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Internal Control Gaps Hinder Oversight of U.S. Personal Services Contracts in Asia

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MEMORANDUM

DATE: March 20, 2017

TO: Office of Acquisition and Assistance, Director, Roy Plucknett
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Office of Human Capital and Talent Management,
Chief Human Capital Officer, Kimberly A. Lewis

COPY TO: Bureau for Management, Acting Assistant Administrator, Angelique M. Crumbly

FROM: Regional Inspector General/Manila, Matthew Rathgeber /s/

SUBJECT: Internal Control Gaps Hinder Oversight of U.S. Personal Services Contracts in Asia (Review Report No. 5-000-17-001-S)

This memorandum transmits our final report on the subject review. Our objective was to determine whether missions were procuring and using personal services contracts according to applicable policies and procedures. In finalizing the report, we considered your comments on the draft and included them in their entirety, excluding attachments, in appendix C.

The report contains five recommendations to improve USAID's processes for procuring and using U.S. personal services contracts in Asia Bureau missions. After reviewing information you provided in response to the draft report, we acknowledge your management decisions on all five recommendations and final action on two. We disagree with the decisions on recommendations 2 and 4. Please provide evidence of final action on the open recommendations to the Audit Performance and Compliance Division.

Thank you and your staffs for the cooperation and assistance extended to us during this effort.

CONTENTS

INTRODUCTION.....	1
SUMMARY.....	1
BACKGROUND.....	2
ASIA MISSIONS REASONABLY JUSTIFIED THE USE OF CONTRACTORS, BUT FILLING KEY POSTS WITH DIRECT HIRES AND ENSURING KNOWLEDGE TRANSFER REMAIN CHALLENGES.....	3
Contractor Use Was Reasonably Justified and Represented a Declining but Significant Portion of Mission Staffs in Asia.....	3
Missions Filled Some Posts With Direct Hires but Continue To Rely on Contractors for Others.....	5
Missions Did Not Fully Use Contractors To Mentor Local Staff.....	6
GAPS IN INTERNAL CONTROL POLICIES HINDERED MISSIONS' MANAGEMENT AND OVERSIGHT OF CONTRACTS.....	7
Position Classification Duties Were Not Always Segregated.....	8
Contracts Included "Other Duties as Assigned" in the Scopes of Work.....	8
Contractor Performance Was Not Evaluated Regularly.....	10
CONCLUSION.....	11
RECOMMENDATIONS.....	11
OIG RESPONSE TO AGENCY COMMENTS.....	12
APPENDIX A. SCOPE AND METHODOLOGY.....	13
APPENDIX B. SURVEY QUESTIONNAIRES.....	16
APPENDIX C. AGENCY COMMENTS.....	22
APPENDIX D. MAJOR CONTRIBUTORS TO THIS REPORT.....	25

INTRODUCTION

To help carry out its mission, USAID awards personal services contracts to U.S. nationals. While U.S. personal services contracts enable missions to quickly staff critical posts, including hard-to-fill technical positions, USAID has made it a priority to hire and retain expertise among its Foreign Service Officer corps through its USAID Forward initiative.¹ In addition, personal services contracts can introduce unique management and oversight challenges, given that they establish an employer-employee relationship with the Agency even though they are not subject to the laws and regulations that govern Federal employees.

Our objective was to determine whether USAID missions were procuring and using U.S. personal services contracts according to applicable policies and procedures. Specifically, we (1) determined whether the missions reasonably justified their use of these contracts and (2) assessed USAID's policies and procedures for managing the contracts and overseeing contractors.²

Our review included all 13 missions under USAID's Asia Bureau.³ We judgmentally selected three missions for site visits, document reviews, and contractor interviews: Regional Development Mission for Asia (USAID/RDMA) in Thailand, USAID/Philippines, and USAID/Vietnam. We also surveyed contractors and officials at nine other Asia missions that had active contracts. We analyzed data from 2011 to 2015. Details of our scope and methodology are in appendix A; survey questionnaires are in appendix B.

SUMMARY

The three missions we visited reasonably justified hiring U.S. personal services contractors over Foreign Service Officers for key positions. USAID's Office of Human Capital and Talent Management (HCTM), which oversees workforce strategic planning for USAID, approved all but one contractor position that required approval. The largest groups of contractors in our sample were health and communications specialists. Missions continue to rely heavily on contractors to staff development and outreach

¹ Launched in 2010, USAID Forward calls for delivering better results through strengthened capacity. In the same year, the first Quadrennial Diplomacy and Development Review described six areas of reforms affecting personnel and recruitment at USAID. They called for efforts to bring back technical expertise to the Agency, increase midlevel hiring to close the experience gap, and recruit and retain more highly skilled Foreign Service National employees.

² Throughout this report, unless otherwise noted, the term "contractors" refers only to U.S. personal services contractors. Other types of personal services contractors, such as third-country national contractors and host-country-national contractors, were not included in the scope of this review.

³ The review included only the missions supported by USAID's Asia Bureau: Bangladesh, Burma, Cambodia, Central Asia, India, Indonesia, Kyrgyz Republic, Nepal, Philippines, RDMA, Sri Lanka, Timor-Leste, and Vietnam. We did not include the missions in Afghanistan and Pakistan which, while also located in Asia, are supported by the Office of Afghanistan and Pakistan Affairs.

communications specialist positions. In addition, missions may have missed opportunities to promote knowledge transfer because most personal services contractors in leadership roles did not participate in USAID’s mentoring program.

Gaps in USAID’s internal control have hindered contract management and oversight, contributing to concerns about the missions’ use of U.S. personal services contracts. While the Agency’s Office of Acquisition and Assistance (OAA) recently issued a new policy that if effectively implemented should address some gaps, others remain:

- Classification duties were not segregated. At two missions, the hiring office classified its own contract positions.
- Contracts improperly included “other duties as assigned” in scopes of work.⁴ This made it harder for missions to ensure that contract positions did not violate limitations on what contractors are permitted to do.
- Contractor performance was not evaluated regularly. The vagueness of Agency policy on performance evaluations for contractors was a key cause for the lack of evaluations.

We made two recommendations to HCTM to facilitate efforts toward USAID Forward objectives. To strengthen policies on U.S. personal services contracts, we made three recommendations to OAA.

BACKGROUND

Most USAID staff at overseas missions comprise three types of employees: U.S. direct hires, Foreign Service National employees, and U.S. personal services contractors (table 1). Almost all U.S. direct hires abroad are Foreign Service Officers. A Foreign Service National is a non-U.S. citizen hired by an overseas mission, including those from a third country who are paid under the local compensation plan. U.S. personal services contractors may be recruited internationally or within the host country.

The Foreign Assistance Act of 1961, as amended, authorizes USAID to award U.S. personal services contracts at overseas missions. These contracts establish an employer-employee relationship that makes the contractor appear to be a USAID employee.⁵ With certain limitations, USAID allows personal services contractors to perform inherently governmental functions.⁶

⁴ A scope of work is the section of a personal services contract that describes the duties and responsibilities of the position.

⁵ According to the Federal Acquisition Regulation, a personal services contract creates an employer-employee relationship between the government and an individual. See 48 C.F.R. 37.104.

⁶ See Federal Acquisition Regulation 7.5.

Agency policy allows a personal services contract to be extended for a maximum of 5 years, with some exceptions. Most mission contracts last for 1 year or more.

Individual missions generally decide when to hire personal services contractors to fill staffing gaps, but certain positions⁷ require approval from HCTM, which oversees workforce strategic planning for the Agency.⁸ USAID requires such approval to better ensure U.S. personal services contracts are not awarded for positions that could be filled by Foreign Service Officers.

USAID brought on board technical specialists under the Development Leadership Initiative—a multiyear effort to double the size of its Foreign Service Officer workforce by 2012. However, recruiting people with the right technical skills has been a challenge, and USAID is below its authorized staffing level of 1,850 Foreign Service Officers.⁹

ASIA MISSIONS REASONABLY JUSTIFIED THE USE OF CONTRACTORS, BUT FILLING KEY POSTS WITH DIRECT HIRES AND ENSURING KNOWLEDGE TRANSFER REMAIN CHALLENGES

The three missions we visited reasonably justified hiring U.S. personal services contractors. The largest groups of contractors in our sample were health and communications specialists. The use of contractors has declined somewhat, and missions recently began taking steps to staff health technical positions with direct hires. However, they continue to rely on contractors to staff communications positions, illustrating continued challenges for missions in filling technical and support positions. In addition, missions may have missed opportunities to better promote knowledge sharing by having contractors serve as mentors.

CONTRACTOR USE WAS REASONABLY JUSTIFIED AND REPRESENTED A DECLINING BUT SIGNIFICANT PORTION OF MISSION STAFFS IN ASIA

We found that USAID/RDMA, USAID/Philippines, and USAID/Vietnam reasonably justified hiring U.S. personal services contractors, based on our review of 32 contracts. Further, HCTM approved all but 1 of the 12 positions at these missions that required approval.

⁷ In March 2011, HCTM reinstated the approval requirement for U.S. personal services contractor positions that were (1) internationally recruited, (2) full-time, (3) at the GS-10 through GS-15 grade levels, and (4) had contract terms of 2 years or more in regular posts.

⁸ This requirement was established in 2011 under USAID's Office of Human Resources, which was renamed the Office of Human Capital and Talent Management in September 2014.

⁹ USAID had approximately 1,725 career Foreign Service Officers as of October 2016.

As of September 2015, the 13 missions had a total of 75 contractors—about 6.5 percent of total staff in Asia Bureau missions. Between 2011 and 2015, the 13 missions awarded a total of 298 personal services contracts.¹⁰ Over this time, the number of contractors decreased by nearly 10 percent (table 1). While use of U.S. personal services contractors in Asia has declined somewhat, continued reliance on them may not advance USAID Forward—the reform agenda that included a major objective to strengthen the Agency by, among other actions, developing and retaining in-house technical expertise.

Table 1. Asia Bureau Data on Mission Staffing From 2011 to 2015

Type	2011	2012	2013	2014	2015
U.S. personal services contractor	83	73	79	72	75
U.S. direct hire/Foreign Service Officer	233	279	293	274	280
Foreign Service National	794	823	832	843	793
Other	5	6	5	3	4
Total	1,115	1,181	1,209	1,192	1,152
U.S. personal services contractors as percent of total staff	7.4	6.2	6.5	6.0	6.5

Source: USAID’s Office of Human Capital and Talent Management.

At the three Asia missions visited, health technical advisers and development outreach and communication specialists were the largest groups of contractors, accounting for 25 and 13 percent of the total contractor population, respectively. The three missions we visited had a total of eight contractors working on health programs such as the President’s Emergency Plan for AIDS Relief and the President’s Malaria Initiative.¹¹ According to mission officials, these programs require expertise in areas such as health system management¹² and HIV/AIDS, malaria, and other infectious diseases—expertise not common among Foreign Service Officers, who typically focus on developing program management skills. In contrast, contractors often have many years of experience in a specific technical area. Some contractors said they prefer working for USAID as a contractor because it allows them to remain in technical functions.

While the three missions reviewed reasonably justified hiring U.S. personal services contractors and the number of contractors has declined slightly, the continued need for

¹⁰ The total is not a sum of contractors in individual years because of the variable lengths of contracts. The total is based on data reported by the missions.

¹¹ Missions did not have to obtain HCTM’s approval to fill positions in the President’s Malaria Initiative.

¹² According to the President’s Emergency Plan for AIDS Relief, a health system is a group of individuals, organizations, and processes needed to bring about improvement in health outcomes in a country. Key processes in a health system are supply chain management, financing, and human resources management.

specialized positions illustrates the challenges missions in Asia face in filling key technical and support positions.

MISSIONS FILLED SOME POSTS WITH DIRECT HIRES BUT CONTINUE TO RELY ON CONTRACTORS FOR OTHERS

Hiring U.S. personal services contractors has enabled USAID's Asia missions to expeditiously fill posts in the short term. However, relying on them over the long term does not further either stated U.S. Government goals to invest in a skilled workforce or the Agency's efforts to rebuild and maintain technical expertise needed to carry out reforms under USAID Forward.¹³ Unlike contractors, Foreign Service Officers provide the unique benefit of sharing their technical expertise across the Agency, as they rotate among missions roughly every 2 or 4 years.

USAID has taken action to address gaps in health technical advisers. In 2013, HCTM worked with the Agency's functional bureaus, including the Global Health Bureau, to create a Senior Technical Group, which provided a technical track for USAID's Foreign Service technical officers. In 2015, HCTM, again in collaboration with Global Health, planned to recruit new health officers at higher grade levels. However, the Asia missions continue to rely on contractors to fill communications positions—the three we visited employed four. Typical responsibilities of a development outreach and communications specialist include writing and editing external publications, managing websites and social media, planning events, and overseeing marking and branding¹⁴—experience Foreign Service Officers typically do not have. At some missions, the communications specialist may be a senior supervisory position, responsible for creating and implementing the mission's communications strategy. Other missions may have only one contractor working as a writer-editor on a communications team with Foreign Service National staff members.

Missions consider the communications function important. However, HCTM has not conducted a formal assessment on staffing this function. Additionally, according to an HCTM official, since communications was not a traditional Foreign Service role, USAID has not recruited officers with that skill set. For example, USAID does not even have a code assigned to development outreach and communications positions that identifies their skill category. Other mission staff suggested hiring more eligible family members to reduce dependence on contractors.¹⁵ Officials said HCTM has been researching how to increase employment opportunities for eligible family members.

¹³ The joint Department of State and USAID 2015 Quadrennial Diplomacy and Development Review specifically identifies the need for an agile, skilled workforce and the need to “recruit, develop, and retain a workforce of highly talented individuals with a commitment to public service.”

¹⁴ USAID requires that Agency-funded programs, projects, activities, and commodities be properly marked with logos and other graphics to identify USAID as the supporter and branded with the program's name, which shows it is USAID's.

¹⁵ An eligible family member is a spouse or other dependent family member of a Foreign Service Officer.

MISSIONS DID NOT FULLY USE CONTRACTORS TO MENTOR LOCAL STAFF

Through USAID Forward, USAID has emphasized mentoring for mission staff and has a performance measure tracking the number of Foreign Service and locally employed leaders participating in a formal mentoring program.¹⁶ For personal services contracts, while OAA officials agreed that mentoring is a best practice, missions have the discretion to include mentoring in their contracts' scopes of work.

At Asia missions, some contractors were responsible for supervising local staff, but not all had requirements to mentor or transfer knowledge.

- At the three Asia missions we visited, three-quarters of the General Schedule (GS) 13, 14, and 15 full-time, long-term contractors had supervisory duties.¹⁷ But, just over half of the contractors at the GS-14 and 15 grade levels had a mentoring requirement (table 2). In contrast, all four GS-13 contractors had mentoring in their scopes of work.
- At the nine missions we surveyed, more than half the personal services contractors stated that they had supervisory duties, but less than one-third had knowledge transfer in their scopes of work.

¹⁶ Mentors provide guidance and advice to mentees to help them fulfill their potential; formal mentoring programs are structured and have specific organizational goals. The expected benefits to the organization are knowledge transfer, improved morale, increased productivity, and staff retention.

¹⁷ The General Schedule is a job classification and pay system that covers most Federal civilian employees. The General Schedule has 15 grades, with GS-15 being the highest. USAID uses the General Schedule to classify U.S. personal services contractor positions.

Table 2. U.S. Personal Services Contractors With Mentoring Duties at Three Missions Visited

Grade Level	Long-Term,^a Full-Time Contractors	Supervise Foreign Service Nationals	Have a Mentoring Requirement
GS-15	13	11	7
GS-14	11	7	6
GS-13	4	3	4
GS-12	1	0	0
Total	29	21	17

^a Long-term contractors serve for 12 months or longer. We excluded three individuals who were on short-term or intermittent contracts.

Source: OIG Analysis.

Contracting officers cited several reasons for not including mentoring in scopes of work:

- The mission would need to allocate time for mentoring in the contract.
- Guidance for writing position descriptions used by technical offices does not emphasize mentoring.
- Other contracts may support knowledge transfer to Foreign Service Nationals but do not explicitly require mentoring.

However, missions may be missing an opportunity to strengthen their mentoring programs, as contractors serve up to 5 years—longer than a typical Foreign Service tour—giving them time to establish a mentoring relationship. Two of the three missions we visited did not have an active mentoring program, and the one that had a program did not track participation by contractors.

HCTM could consider tracking and reporting the number of contractors who participate in mentoring programs, as it currently does for Foreign Service Officers and Foreign Service National employees. Doing so could further encourage missions to include mentoring in their scopes of work.

GAPS IN INTERNAL CONTROL POLICIES HINDERED MISSIONS' MANAGEMENT AND OVERSIGHT OF CONTRACTS

The Asia missions did not always provide adequate controls to ensure appropriate contract management and contractor oversight. In setting up the contracts, position classification duties were not always segregated, and the contracts' scopes of work often

included “other duties as assigned”—language that is prohibited for personal services contracts. Moreover, the missions did not regularly evaluate contractor performance. These deficiencies were largely the result of vague acquisition and assistance policies and procedures.

POSITION CLASSIFICATION DUTIES WERE NOT ALWAYS SEGREGATED

The Government Accountability Office’s “Standards for Internal Control in the Federal Government” calls for carrying out control activities to minimize the risk of error or fraud.¹⁸ Segregating duties can be particularly effective in reducing the risk of management override in making contract position classification decisions that favor certain contractors. Further, USAID Acquisition and Assistance Policy Directive 04-13, which authorizes missions to classify U.S. personal services contract positions, requires a technical officer from the requesting office to submit a scope of work and supporting documentation to a contracting officer, who determines if the proposed grade level is appropriate.

However, USAID policy does not require missions to segregate classification duties, and two of the three missions we visited did not use this internal control in some instances. Specifically, USAID/RDMA’s executive office and USAID/Philippines’ contracting office classified and hired all U.S. personal services contract positions at their respective missions, including contractors in their offices. In 2010 and 2014, USAID/RDMA classified and hired a contractor for the executive office, and in 2014, USAID/Philippines did the same for its contracting office.

While our review of the Asia missions did not uncover any instances of abuse that resulted from not segregating classification duties, the risk of such abuse remains, especially given the missions’ hiring flexibility.

CONTRACTS INCLUDED “OTHER DUTIES AS ASSIGNED” IN THE SCOPES OF WORK

While U.S. personal services contractors have the appearance of direct hires, USAID policy limits the duties these contractors can perform.¹⁹ For example, they cannot directly supervise Foreign Service Officers or obligate funds on behalf of the U.S. Government. Moreover, USAID policy prohibits personal services contracts from containing “other duties as assigned” or similar language that muddies the contractors’ scopes of work and their classification.²⁰

¹⁸ GAO-14-704G, September 2014.

¹⁹ USAID Acquisition Regulation, appendix D, section 4(b).

²⁰ Acquisition and Assistance Policy Directive 05-02, “Clarification of Policy for Personal Services Contracts with Anticipated Contract Performance Periods Exceeding Five (5) Years.”

However, 52 percent of long-term contracts we examined at the three missions we visited (15 of 29) contained “other duties as assigned” or similar language as a performance requirement. In addition, of the contractors we surveyed from nine missions, 69 percent (22 of 32) stated that their contracts contained such language, and 35 percent (11 of 31) said they have been asked to perform tasks outside their scope of work.²¹ For example, one contractor in a mission program office was asked to assume duties that were actually part of the supervisor’s scope of work. Another was asked to work on gender activities that were not part of the contract.

This blanket phrase makes it virtually impossible for contracting officers to ensure positions do not violate applicable limitations. As one contractor stated, “My contract includes 'other duties as assigned,' so technically everything is within my scope of work.” One contracting officer we spoke with similarly noted that the employer-employee relationship established under a personal services contract gives the mission flexibility in managing contract time.

Two weaknesses in OAA’s procedures may have contributed to missions including the phrase in their contracts:

- OAA policies and procedures are not centralized. Rather, they are in multiple documents—including the Acquisition Regulation, the Automated Directives System, and standalone policy directives and bulletins—making it difficult for contracting officers to ensure the scopes of work for U.S. personal services contractor positions do not violate USAID acquisition policy.
- Before June 2015, OAA procurement reviews did not check for the “other duties as assigned” clause.

OAA has begun to address this deficiency. Notably, in June 2016, OAA issued Automated Directives System Chapter 309, “Personal Services Contracts with Individuals,” which compiled requirements previously documented in various directives and bulletins. The new policy states, “statutes and regulations regarding [personal services contracts] do not allow for . . . undefined duties.”

While the new chapter adds clarity and should help ensure future contracts do not include prohibited language, implementation will be key to its effectiveness. Modifying active contracts that contain the prohibited clause could underscore the importance of the new directive.

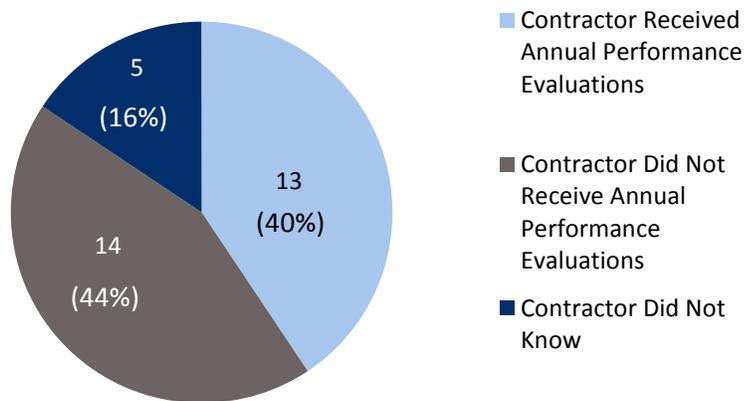
²¹ Thirty-two contractors responded to the survey; however, one respondent did not answer the question related to performance of tasks outside the scope of work.

CONTRACTOR PERFORMANCE WAS NOT EVALUATED REGULARLY

USAID policy for permanent employees states that an employee evaluation program links the mission’s strategic objectives with the employee’s work, improves performance, and corrects deficiencies.²² While there is no comparable policy for U.S. personal services contractors, USAID Acquisition Regulation states that salary increases for these contracts should be contingent on annual written evaluations determining satisfactory performance.

However, we found that the three missions we visited did not consistently carry out performance evaluations for their contractors. Instead, most salary increases were based on emails from supervisors to the contracting office confirming satisfactory performance. Our survey indicated that some supervisors did not regularly evaluate their contractors’ performance. For example, 60 percent of the contractors who responded to our survey (19 out of 32 respondents) said that they did not always receive annual performance evaluations or did not know if they received annual evaluations (as shown in the figure below).²³

Responses to survey question, “Do you always receive formal annual performance evaluations?”



Source: OIG analysis.

OAA confirmed that its policy does not specify “written performance evaluation” or require a particular format. Moreover, the policy is limited to contractors who are

²² Automated Directives System, chapter 461, “Employee Evaluation Program, Foreign Service and Senior Foreign Service,” 2011.

²³ The survey did not ask if the contractor was eligible for salary increases or if evaluations were written or oral.

eligible for a salary increase. There is no explicit requirement to evaluate contractors already at the top of their pay grade.

Performance management at the Asia missions varied widely. For example, three missions implemented policies for evaluating contractor performance. USAID/RDMA issued an order in September 2014 requiring U.S. personal services contractors to have annual performance evaluations based on a work plan and objectives. The missions in Bangladesh and Indonesia also had mission orders requiring performance evaluations for U.S. personal services contractors, but these applied only to those being considered for contract extensions. Some mission representatives said that formal performance evaluations were necessary for good management. However, one contracting officer stated that performance evaluations for U.S. personal services contractors similar to those of Foreign Service Officers would be too time-consuming and add little value. He added that the performance evaluation system used for institutional contractors and implementing partners would not be appropriate for U.S. personal services contractors.

Without regular, written performance evaluations, it is difficult for missions to monitor and ensure that contractors are performing the work required in their contracts.

CONCLUSION

U.S. personal services contractors have been a key asset in helping USAID's Asia missions implement their programs—particularly with the number of Foreign Service Officers falling below the Agency's authorized staffing level and the need for specialized expertise to meet developmental objectives or respond to crises. However, the continued use of contractors in roles that the Agency considers critical, coupled with missed opportunities to transfer knowledge, shows that missions are struggling to promote USAID Forward and develop in-house technical expertise in areas such as development and outreach communications. Internal control gaps for managing contracts and overseeing contractors have exacerbated this struggle. Until the Agency addresses these gaps, it will be challenged to optimally manage its human resources.

RECOMMENDATIONS

To facilitate progress toward USAID Forward objectives, we recommend that the USAID chief human capital officer take the following actions:

1. Conduct a needs assessment and, based on the results, implement a plan to staff development outreach and communications specialists in overseas missions.
2. Implement a process to track and report the number of U.S. personal services contractors in mentoring programs consistent with reporting for other employment categories.

To strengthen controls over missions' management of U.S. personal services contracts, we recommend that the director of OAA take the following actions:

3. Issue a policy prohibiting the classification of U.S. personal services contract positions by the hiring office.
4. Implement a plan to require overseas missions to modify all active U.S. personal services contracts to accurately reflect the work required, to exclude "other duties as assigned" or similar language, and to confirm that missions took the required corrective action.
5. Issue new guidance requiring minimum standards for periodic, written performance evaluations for all long-term U.S. personal services contractors.

OIG RESPONSE TO AGENCY COMMENTS

We provided USAID with our draft report on January 17, 2017, and on March 1, 2017, received its response, which is included as appendix C. The Agency neither agreed nor disagreed with recommendations 1, 3, 4, and 5 and disagreed with recommendation 2; however, it made management decisions on all of them and took final action on recommendations 2 and 4.

While we acknowledge management's decision and final action on recommendation 2, we disagree with USAID's assertion that it is not feasible to implement a centralized tracking and reporting process for contractors participating in mission mentoring programs. USAID tracks and reports participation in mentoring programs by Foreign Service Officers and Foreign Service Nationals; thus, a system already exists for some level of tracking and reporting. Further, participation in mentoring programs is an indicator for the USAID Forward objective "deliver results on a meaningful scale through a strengthened USAID," emphasizing the importance of these efforts.

Similarly, we acknowledge management decision and final action on recommendation 4, as well as actions taken by the Agency, including issuing Automated Directives System Chapter 309 and checking for prohibited clauses during procurement reviews. However, we disagree with the assertion that requiring all missions to remove prohibited clauses from active contracts would be overly burdensome. U.S. personal services contracts are typically modified periodically, either to extend the contract or add incremental funding. These modifications offer an opportunity to correct multiyear contracts without significant additional work by missions.

APPENDIX A. SCOPE AND METHODOLOGY

We conducted this review following internally established OIG policies that govern the planning, conducting, and reporting of this work product. Those policies require that the review team be competent, be independent, conduct its work using reasonable care, and follow established quality control procedures. Those policies also require that we obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions in accordance with our review objective. We believe that the evidence obtained provides that reasonable basis.

The purpose of the review was to determine if USAID missions procured and used U.S. personal services contracts according to policy and procedures.²⁴ The review included all 13 missions under USAID's Asia Bureau: Bangladesh, Burma, Cambodia, Central Asia, India, Indonesia, Kyrgyz Republic, Nepal, Philippines, RDMA, Sri Lanka, Timor-Leste, and Vietnam. These 13 missions had 75 U.S. personal services contractors as of September 2015, about 19 percent of U.S. personal services contractors at all overseas missions. U.S. personal services contractors made up about 6.5 percent of the staff in Asia missions.

We judgmentally selected three missions for visits, interviews, and document review: USAID/Philippines, USAID/RDMA, and USAID/Vietnam. In addition, we surveyed contractors and officials at nine other Asia missions with active U.S. personal services contractors.

We analyzed data from 2011 to 2015. USAID Forward was initiated in 2010. We conducted review fieldwork from July 27, 2015, through January 17, 2017.

We excluded the review of personal services contracts awarded by the Office of Foreign Disaster Assistance for positions in Thailand because the office managed its procurement process in Washington, DC.

To answer the review objective, we studied policies developed by OAA that applied to personal services contracts. We also studied Agency notices issued by HCTM, which affected when and for how long missions could hire U.S. personal services contractors. We also visited and surveyed missions in the Asia region to assess how well they followed the policies.

To gain an understanding of the bases for Agency policies, we reviewed Title 48 of the Code of Federal Regulations, chapter 7, "USAID Direct Contracts for Personal Services"; the Federal Acquisition Regulation, subpart 37.1, "Service Contracts-General"; USAID's Acquisition Regulation, appendix D; policy directives and contract

²⁴ This review focused exclusively on U.S. personal services contracts. Other contract types, such as institutional contracts and personal services contracts with third-country nationals and host-country nationals, were not included in the scope of this review.

information bulletins; and other guidance issued by OAA. We also examined Agency notices issued by HCTM pertaining to justification of U.S. personal services contractor positions.

We interviewed representatives from OAA and HCTM and obtained additional information by email. We gathered data on U.S. personal services contracts from all Asia Bureau missions, then selected three to visit: USAID/RDMA in Thailand, USAID/Philippines, and USAID/Vietnam. The three missions had 32 active contracts as of July 2015 (table 3), which was about 40 percent of the total for the region based on data provided by the missions. (The number of contractors varied throughout the review, as contracts started and ended at different times and varied in length.) We judgmentally selected the missions visited based on the number and the types of U.S. personal services contracts. USAID/RDMA had the most contractors of any mission in the Asia region, with 16. USAID/Philippines had eight, including two short-term contractors and an intermittent contractor. Both missions also employed contractors to represent USAID in nonpresence countries.²⁵ USAID/Vietnam also had eight contractors, of which half were senior health advisers.

Table 3. U.S. Personal Services Contractor Functions at the Three Missions Visited

Contractor Function	Total
Health adviser	8
Development outreach and communications specialist	4
Environment adviser	3
Executive officer	2
Science and technology adviser	2
Non-presence country office representative	3
Economic growth/private sector adviser	1
Financial adviser	1
Gender adviser	1
Monitoring and evaluation specialist	1
Procurement specialist	1
Other	5
Total	32

At each mission visited, we interviewed contractors, directors of hiring offices, officials from contracting and executive offices, and mission directors or deputy mission directors. We also examined procurement records and mission orders.

²⁵ A nonpresence country is one where USAID does not have a Mission or Representative Office.

At nine other missions in the region with active U.S. personal services contractors, we conducted two surveys: one of contractors and one of their supervisors or hiring officials.²⁶

- The survey of contractors had a response rate of 68 percent across the nine missions (32 of 47 contractors). The universe for the survey was all active U.S. personal services contractors at missions in Asia, except for the three missions we visited.
- The survey of supervisors and hiring officials had a response rate of 59 percent across the nine missions (19 of 32 supervising or hiring officers).²⁷ The universe was hiring officials, direct supervisors, or office directors of active contractors surveyed.

Survey questions are in appendix B.

We did not rely extensively on or verify the reliability of computer-based data from the Agency to answer the review objective. The data we obtained from missions and Agency offices provide context for the review findings.

²⁶ The nine Asia missions surveyed were Bangladesh, Burma, Cambodia, Central Asia, India, Indonesia, Kyrgyz Republic, Nepal, and Timor-Leste. USAID/Sri Lanka did not have any U.S. personal services contractors at the time of fieldwork.

²⁷ Some officials supervised or hired more than one contractor in our sample.

APPENDIX B. SURVEY QUESTIONNAIRES

For a more comprehensive review of USAID's use of U.S. personal services contracts in Asia, Regional Inspector General/Manila conducted surveys of two groups: contractors and their supervisors or hiring officials at nine missions. The questions for each survey follow.

U.S. Personal Services Contractors

1. Please list the name, title, and office of your current direct supervisor.
2. Approximately, when did your first personal services contract with USAID start?
3. How many different personal services contracts have you had with USAID?
4. Please indicate your level of agreement with the following statements.
 - a. At this time, there are Foreign Service Officers in USAID who are qualified to perform my function.
 - 1) Strongly agree
 - 2) Agree
 - 3) Neither agree or disagree
 - 4) Disagree
 - 5) Strongly disagree
 - b. I am familiar with the regulatory limitations on [U.S. personal services contractors].
 - 1) Strongly agree
 - 2) Agree
 - 3) Neither agree or disagree
 - 4) Disagree
 - 5) Strongly disagree
 - c. I prefer to work at USAID as contractor rather than a direct-hire employee.
 - 1) Strongly agree
 - 2) Agree
 - 3) Neither agree or disagree
 - 4) Disagree
 - 5) Strongly disagree
 - d. Please briefly explain why you prefer to work as a contractor or direct-hire employee.

5. Please choose a response to the following statements.
- a. At this time, does the mission have a plan and timeframe for converting your position to a direct-hire position?
 - 1) Yes
 - 2) No
 - 3) I don't know
 - b. Is knowledge transfer a formal requirement of your contract?
 - 1) Yes
 - 2) No
 - 3) I don't know
 - c. Does USAID have a backstop for your position? (A backstop is a numeric code used to identify the skill category of a particular position.)
 - 1) Yes
 - 2) No
 - 3) I don't know
 - d. If USAID has a backstop for your position, what is it?
6. Please choose a response to the following statements.
- a. Are regulatory limitations on [U.S. personal services contractors] listed in your contract?
 - 1) Yes
 - 2) No
 - 3) I don't know
 - b. Does your job directly relate to the obligating or subobligating of funds?
 - 1) Yes
 - 2) No
 - 3) I don't know
 - c. Does your job directly relate to drafting communications that reflect a policy, planning, or budget decision of USAID?
 - 1) Yes
 - 2) No
 - 3) I don't know
 - d. Does your job directly involve making hiring decisions?
 - 1) Yes
 - 2) No
 - 3) I don't know

7. Does your job have formal supervisory duties?
 - a. Yes
 - b. No
 - c. I don't know

8. Do you supervise any U.S. direct-hire employees?
 - a. Yes
 - b. No
 - c. I don't know

9. How many times has your contract been extended?

10. Please choose a response to the following statements.
 - a. Does your contract include "other duties as assigned" or something similar?
 - 1) Yes
 - 2) No
 - 3) I don't know

 - b. Do you always receive formal annual performance evaluations?
 - 1) Yes
 - 2) No
 - 3) I don't know

 - c. Have you been asked to perform tasks that were beyond your [scope of work]?
 - 1) Yes
 - 2) No
 - 3) I don't know

 - d. What duties have you been asked to perform that were beyond your [scope of work]?

11. Please provide any additional comments you have on earlier survey questions or suggestions for improving the procurement and management of [U.S. personal services contracts].

Hiring officials / supervisors

1. We need your feedback regarding each U.S. personal services contractor you currently supervise. Please type the name of the [U.S. personal services contractor] to which the following questions refer.
2. Please specify your relationship with the subject [U.S. personal services contractor]. (Check all that apply)
 - a. I am the original hiring official.
 - b. I am the direct supervisor.
 - c. I am the director of the hiring office.

None of the above or Other (Please explain.)

3. Please choose a response to the following statements.
 - a. Did you prepare any justifications for the [contract] extension(s)?
 - 1) Yes
 - 2) No
 - 3) I don't know
 - b. Was the position put on the bid list before the decision to solicit a [U.S. personal services contract]?
 - 1) Yes
 - 2) No
 - 3) I don't know

Briefly describe the market research that was carried out to justify the award/extension.

4. To what extent do you agree that the Agency has qualified U.S. direct-hire employees that can fill this [U.S. personal services contractor's] position at this time?
 - a. Strongly agree
 - b. Agree
 - c. Neither agree or disagree
 - d. Disagree
 - e. Strongly disagree
5. Please rate the relevance of each of the following statements to the justification for the [U.S. personal services contract] position.
 - a. U.S. direct-hire position was put on bid list and did not receive any qualified bidders.
 - 1) Very relevant
 - 2) Relevant
 - 3) Neither Relevant Nor Irrelevant
 - 4) Irrelevant
 - 5) Very irrelevant

- b. U.S. direct-hire position was not put on the bid list because it has no applicable backstop.
 - 1) Very relevant
 - 2) Relevant
 - 3) Neither Relevant Nor Irrelevant
 - 4) Irrelevant
 - 5) Very irrelevant

- c. Position needed to be filled right away before the normal Foreign Service Officer bidding cycle.
 - 1) Very relevant
 - 2) Relevant
 - 3) Neither Relevant Nor Irrelevant
 - 4) Irrelevant
 - 5) Very irrelevant

- d. Position was short-term or shorter than a Foreign Service Officer tour.
 - 1) Very relevant
 - 2) Relevant
 - 3) Neither Relevant Nor Irrelevant
 - 4) Irrelevant
 - 5) Very irrelevant

- e. Position required very specialized experience or expertise not available in the Agency.
 - 1) Very relevant
 - 2) Relevant
 - 3) Neither Relevant Nor Irrelevant
 - 4) Irrelevant
 - 5) Very irrelevant

- f. The mission had reached its U.S. direct-hire ceiling.
 - 1) Very relevant
 - 2) Relevant
 - 3) Neither Relevant Nor Irrelevant
 - 4) Irrelevant
 - 5) Very irrelevant

Other. Please specify.

- 6. Please choose a response to the following statements.
 - a. Does the mission have a plan or timeframe to convert the [U.S. personal services contract] position to a [U.S. direct-hire position]?
 - 1) Yes
 - 2) No
 - 3) I don't know

- b. Are regulatory limitations on s [U.S. personal services contractors] included in the [contract]?
 - 1) Yes
 - 2) No
 - 3) I don't know

- c. Does the [U.S. personal services contract] include “other duties as assigned” or something similar in the scope of work?
 - 1) Yes
 - 2) No
 - 3) I don't know

- d. Does USAID have a backstop for the position? (A backstop is a numeric code used to identify the skill category of a particular position.)
 - 1) Yes
 - 2) No
 - 3) I don't know

If yes, please specify.

- 7. Was a notwithstanding authority used to award the [U.S. personal services contract]?
 - a. Yes
 - b. No
 - c. I don't know

If yes, which one?

- 8. Was the [U.S. personal services contract] sole-sourced or awarded with less than full and open competition?
 - a. Yes
 - b. No
 - c. I don't know

If yes, please explain the justification.

- 9. Do you supervise other [U.S. personal services contractors]?
 - a. Yes
 - b. No

- 10. Please provide any additional comment on earlier survey questions or suggestions for improving the procurement and management of [U.S. personal services contracts].

APPENDIX C. AGENCY COMMENTS



MEMORANDUM

TO: Matthew Rathgeber, Regional Inspector General/Manila,

FROM: Angelique M. Crumbly, Acting Assistant Administrator for the Bureau for Management

SUBJECT: Management Response to Draft Report – Internal Control Gaps Hinder Oversight of U.S. Personal Services Contracts in Asia (5-000-17-00X-S)

Thank you for your subject draft report. The following are USAID management's comments regarding the proposed review issues:

Recommendation 1: We recommend that the USAID Chief Human Capital Officer conduct a needs assessment and, based on the results of the assessment, implement a plan to staff development outreach communication specialists in overseas missions.

Management Comments: USAID's Office of Human Capital and Talent Management (HCTM) will conduct a needs assessment of U.S. personal services contracts as part of the process to revise the Consolidated Workforce Planning Model under the HR Transformation project starting in Fiscal Year 2017. The process will establish a consistent methodology for determining technical, staffing and other requirements for personal services contractors as well as for all other hiring mechanisms in overseas Missions and Washington.

Target Completion Date: December 31, 2018

Recommendation 2: We recommend that the USAID Chief Human Capital Officer implement a process to track and report the number of U.S. personal services contractors in mentoring programs consistent with reporting for other employment categories.

Management Comments: USAID does not concur with this recommendation. Mentoring is not a standard requirement or function for U.S. personal services contractors (USPSCs); it is dependent on the scope of work and the Mission at which a USPSC is employed. Therefore, we do not believe that it is feasible for the Agency to implement a centralized tracking and reporting process. USAID has a large number of mentoring

programs and USPSCs can participate in most of them as a mentor or a mentee. Instead of being centralized, USAID mentoring programs are implemented around the world in the various missions and in USAID Washington (USAID/W). Because Missions, and Bureaus and Independent Offices in USAID/W, have the best connection with their mentors and mentees and ability to identify the needs of their staff, they design and implement mentoring programs that best fit their particular needs. For example, the Global Health Bureau and the Regional Development Mission Asia (RDMA) have mentoring programs that USPSCs can participate in. Because U.S. personal services contracts are executed in USAID/W and at overseas Missions worldwide, there is no central mechanism to determine if/when contracts contain mentoring requirements. As such, there is no efficient way to track and report the number of USPSCs who participate in mentoring programs. Therefore, HCTM requests that this recommendation be removed.

Recommendation 3: We recommend that the Director of OAA issue a policy prohibiting the classification of U.S. personal services contract positions by the hiring office.

Management Comments: M/OAA will revise its ADS 309 chapter to include a policy to address the separation of duties relating to the requesting of a USPSC position and the final classification determination. Based on the current process in ADS 309, the final classification is made by the cognizant CO. As such, this separation of duties will only become an issue if the requesting office is either the Executive Office or the Office of Acquisition and Assistance and that same office also happens to be the cognizant contracting office. In such a case, if the requesting office is the Executive Officer, the policy will state that the classification determination will be made by a CO in the Office of Acquisition and Assistance, and vice versa. This will ensure that the requesting and classifying functions are kept separate.

Target Completion Date: December 31, 2017

Recommendation 4: We recommend that the Director of OAA implement a plan to require overseas missions to modify all active U.S. personal services contracts to accurately reflect the work required and to exclude “other duties as assigned” or similar language, and to confirm that missions took the required corrective action.

Management Comments: M/OAA will issue a notice reminding employees of the new ADS Chapter 309 and the requirements to fully define contractor scopes of work and that the use of “other duties as assigned” is prohibited. M/OAA has already taken substantive management control -- updating Mission procurement evaluations to ensure the non-use of “other duties as assigned” -- in 2015 and updating Agency policy -- issuing the new ADS Chapter 309 in 2016, which prohibits the use of “other duties as assigned” -- which preemptively address the recommendation. Therefore, we do not find RIG/Manila’s sampling of USPSCs, covering 32 contracts focused on the years 2011-2015, as representative of current Agency operations moving

forward. Accordingly, M/OAA believes the business cost of implementing RIG/Manila's recommendation for global corrective action is overly burdensome, considering the thousands of USPSC contracts agency wide, compared to the benefit of "underscoring the importance of the new directive" and respectfully requests that this recommendation be removed.

Recommendation 5: We recommend that the Director of OAA issue new guidance requiring minimum standards for periodic, written performance evaluations for all long-term U.S. personal services contractors.

Management Comments: M/OAA will develop a mandatory reference document for the ADS 309 chapter with procedures and guidelines for USPSC annual performance evaluations.

Target Completion Date: December 31, 2017

APPENDIX D. MAJOR CONTRIBUTORS TO THIS REPORT

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