, the audit makes the following recommendations.

***Recommendation 3.*** *We recommend that USAID/South Sudan develop and implement a plan to provide consistent contracting support for agreements managed by the mission.*

***Recommendation 4.*** *We recommend that USAID/South Sudan determine the final amount for the contract between Eyat and the Louis Berger Group and recover from the Louis Berger Group any excess due to USAID.*

**Lack of Communication About Potential Claims From Subcontractors.** In addition to the indefinite quantity contract requirements for contracting officer approval of changes in scope of work, price, quantity, etc., the FAR<sup>9</sup> notes that:

The Contractor shall give the contracting officer immediate written notice of any action or suit and prompt notice of any claim made against the Contractor by any subcontractor or vendor that, in the opinion of the Contractor, may result in litigation related in any way to this contract, with respect to which the Contractor may be entitled to reimbursement from the Government.

USAID/South Sudan officials said LBG had not notified them about claims from subcontractors that potentially affected USAID's financial liability. One of LBG's subcontractors made a claim for \$2.2 million, and although USAID/South Sudan knew there was the potential for a claim, mission officials did not know it had been filed until more than 20 months later, when the subcontractor took LBG to litigation. ANT filed a claim for an extension of time because

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<sup>9</sup> Section 52.244-2(h)

problems with the community prevented the firm from establishing a camp. LBG approved the extension before notifying USAID about it.

These problems occurred because of miscommunications between LBG and USAID/South Sudan. LBG officials said it was not hard for them to communicate the potential claims to USAID, but they did not know that USAID wanted to know about them. Mission officials disagreed and said other claims have been discussed since 2008.

The responsible regional legal advisor said USAID could deny paying for these claims only if LBG had been “grossly negligent,” which is a difficult threshold to meet. Nevertheless, insufficient information about potential future obligations related to subcontractor claims would make it difficult for USAID to estimate the total cost of the project. This information also is important to guide USAID in allocating funds—especially as the project nears completion.

Additionally, LBG has no incentive to contest these claims in court. Because the task order is on a cost reimbursement basis, the results of litigation between LBG and the subcontractors will not affect LBG. This situation necessitates that USAID get involved to protect the interests of the U.S. taxpayer. Therefore, the audit makes the following recommendations.

***Recommendation 5.*** *We recommend that USAID/South Sudan arrange for staff members to represent USAID’s interest during any negotiation, arbitration, or litigation.*

***Recommendation 6.*** *We recommend that USAID/South Sudan define and document the roles and responsibilities of officials who oversee the Louis Berger Group contract, as well as the specific information that the Louis Berger Group needs to share with USAID, and provide this information to the Louis Berger Group.*

## **USAID Did Not Complete Required Contractor Evaluations**

FAR Subpart 42.15 specifies policies and procedures for completing evaluations of contractor performance. Reflecting these requirements, the Sudan Infrastructure Services Project’s contract states that evaluations of LBG’s performance for the whole project should be completed annually. Additionally, any multiyear task orders under the project for more than \$100,000 should be evaluated after 12 months of performance, and interim evaluations should be conducted at the discretion of the contracting officer, but generally should be updated at least every 2 years.

Despite these requirements, LBG officials said they received only one task order evaluation, and it was not for the one related to the Juba-Nimule road. Although the COTR had completed contractor evaluations for the road’s task order, they had not been finalized by a contracting officer and therefore were not issued to LBG. The COTR said the current contractor evaluation system did not allow him to initiate an evaluation. In addition, once he wrote an evaluation, the system did not allow him to determine whether it was finalized and sent to the contractor. Employees in USAID’s contracting offices in Sudan and South Sudan got access to the evaluation system only near the end of our fieldwork.

Contractor performance evaluations were lacking because the missions’ previous managers did not make them a priority, a problem that was exacerbated by high contracting officer turnover.

A senior mission official said he did not know USAID was doing contractor evaluations any more.

Although their reasons differed, USAID and LBG officials decried the lack of contractor performance evaluations. A USAID official said the prospect of a poor evaluation was a potent means of influencing contractor performance, while an LBG official stated that good evaluations helped the company when it was bidding on work. Echoing this claim, the Government Accountability Office has ruled that failure to document contractor performance information and make it available can be the basis for challenging the award of a contract.<sup>10</sup> More importantly, U.S. Government officials making decisions about future procurements will not have all of the information about LBG's prior performance without completed contractor evaluations. Consequently, this audit makes the following recommendations.

***Recommendation 7.*** *We recommend that USAID/South Sudan prepare all overdue contractor evaluations for the Louis Berger Group under the Sudan Infrastructure Services Project.*

***Recommendation 8.*** *We recommend that USAID/South Sudan designate an official in writing to confirm that contractor performance evaluations are completed as required.*

***Recommendation 9.*** *We recommend that USAID/South Sudan train all mission personnel on their roles and responsibilities related to contractor performance evaluations.*

## **Government of South Sudan Is Unlikely to Maintain the Juba-Nimule Road**

According to the Foreign Assistance Act of 1961,<sup>11</sup> one of the five principal goals of U.S. assistance is to enable developing countries to achieve self-sustaining economic growth. Since adequate transportation infrastructure is a critical prerequisite for South Sudan's economic growth, USAID and LBG have been working with the South Sudanese Government to create a quasi-governmental entity with a staff that is independent from the Ministry of Roads and Bridges to maintain the country's roads. As part of this effort, USAID—through LBG—helped draft the law establishing the Roads Authority (which the South Sudanese Parliament passed), developed its organizational structure, and paid for renovating a building to serve as its headquarters.

Despite these activities, there is significant doubt about whether the South Sudanese Government has the capability or will to maintain the Juba-Nimule road.

Other incidents also cast doubt on the road's sustainability. When the Ministry of Transportation and Roads split into the Ministry of Roads and Bridges and the Ministry of Transport, the latter established offices in the renovated building for the Roads Authority—depriving it of office space. LBG officials said they had been meeting monthly with the South Sudanese Government and USAID officials to discuss the progress of the Juba-Nimule road, but the South Sudanese representatives stopped attending. Additionally, USAID/South Sudan and LBG have

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<sup>10</sup> International Business Systems, Inc., B-275554, March 3, 1997.

<sup>11</sup> Section 101, Part 1, Chapter 1, "Policy; Development Assistance Authorizations."

been prepared to hand over seven completed bridges to the South Sudanese Government since April 2011, but the South Sudanese Government had not said when it wants to take control of the bridges.

Finally, in 2009 LBG asked the South Sudanese Government to send three junior engineers to work with LBG crews so that they could receive on-the-job training. According to an LBG official, South Sudan initially expressed some interest, but asked USAID to pay the engineers' salaries and expenses; USAID turned the request down because it violated Agency regulations. Although the South Sudanese Government eventually sent two staff members to LBG in 2011, an LBG official said they lacked rudimentary knowledge of road construction and questioned whether the Ministry of Roads and Bridges would hire them after training with LBG concluded.

In addition, there are other risks to the road's durability. During site visits, auditors observed multiple accidents that damaged the road, as shown below. Auditors also saw numerous idle trucks, either broken down or waiting to go through customs. A USAID official said the operators of these idle trucks often drain diesel to use for cooking, which then spills onto the road and damages the surface. Overloaded vehicles also can hurt the road, and South Sudan lacks the regulatory framework and infrastructure to deter overloading, a top LBG official said.



**Gouges are evident in the surface of the Juba-Nimule road after a truck accident. (Photo by RIG/Pretoria, November 4, 2011)**

Although the useful life of a road varies, the Juba-Nimule road should last between 15 and 25 years with proper maintenance. However, the damage caused by the road's users combined with the South Sudanese Government's inability to maintain it is likely to significantly decrease that life span.

As a result, the audit makes the following recommendation.

**Recommendation 10.** *We recommend that USAID/South Sudan identify and document the most significant threats to the maintenance of the Juba-Nimule road and engage the Government of South Sudan to address these threats.*

## **Other Factors Could Offset Road's Benefits**

One of the main goals for the Juba-Nimule road is to facilitate trade. The upgrades have made it quicker and easier for trucks to travel, thereby encouraging commerce between South Sudan and its neighbors.

However, increased traffic volume has caused more accidents, some of which have been fatal. For example, on June 17, 2011, two buses collided, killing 28 people and injuring 82 more, as shown in the photo below. According to the government, three people die on average every day from accidents on the Juba-Nimule road. The growth in traffic has also increased the wait time at the border from 3 hours to 3 days, according to an LBG official.

These problems are due to the lack of action taken to expedite customs clearance at the border and the lack of policing in certain areas. A May 2007 feasibility assessment, prepared by LBG to evaluate proposed construction alternatives of the Juba-Nimule road, predicted that traffic would increase as the road was improved, although it did not foresee the magnitude of that increase. Lack of responsiveness by the South Sudanese Government could further exacerbate these problems, as traffic continues to increase as more of the road is paved. A South Sudanese official said the South Sudanese Government was planning to train customs officials to improve the processing time. He also said that to address the number of accidents, the South Sudanese Government intends to establish a road safety council. These actions are neither sufficient nor expeditious enough to address these issues.



**Two wrecked buses still sit after colliding on the Juba-Nimule road on June 17, 2011, killing 28 people and injuring 82 others. (Photo by RIG/Pretoria, November 4, 2011)**

In addition to reducing the road's economic benefits, excessive border delays contribute to health and safety problems. LBG and USAID/South Sudan officials said truck drivers often traveling from areas in Kenya and Uganda where HIV is prevalent might spend days at the border waiting for customs clearance where many partake in alcohol and prostitution. LBG officials said drivers clear customs while they are still drunk, making the road even more dangerous. USAID officials also noted that the border delays result in overloading, as several trucks consolidate loads at the border to avoid waiting for clearance. Finally, USAID officials commented that these delays could foster corruption because drivers will pay bribes to avoid spending days at the border.

Since auditors believe USAID/South Sudan should consider these issues during future activities, this report makes the following recommendation.

***Recommendation 11.*** *We recommend that USAID/South Sudan include in its next portfolio review a discussion on whether any of its planned activities could or should address the obstacles that prevent the Juba-Nimule road from achieving its full potential.*

# EVALUATION OF MANAGEMENT COMMENTS

In its comments on the draft report and in subsequent discussions, USAID/South Sudan agreed with all 11 recommendations. Management decisions have been reached on eight recommendations, and final action has been taken on three. In accordance with ADS 595, Recommendations 1 and 4 remain open pending the contractor officer's determination of excess amounts owed USAID and a target date of collection. Recommendation 2 remains open pending the mission's setting of a target date for implementing a policy requiring an independent contracting officer review of task orders. Our detailed evaluation of management comments follows.

**Recommendation 1.** USAID/South Sudan agreed to determine whether the fixed fee in Task Order Two could be reduced based on the reduction in scope of work, and recover from LBG any excess fee, but had not yet developed a timeline for completion of this recommendation. Therefore, a management decision for Recommendation 1 is pending the contracting officer's determination of any fee reduction and a target date for the collection of any excess.

**Recommendation 2.** In its comments on the draft report, USAID/South Sudan did not concur with the recommendation to implement a policy to have an independent contracting officer review task orders worth more than a certain amount. The mission noted that independent reviews are not required for task orders and that the mission was addressing the problem by adding contracting officers and legal advisors, as well as contracting officer's representatives. However, in subsequent conversations, mission officials said they had understood that the independent review intended by the recommendation would have been through the contracts review board, which is independent to the mission as a whole. They did agree that a second-level review of all significant awards and contracts, including task orders, was essential and was in fact a common practice with a fully staffed acquisition and assistance office within a mission. Further, they agreed to implement a policy to have a second-level review by a contracting official of all task orders worth more than a certain amount once they have more staff members. As a result, we modified the finding and refined the recommendation slightly for clarity. A management decision will be reached on Recommendation 2 once the mission sets a target date of completion for implementing the policy.

**Recommendation 3.** USAID/South Sudan agreed to develop and implement a plan to provide consistent contracting support for agreements managed by the mission. Mission officials said they already have added both a legal advisor and supervisory contracting officer, and their staffing plan includes adding several other positions; the Ambassador has to authorize the plan by January 31, 2013. Therefore, a management decision has been reached on Recommendation 3.

**Recommendation 4.** USAID/South Sudan agreed to determine the final amount for the contract between Eyat and LBG, and recover from LBG any excess due to USAID, but had not yet developed a timeline for completion of this recommendation. Therefore, a management decision for Recommendation 4 is pending the contracting officer's determination of the final amount for the contract between Eyat and LBG and a target date for the collection of any excess owed USAID.

**Recommendation 5.** USAID/South Sudan agreed to arrange for staff members to represent USAID's interest during any negotiation, arbitration, or litigation and has already assigned staff members who have been working closely with USAID/Washington General Counsel's office and LBG in connection with the arbitration proceeding involving LBG and its subcontractor. As a result, a management decision has been reached, and final action taken on Recommendation 5.

**Recommendation 6.** USAID/South Sudan responded that they had defined the roles and responsibilities of officials who oversee the LBG contract, as well as the specific information that needs to be shared with USAID, and have provided this information to LBG. Further, the mission pointed out that they had a transition of several contracting officers, but they now have a supervisory contracting officer who acts as the principle point of contact for the LBG contract. As a result, a management decision has been reached, and final action taken on Recommendation 6.

**Recommendation 7.** USAID/South Sudan agreed to prepare all overdue contractor evaluations for LBG under the Sudan Infrastructure Services Project by November 30, 2012. As a result, a management decision has been reached on Recommendation 7.

**Recommendation 8.** USAID/South Sudan agreed to designate an official to assure that contractor performance evaluations are completed as required by November 30, 2012. As a result, a management decision has been reached on Recommendation 8.

**Recommendation 9.** USAID/South Sudan agreed to train all mission personnel on their roles and responsibilities related to contractor performance evaluations by November 30, 2012. As a result, a management decision has been reached on Recommendation 9.

**Recommendation 10.** USAID/South Sudan identified and documented in their response the most significant threats to the maintenance of the Juba-Nimule road and explained how they would engage the Government of South Sudan. As a result, a management decision has been reached, and final action taken on Recommendation 10.

**Recommendation 11.** USAID/South Sudan agreed to include in its next portfolio review a discussion on whether any of its planned activities could or should address the obstacles that prevent the Juba-Nimule road from achieving its full potential. The mission's response highlighted a number of ongoing studies that it was using to examine the problem and highlighted some points that would be discussed at the July 2012 portfolio review. As a result, a management decision has been reached on Recommendation 11.

# SCOPE AND METHODOLOGY

## Scope

RIG/Pretoria conducted this performance 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 in accordance with our audit objective. We believe that the evidence obtained provides that reasonable basis.

The objectives of this audit were to determine (1) whether the Juba-Nimule road was on track to be completed on schedule and within budget and (2) whether USAID/South Sudan built sustainability into the mission's road infrastructure activities.

Audit fieldwork took place from November 1 to 18, 2011, and covered all activities related to the Juba-Nimule road through November 18, 2011, with particular emphasis on the period since the previous audit's fieldwork, which concluded on June 30, 2009. USAID/South Sudan had estimated that \$250 million would go toward roads and bridges under the task order with LBG. The August 2011 budget, developed by LBG, showed that total spending under the task order was estimated at \$228.3 million, of which 98 percent is allocated to the Juba-Nimule road.

In planning and performing this audit, we assessed internal controls related to data quality, ongoing monitoring, reporting, and evaluations. Specifically, we reviewed the following:

- The fiscal year (FY) 2011 Federal Managers' Financial Integrity Act of 1982<sup>12</sup> certification for USAID/Sudan and USAID/South Sudan.
- USAID/South Sudan mission order on monitoring.
- Site visit reports and meeting minutes for FY 2011.
- Key correspondence among USAID, LBG, and the Government of South Sudan.
- Contractor monthly and quarterly progress reports for FY 2011.
- Contractor agreements and modifications to those agreements.
- Contractor work plans for FYs 2010 and 2011.
- LBG contracting files.
- A historical review of cost increases prepared by the USAID/South Sudan engineering consultant in August 2011.

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<sup>12</sup> Public Law 97-255, codified in 31 U.S.C. 3512.

- Draft road maintenance plan prepared by LBG dated November 2011.

We also interviewed key USAID/South Sudan personnel, contractor personnel, South Sudanese Government officials, and beneficiaries. In addition, we drove the length of the Juba-Nimule road, including stops along the way to observe the bridges and operations for crushing rocks and paving the road. We conducted the audit at USAID/South Sudan and LBG offices in Juba.

## **Methodology**

To answer the audit objectives, we identified the current USAID and LBG cost and completion estimates for the Juba-Nimule road. To identify the completion dates, we reviewed a schedule prepared by the USAID/South Sudan COTR for the contracting officer on August 5, 2011. We discussed these dates with USAID and LBG officials and found them to be reasonably accurate. These dates are presented in Table 2 (page 7). To calculate the estimated cost, we reviewed the August 2011 task order budget prepared by LBG. We modified this budget to remove the amounts spent on refurbishing the Kimbi bridge and improving the USAID compound in Juba, and added the remainder of the fixed fee, which may be due even though the full \$250 million was not expended. After these adjustments, the total estimated cost of the road was \$223.2 million.

Next, we calculated the total budget overage and delay and identified what caused the budget and timeline to increase, including the replacement of subcontractors. We primarily relied on the historical review of cost increases (noted above) to identify the reasons for budget overages and delays, although we prepared our own analysis to determine how much each event contributed to the cost increase.

We then tried to determine the reasons for the budget overages and delays. We studied the preaward review performed by LBG to be sure that it exercised due diligence, as discussed in FAR 44.202-2. We also discussed the terminations of PCL and Eyat with USAID and LBG officials to find out why these terminations caused costs to increase so dramatically. We reviewed the claims process because it could be a significant determinant of how much the delays of ANT and Gulsan cost the U.S. Government.

The audit did not rely on performance indicators because they did not address the audit objectives. Therefore, the audit did not establish any materiality thresholds.

# MANAGEMENT COMMENTS



**USAID | SOUTH SUDAN**  
FROM THE AMERICAN PEOPLE

## MEMORANDUM

Date: May 1, 2012

To: Christine M. Byrne, Regional Inspector General/Pretoria

From: Kevin Mullally, USAID/South Sudan Mission Director /s/

Subject: Management Comments, Follow-Up Audit of USAID/South Sudan's Road Infrastructure Activities (Report Number 4-668-12-XXX-P)

Reference: Christine M. Byrne's memo dated March 28, 2012  
Draft Audit Report Number 4-668-12-00X-P

In response to the referenced draft audit report, please find below USAID/South Sudan management comments on the eleven recommendations included therein. USAID/South Sudan would like to extend its sincere thanks to the audit team for the professionalism and thoroughness displayed in the execution of this audit.

**Recommendation No 1:** We recommend that USAID/South Sudan determine whether the fixed fee in task order two of the Sudan Infrastructure Services Project can be reduced based on the reduction in the scope of work, and recover from Louis Berger Group the excess fee.

**Management Comments:** Mission Management concurs with the recommendation. The Contracting Officer will review this and determine whether the fixed fee can be reduced. This will be made within the time limitations for determining allowability of costs. At such time a management decision will be made.

**Recommendation No 2:** We recommend that USAID/South Sudan develop and implement a policy to have an independent contracting officer review task orders over a certain dollar value to ensure they are structured to encourage contractors to fulfill their end of the agreement on time and on budget.

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**Management Comments:** Mission Management does not concur with the recommendation. The Mission followed proper USAID policies and procedures. Independent review, as recommended in the report, is not applicable to Task Orders under IQCs. With specific regard to better structured awards, the Mission has already begun to expand its staffing with both a Legal Advisor and Supervisory Contracting/Agreement Officer at post. The Mission also receives ad hoc acquisition and assistance (A&A) support from USAID/Washington and East Africa. In addition, the Mission has developed a staffing plan to further increase contracting staff. In conjunction with the contracting and legal staff, the Mission devised a staffing plan to increase the number of staff to manage programs and provide monitoring, training and oversight of Contracting Officer's Representatives (COR). The first five NSDD-38s have been submitted and approved by the Ambassador for submission through the formal NSDD-38 process. USAID/South Sudan will submit the remaining additional NSDD-38s to the Ambassador in line with the revised staffing plan by January 31, 2013. Mission Management believes this will resolve this finding.

**Recommendation No 3:** We recommend that USAID/South Sudan develop and implement a plan to provide consistent contracting support for agreements managed by the mission.

**Management Comments:** Management concurs with the recommendation. Resolution will derive from the same actions taken in relation with recommendation No. 2 above.

**Recommendation No 4:** We recommend that USAID/South Sudan determine the final amount for the contract between Eyat and Louis Berger Group, and recover from Louis Berger Group any excess due to USAID.

**Management Comments:** Mission Management concurs with the recommendation. This will be made within the time limitations for determining allowability of costs. At such time, a management decision will be made.

**Recommendation No 5:** We recommend that USAID/South Sudan (1) determine USAID's potential liability for subcontractor claims under the Sudan Infrastructure Services Project, and (2) arrange for staff to represent USAID's interest during any negotiation, arbitration, or litigation.

**Management Comments:** Mission Management concurs with the recommendation. The Mission and the General Counsel's office in Washington are working closely with counsel to LBG in connection with the arbitration proceeding involving LBG and Progressive Constructions Limited (PCL). With respect to the negotiations LBG is undertaking with Eyat, the Mission is collaborating with LBG to determine a final settlement amount. Accordingly, the Mission is already assessing its potential liability for pending claims submitted by subcontractors and working diligently with LBG to resolve them. Further claims submitted by subcontractors

that require USAID's approval will be evaluated on a case-by-case basis as they arise and any potential USAID liability will be determined at such time.

Therefore, the Mission requests concurrence that a Management Decision has been reached.

**Recommendation No 6:** We recommend that USAID/South Sudan define the roles and responsibilities of officials that oversee the Louis Berger Group contract, as well as the specific information that needs to be shared with USAID, and provide this information to Louis Berger Group.

**Management Comments:** Mission Management concurs with the recommendation. This has already been accomplished. LBG is fully aware that only the Contracting Officer (CO) has the ability to modify contract terms and conditions. LBG is fully aware of the role, responsibilities and identity of the COR. This includes works for the roads and residential and office compounds. While USAID/South Sudan did have a transition of several COs, the Mission now has at post a Supervisory CO who is also the cognizant CO for the LBG contract. The Supervisory CO has further defined all roles and responsibilities and now has all correspondence going through him and copying the COR and Senior A&A Specialist. All have since been defined by the Supervisory CO with LBG management in Juba and in Washington DC. The Mission therefore requests closure of this recommendation.

**Recommendation No 7, 8 and 9:**

7. We recommend that USAID/South Sudan prepare all overdue contractor evaluations for the Louis Berger Group under the Sudan Infrastructure Services Project.
8. We recommend that USAID/South Sudan designate an official to assure that contractor performance evaluations are completed as required.
9. We recommend that USAID/South Sudan conduct training of all mission personnel on their roles and responsibilities related to contractor performance evaluations.

**Management Comments:** Mission Management concurs with the recommendations. Corrective actions will be taken and completed by November 30, 2012.

**Recommendation No 10:** We recommend that USAID/South Sudan identify the most significant threats to the maintenance of the Juba-Nimule road and engage the Government of South Sudan to address these threats.

**Management Comments:** Mission Management concurs with the recommendation.

Background: In its 2004 development strategy, USAID made the decision to include road infrastructure development as a key development activity. As part of this process, USAID identified threats and constraints to maintenance of roads in South Sudan and made a decision to develop South Sudan's road maintenance capacity in parallel with the development of physical

road infrastructure. This was done not only because it was sound development practice but also because the sustainable maintenance of infrastructure investments is required by USG Foreign Assistance Act of 1961, as was noted by the RIG Auditors. Notable achievements to date have been:

- Development of the National Transport Policy, which was formally approved and adopted by the Government of South Sudan (GOSS) and Ministry of Roads and Bridges (MRB) in 2007. The policy clearly identifies road maintenance as the highest priority; a higher priority even than rehabilitation and construction of new roads
- Drafting legislation and advocacy activities that resulted in the legal establishment of the South Sudan Roads Authority (SSRA) and appointment of its broad-based Board of Directors
- Construction and equipping of a modern office facility to house the new SSRA Institution
- Technical Training and sponsoring Regional Study Tours to expose GOSS/MRB staff to best practices first-hand knowledge of several successfully operating road Authorities in the region
- Development of appropriate maintenance specifications and contract documents
- Identification and training of 30 South Sudanese private sector contractors in labor-based rehabilitation and maintenance work and the award of training contracts supervised by Louis Berger Group (LBG)
- Draft of a Vehicle Weight Control Policy and implementation plan (Pending approval by GOSS).
- Draft of an Axle Load control policy and action plan (pending approved by GOSS)
- Draft of a national Road Safety and Traffic Bill (pending approved by GOSS).

Despite completion of the above actions, the Mission shares RIG concern about GOSS commitment and ability to maintain roads. General capacity within the Ministry remains extremely limited. Political and strategic pressures to expand the road network often overshadow the government's policy and stated commitment to road maintenance and the protection of the enormous road investments being made by USAID and other donors. In addition, there have been 4 different ministers and 4 different Undersecretaries since GOSS was established following the CPA, limiting the ability of the Ministry to develop and implement a consistent vision.

As a result, although the road transport sector has always been a high priority and received significant funding from the government, performance in the sector has been poor and many questions remain regarding GOSS road maintenance commitment and capacity. This includes fully establishing and supporting the SSRA in time to maintain the Juba-Nimule Road, which is currently on track to be completed in July 2012. The situation has been compounded by the

recent South Sudan authorities' decision to shut down the pipeline used to transit South Sudan's oil, which provides 98 percent of the government's revenue. The ability of the government to fund any significant road maintenance activities is now in question, regardless of currently budgeted amounts. However, recent announcements from the Chinese about the provision of \$8 billion in loans, including for the construction and maintenance of roads, provides some possibly for access to needed capital.

As the Mission has been well aware of the critical importance of road maintenance as well as ongoing constraints, last year USAID instructed LBG to prepare a 7-year maintenance plan and budget for the Juba-Nimule (JN) road so that the ministry would have a plan and the documents needed for maintenance procurements. The Mission has met with the Minister of Roads and Bridges several times, most recently on April 17th, 2012. During the meeting USAID highlighted that the current ministry budget did not allocate funding for maintenance of the JN Road, and that failure to adequately plan and budget for needed maintenance placed continued USAID funding for any new road activity in South Sudan in jeopardy. The total estimated 3-year budget for routine and emergency maintenance of JN is \$5-\$6M.

On loads control, the Mission is well aware of the negative impacts of overloading by commercial vehicles on the Juba Nimule Road (and other South Sudan's international routes). It is emerging as a major, costly problem which is not only causing accelerated deterioration of the road network but is also contributing to an already serious road safety problem. It is therefore essential that this practice is curbed as soon as possible as failure to do so will impact negatively on the Government's attempts to facilitate economic growth and development through the provision of a good road network. In 2010, the Mission brought out an axle load policy and operations expert who assessed the current situation in South Sudan and recommended actions on several fronts. Currently, there is no comprehensive policy on overload control in South Sudan. Such a policy is urgently required to provide the essential framework in which overload control can be carried out efficiently and effectively. The expert prepared a comprehensive policy that is harmonized with Uganda, Kenya and East African Community (EAC) practices on overload control.

As a result, USAID has been pushing and continues to push for construction of a weigh station to control and limit pavement loading. The main impediment to this has been selection by the Ministry of two suitable locations; one closer to Juba, and the other near Nimule. USAID is still pursuing construction of the weigh stations but conditional upon the government /ministry commitment that staff and budgets to make the facility operational will be provided to effectively operate the station. Path to Resolution: USAID will continue to engage the ministry to adequately plan and budget for road maintenance, including for the JN Road. This would be complimented by technical assistance as needed and warranted by continued progress on the establishment of the SSRA. If the Ministry issues a JN Road maintenance covering repairs for the most significant threats to road damage, USAID's advocacy efforts will have been considered successful and the issue resolved. In addition, USAID will also continue to advocate

for construction of a weigh station by the end of the calendar year in Dec 2012, subject to land and budgets being made available by the Government of South Sudan /Ministry of Roads and Bridges. USAID efforts towards the JN road maintenance contract and construction of a weigh station and adoption loading control policy will be recorded and documented irrespective of the outcome of the process.

However, given the short time remaining before JN Road completion, and worsening fiscal crisis in South Sudan, if rapid progress is not made towards JN Road Maintenance contract and weigh station activities, the Mission plans to redirect some of its infrastructure budget by September 2012 to cover short-term emergency road maintenance needs along the Juba-Nimule Road while pressing for a MOU with the ministry regarding their support for funding a longer-term maintenance contract, preferably through the SSRA. In this case, advocacy efforts would be considered successful and the issue would be considered to be resolved upon signing of the MOU.

**Recommendation No 11:** We recommend that USAID/South Sudan include in its next portfolio review a discussion on whether any of its planned activities could or should address the obstacles behind the Juba-Nimule road achieving its full potential.

**Management Comments:** Mission Management concurs with this recommendation that highlights GOSS poor border operations and mounting safety issues along the JN road.

**Background:** The Mission anticipated the need to develop and implement road safety mitigation activities as part of its road construction support activities. Major activities carried out to date include:

- Drafting the National Transport Policy – approved by Parliament and signed by the President
- Drafted Road Traffic Act – pending approval
- Organized and funded Annual Road Safety Workshops, one of which defined and recommended establishment of the Road Safety Council for South Sudan
- Implemented a road safety program along entire the Juba-Nimule Road that included
  - 1-day workshops for teachers and students at schools along the road
  - Public Service Road Safety messages broadcast in local languages
  - Installation of Nine signboards /billboards with Road Safety messages along JN road
  - Organized 3 road safety marches in Juba town that were jointly funded by USAID, UN Agencies and Private sector with participation from Ministries of Transport, Roads and Bridges and South Sudan Police Services.
  - Partnering with the US Department of Justice (DOJ) to implement a pilot “Highway Patrol” project along the Juba-Nimule Road to improve enforcement. DOJ is providing the training and motorcycles for the transit

police and USAID will handover accommodation, office and communication facilities that were part of the road construction

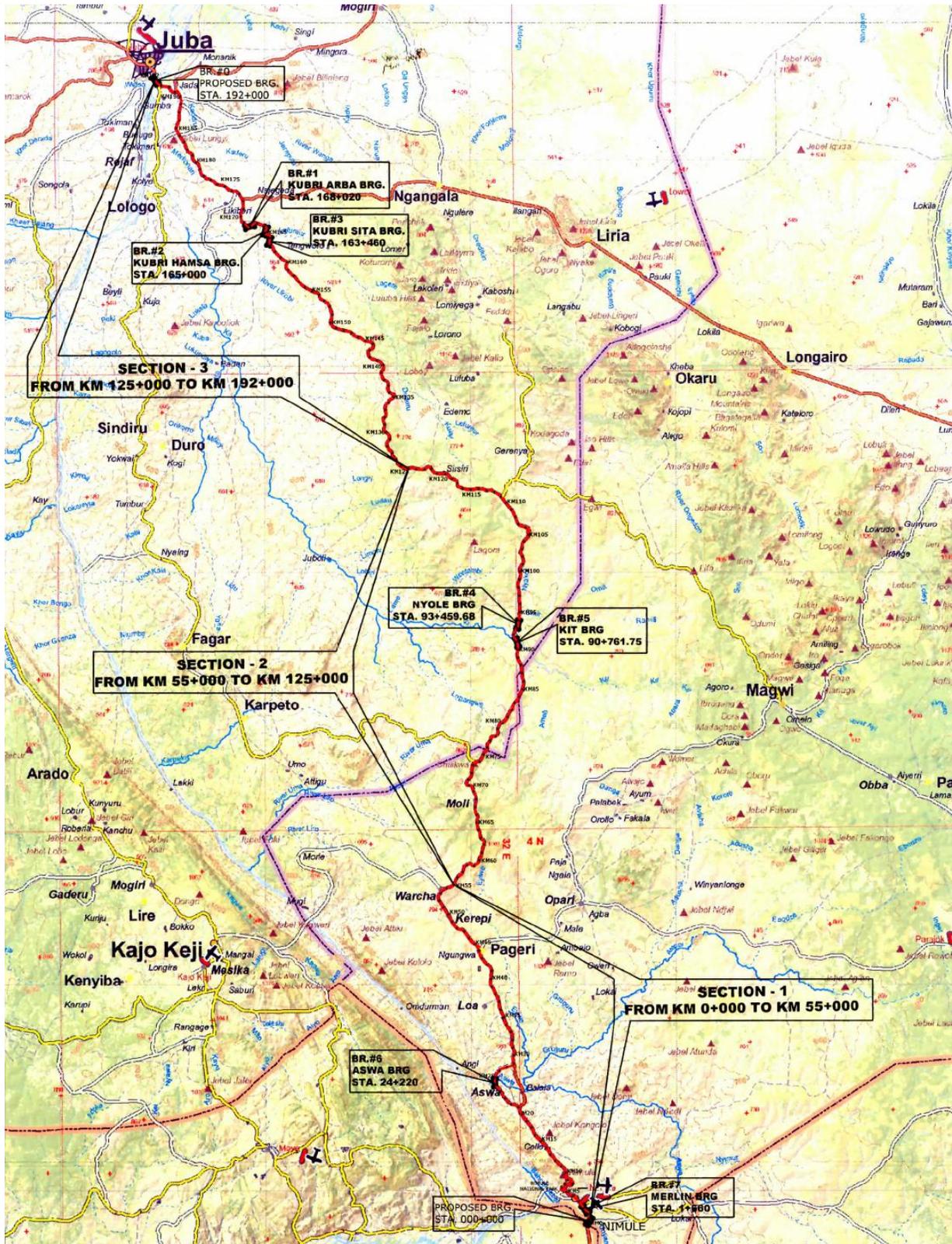
In addition, the mission recognizes that inefficient border operations hinder efficient trade, one of the main anticipated benefits from JN road construction. During development of USAID's transition strategy, USAID considered the importance of border operations, and in consultation with other Donors and the GOSS, it was decided that DFID would take on the lead role in this area. However, the mission has implemented several border related activities in support of these efforts. This included a Mission funded a Corridor Diagnostic Study aimed at improving capacity and operational efficiencies along the "Northern Corridor" route that carries traffic and freight along Mombasa-Nairobi-Kampala-Juba corridor. The project is aimed at harmonizing transport regulations and border crossing processes throughout the East African Region. The Mission also funded a time and cost study in partnership with the Ministry of Finance that highlighted the numerous official and unofficial tolls collected along the road.

**Path to Resolution:** During the next portfolio review, currently scheduled for July 2012, review / discussion of the following issues will be completed:

- Possibilities for 'institutionalizing' time-cost studies for border operations in partnership with the Ministry of Finance.
- Progress of DFID supported programs in improving border operations; and possibilities / needs for complimentary USAID support.
- Status of DOJ efforts to establish a functioning JN highway patrol unit, and areas for future collaboration/support.
- Continued Road Safety messaging and support to be provided through USAID's agreement with UNOPS.

In consideration of the aforementioned paths to resolution, Mission management requests the RIG's concurrence that management decision has been reached.

### Map of the Juba-Nimule Road Showing Sections, Camps, and Bridges



Source: USAID/South Sudan.

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