



**OFFICE OF INSPECTOR GENERAL**  
U.S. Agency for International Development

# USAID Has Contract Termination Guidance That Aligns With Federal Contracting Requirements, but Employees Could Benefit From Additional Resources

**AUDIT REPORT 9-000-21-009-P**  
**September 23, 2021**

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## MEMORANDUM

DATE: September 23, 2021

TO: USAID Bureau for Management, Office of Acquisition and Assistance,  
Director, Mark Walther

FROM: Global and Strategic Audits Division, Director, Emily Gardiner /s/

SUBJECT: USAID Has Contract Termination Guidance That Aligns With Federal Contracting Requirements, but Employees Could Benefit From Additional Resources (9-000-21-009-P)

This memorandum transmits the final report on our audit of USAID's Award Termination Practices. Our audit objective was to assess USAID's policies and procedures guiding foreign assistance contract terminations and the extent to which they were applied. 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 one recommendation to conduct and document an analysis to determine what types of supplemental guidance, training, or resources may be needed to assist contracting officers in contract terminations of foreign assistance contracts, and implement actions as needed. After reviewing information you provided in response to the draft report, we consider the recommendation to be closed.

We appreciate the assistance you and your staff provided to us during this audit.

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## INTRODUCTION

USAID leads the U.S. government’s international assistance through partnerships and investments that respond to humanitarian emergencies, reduce poverty, strengthen democratic governance, and help countries progress beyond the need for assistance. Between FYs 2017 and 2020, USAID spent an average of \$20.6 billion annually in acquisition and assistance awards to implement foreign aid and development programs.

According to a prior OIG audit, USAID awards—which include contracts, task orders, and blanket purchase agreements designed to obtain goods or services for the U.S. government—averaged only half of original intended results in 43 percent of awards to implement foreign assistance and development programs.<sup>1</sup> Despite this, USAID paid implementers essentially full award amounts, and we note in this current audit that USAID terminated five contracts between FY 2017 and 2019.

This audit focuses on an issue identified by OIG in the Top Management Challenges reports from FYs 2020 and 2021—addressing vulnerabilities and implementing needed controls in Agency core management functions. Prudent management of USAID contracts—to include establishing and complying with policies and procedures for award terminations—helps ensure proper stewardship of taxpayer dollars.

The objective of our audit was to assess USAID’s policies and procedures guiding foreign assistance contract terminations and the extent to which they were applied. To answer this objective, we reviewed the Federal Acquisition Regulation (FAR) and USAID policy and directives on the termination process. We conducted a survey of 129 USAID contracting officers (COs) and received responses from 72 COs (a response rate of 56 percent).<sup>2</sup> Additionally, we analyzed all contracts implementing foreign assistance projects that were terminated in FY 2017-2019—five in total. We also interviewed key officials with roles in the Agency’s contract terminations process, including stakeholders from USAID’s Office of Acquisition and Assistance (OAA); Office of General Counsel; and the Office of Management Policy, Budget, and Performance.

Appendix A describes our scope and methodology in more detail.

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## SUMMARY

USAID’s contract termination guidance laid out in its policies and procedures—USAID’s Acquisition Regulations (AIDAR) and Automated Directives System (ADS)—was in line

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<sup>1</sup> USAID OIG, “[USAID’s Award Oversight Is Insufficient To Hold Implementers Accountable for Achieving Results](#)” (9-000-19-006-P), September 25, 2019. This estimate was an average of a 3-year period from FY 2014-2016, with an 85 percent confidence interval, allowing for a 5 percent margin of error. The audit scope included all USAID acquisition awards and assistance awards of at least \$150,000 for FYs 2014, 2015, and 2016.

<sup>2</sup> While 72 COs responded to our survey, 5 did not provide responses to all survey questions. For the purposes of this report, we still consider the response rate to be 56 percent (72 of 129 COs).

with the FAR. For the period reviewed, COs terminated foreign assistance contracts in accordance with established policies and procedures.<sup>3</sup> In terminating contracts, COs heavily relied on the FAR, in addition to the AIDAR and ADS, in the termination process. During FYs 2017-2019, USAID terminated five foreign assistance contracts—the focus of the audit.

However, in their responses to our survey, COs identified challenges and opportunities to improve the Agency’s contract termination process. For example, more than half of the COs we surveyed noted that additional guidance, such as step-by-step procedures or training, would be helpful. Further, multiple COs indicated that varying degrees of management engagement—from pressure from management to either terminate a contract, not terminate a contract, or to terminate a contract for convenience despite raising the adverse cost implications of doing so, to a lack of leadership support—made termination decisions more difficult. Based on CO observations, there is an opportunity for the Agency to develop additional guidance or resources to support COs in terminating contracts.

To determine whether opportunities exist to strengthen the Agency’s foreign assistance contract termination process, we made one recommendation to the Office of Acquisition and Assistance and they agreed with our recommendation.

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## **BACKGROUND**

The FAR provides uniform policies and procedures for acquisitions of goods and services by executive agencies of the Federal government. FAR Part 49 establishes the policies and procedures relating to the termination of contracts in whole or in part for the convenience of the government or for default. According to FAR 2.101, the term “termination for convenience” means “the exercise of the government’s right to completely or partially terminate performance of work under a contract prior to the expiration of the contract when it is in the Government’s interest” to do so. Under these circumstances, a contractor is generally eligible for fair compensation for the work completed and preparations made for the terminated portions of the contract, including reasonable profits. According to the Congressional Research Service, the right to terminate a contract for convenience is generally considered to be an inherent part of the contract, even if not explicitly stated.<sup>4</sup>

In contrast, “termination for default” is generally the exercise of the government’s contractual right to completely or partially terminate a contract because of the contractor’s actual or anticipated failure to perform its contractual obligations. When a default termination is being considered, the CO will generally provide written notification to the contractor specifying the failure and providing the contractor with a period for corrective actions or to show cause why the contract should not be

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<sup>3</sup> There was a total of 497 contracts terminated during this period. However, there were only five foreign assistance contracts.

<sup>4</sup> The Congressional Research Service works exclusively for the U.S. Congress, providing policy and legal analysis to committees and Members of the House and Senate, regardless of party affiliation.

terminated for default. In addition, the government is not liable for the contractor's costs on undelivered work and is entitled to the repayment of advance and progress payments, if any, applicable to the work.

The FAR also provides high-level guidance on the contract termination process, including requirements for termination notices, settlement agreements, and specific contract clauses. While the FAR prohibits agencies from establishing additional regulations that “unnecessarily repeat, paraphrase, or otherwise restate” its contents, individual agencies may develop their own policies, procedures, and resources that provide more specific guidance to COs.

USAID uses the AIDAR and ADS to provide guidance on its contracting efforts. AIDAR supplements the FAR and is a chapter within the Code of Federal Regulations that lays out USAID-specific requirements for all USAID contracts.<sup>5</sup> ADS contains the policies and procedures that guide the Agency's programs and operations. ADS 302, “USAID Direct Contracting,” is governed by the FAR and AIDAR and contains USAID's policies and procedures on contracting.

Within USAID, OAA is responsible for developing, issuing, and maintaining the Agency's acquisition regulations, procedures, and standards in accordance with established Agency delegations and requirements. COs, based in USAID headquarters and in overseas missions, are responsible for entering into and terminating contracts on behalf of the Agency. COs are also responsible for managing contracts to ensure compliance with contract terms and ensuring that the interests of the U.S. government are protected. COs may designate a contracting officer's representative (COR) to perform some contract technical or administrative functions, including monitoring contractor performance, but CORs cannot modify the terms, conditions, or total estimated cost of the contract.

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## **USAID GUIDANCE ON TERMINATING CONTRACTS MET FEDERAL REQUIREMENTS, BUT CONTRACTING OFFICERS CITED OPPORTUNITIES TO PROVIDE MORE RESOURCES TO HELP GUIDE THE TERMINATION PROCESS**

USAID's contract termination guidance was consistent with the FAR and COs terminated foreign assistance contracts in accordance with established policies and procedures. However, in their response to our survey, COs at all levels of experience identified challenges and opportunities to improve the Agency's termination process, including opportunities to provide additional termination resources specific to USAID.

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<sup>5</sup> Title 48 of the Code of Federal Regulations, Chapter 7 – Agency for International Development.

## **USAID Contract Termination Guidance Aligned With the Federal Acquisition Regulation and Was Correctly Applied to Foreign Assistance Terminations During Fiscal Years 2017-2019**

USAID's contract termination guidance laid out in its regulation, policies, and procedures (the AIDAR and ADS) was in line with the FAR.<sup>6</sup> For the period reviewed, FY 2017-2019, COs terminated foreign assistance contracts in accordance with established policies and procedures. According to senior OAA officials, USAID relied primarily on the FAR to provide COs with the guidance necessary to terminate contracts. FAR Part 49, "Termination of Contracts," laid out the authority and responsibility of COs to terminate contracts, the general requirements related to what should be included in the notice of termination, the duties of the contractor and the CO after the issuance of the notice of termination, and the general procedures for the settlement of terminated contracts.

COs were also required to follow the guidance set forth by the Agency in the AIDAR and ADS. Specifically, USAID's ADS 302 stated that "USAID executes all direct procurement in accordance with the FAR and the AIDAR." COs are required to perform the following tasks when terminating a contract:

- Issue a notice of termination to the contractor indicating the type of termination action, the reason and effective date of the termination, and close-out instructions for the contractor, in line with FAR 49.102.
- Negotiate a settlement with the contractor, in accordance with FAR 49.105.
- Submit settlements that are \$100,000 or more to the Settlement Review Board for approval, as required by AIDAR Part 749.<sup>7</sup> The AIDAR further describes the roles of the Settlement Review Board, including when the board is required to convene, who should be included on the board, and the documentation the board should review in making their determination.
- Report contracts that are terminated for default to the Suspending and Debarring Official 5 days in advance of the notice of termination, in accordance with ADS 302.3.8.11.

According to data the Agency provided, USAID terminated 497 contracts for the convenience of the government and for default of contract terms in FY 2017-2019. Of these 497, 5 were contracts implementing foreign assistance activities—the focus of our

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<sup>6</sup> Throughout this report, we use the phrases "in line with," "aligned with," and "consistent with" in describing how the AIDAR and ADS compared with the FAR. For the purposes of this report, we interpret these phrases to mean 1) that neither the AIDAR nor the ADS contradict any section of the FAR and 2) in the absence of a specific section on contracting, both the AIDAR and the ADS point back to the FAR. Our interpretation takes into consideration the fact that the FAR specifically precludes agency acquisition regulations that unnecessarily repeat, paraphrase, or otherwise restate the FAR.

<sup>7</sup> As part of the termination for convenience process, contractors may receive a settlement designed to compensate them for preparations made for the work terminated, as well as costs incurred and reasonable profits for the work performed. This only applies to fixed-price contracts. The Settlement Review Board is responsible for approving termination settlements of \$100,000 or more.

audit—and all were terminated for the convenience of the government.<sup>8</sup> Using a data collection instrument, we analyzed the five contracts terminated during FY 2017-2019 against the FAR, AIDAR, and ADS requirements. Based on this review, all five contracts were terminated in accordance with the FAR and Agency policies and procedures.

## Many Surveyed Contracting Officers Indicated They Would Benefit from Additional Resources to Help Guide Them in the Termination Process

We surveyed COs to obtain information on their experiences related to terminating foreign assistance contracts, including any challenges in terminating contracts and their perception of the sufficiency of USAID guidance to terminate contracts.<sup>9</sup> For further information on our survey, see Appendix B. While approximately 40 percent of survey respondents felt that the guidance was sufficient, over half of the respondents—41 of 67—noted that additional guidance would be helpful (as shown in Figure 1). These respondents account for approximately one-third of the total universe of 129 COs, reflecting the interest of COs in additional resources on the termination process.

**Figure 1. Number of Contracting Officers Wanting Additional Tools or Guidance on Terminations**

More than half—**41 of 67**—of contracting officers responding to our survey said they wanted additional resources—tools or guidance—on terminating contracts.



Source: July 2020 OIG survey of USAID contracting officers.

COs responding to our survey reported using external resources to help guide them when considering termination of a contract, including the websites for the Federal Acquisition Institute and Virtual Acquisition Office.<sup>10</sup> However, respondents still identified a variety of additional resources the Agency could provide to supplement

<sup>8</sup> The remainder of the 497 contracts were related to support, technical assistance, or research and development.

<sup>9</sup> The 129 COs surveyed comprised the staff identified by the Agency as COs as of April 2020. We received responses from 72 COs for an overall response rate of 56 percent. However, five COs did not answer all survey questions.

<sup>10</sup> The Federal Acquisition Institute, managed by the General Services Administration, is charged with “promoting the development of a professional federal acquisition workforce.” The Virtual Acquisition Office is a private, subscription-based service that provides resources and training on procurement to Federal agencies.

these existing resources, including step-by-step procedures on how to terminate contracts for convenience and default and templates for the process. For example, a few COs expressed an interest in templates while another noted that it “would be nice to have sample terminations, and how to calculate fees and remaining costs at termination.”

Of note, this interest in additional resources—such as training and supplemental guidance—to support terminations was not limited to newer COs, but was noted by COs with different years of experience. Multiple COs also noted that USAID-specific training on terminations, both for convenience and default, would be beneficial to staff. For example, one survey respondent explained, “The bar for default is quite high... it would be nice to have a dedicated online class that goes through different scenarios regarding risks, and justifications for termination for default.” Another CO stated that “[m]ore training, perhaps stand-alone training, on both types of determination could be helpful if the course was tailored to USAID contracting and used USAID contracts examples.”

Additionally, multiple COs indicated that termination decisions had been made more difficult by varying degrees of management engagement in terms of both undue pressure and a lack of leadership support. In our survey, we asked COs, “Has anyone exerted any undue influence on any of your contract termination decisions?” Thirteen—close to 20 percent of survey respondents, or 10 percent of the total universe of 129 COs—noted undue pressures by a range of players, including mission leadership and general counsel, to either terminate a contract, not terminate a contract, or to terminate a contract for convenience despite raising the adverse cost implications of doing so. These observations echo issues identified in a prior OIG audit, in which COs and agreement officers (AOs)<sup>11</sup> reported pressure to make award decisions.<sup>12</sup>

External pressure related to termination decisions may hinder COs’ ability to effectively manage contracts and independently exercise business judgment in safeguarding the interest of the U.S. government as required by law.<sup>13</sup> Given this concern, also identified in a prior OIG audit, the Agency took steps designed to reduce undue pressure exerted on COs. For example, in December 2018, USAID issued an executive communication stating that COs and AOs must be able to act based on independent judgment and without inappropriate influence on award or award administration decisions. In addition, USAID and the Department of State issued a worldwide cable in February 2019 emphasizing the independence of COs and AOs.

Our survey also found that some COs expressed a concern over a lack of support from Agency leadership to terminate for default. One survey respondent explained, “[termination for default] could potentially impact a contractor's ability to secure future [U.S. government] work... Processing a [termination for default] would require USAID

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<sup>11</sup> Like COs, AOs have the authority to enter into, amend, and terminate assistance agreements (cooperative agreements and grants) on behalf of USAID.

<sup>12</sup> USAID OIG, “[USAID’s Award Oversight Is Insufficient To Hold Implementers Accountable for Achieving Results](#)” (9-000-19-006-P), September 25, 2019.

<sup>13</sup> Federal Acquisition Regulation 1.602-2 - Responsibilities.

leadership to support its COs, potentially in the face of contractors who have contacts/influence [with] Congress.” Another noted that COs “need the support of the Agency and Mission management to do [terminations for default] when we deem it necessary.”

Federal internal control standards emphasize management’s responsibility to design control activities, including policies and procedures, to help achieve organizational objectives. These standards also emphasize management’s responsibility to communicate information to allow personnel to achieve those objectives. Senior OAA officials stated that the FAR provided sufficient guidance for COs to perform termination actions when necessary. Despite this assertion, in 2019, the Agency issued a Procurement Executive’s Bulletin providing additional information on terminations of contracts under the U.S. President’s Emergency Plan For AIDS Relief (PEPFAR).<sup>14</sup>

The Bulletin—designed to provide support to COs who felt pressured to terminate contracts by parties external to USAID—provided guidance on when COs should terminate awards, what issues to consider prior to termination, and who should be consulted prior to making the decision to terminate. Like the FAR, the Bulletin also provided sample language for contract termination letters. However, the Bulletin applied only to PEPFAR-related projects. According to a USAID official, the Agency had not considered applying the guidance in the Bulletin to all Agency contract terminations.

While the AIDAR and ADS were consistent with the FAR—which is applicable to the entire U.S. government and not specific to USAID—neither provided detailed information laying out the steps for USAID COs to take when terminating contracts. Further, the Agency’s guidance was silent on when COs should begin the termination process and how to determine which method of termination—convenience or default—to use. As noted by an OAA official, the Agency recognized the need for further guidance to bolster the work of COs related to contract terminations in the PEPFAR arena. However, the Agency had not expanded the Procurement Executive’s Bulletin to other, non-PEPFAR contracts. COs in our survey indicated that there is an opportunity for the Agency to develop additional resources or other tools—such as supplemental guidance, training, or templates—to guide them in the contract termination process. Based on the work we have done, we believe that USAID should conduct an analysis to assess what COs need to further assist them in the contract termination process.

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## CONCLUSION

USAID uses contracts to carry out its mission in leading the U.S. government’s international development and disaster assistance. Prudent management of contracts, including establishing policies and procedures for award terminations, helps ensure proper stewardship of U.S. taxpayer dollars.

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<sup>14</sup> Procurement Executive’s Bulletin (PEB) NO. 19-02, signed September 30, 2019. Procurement Executive’s Bulletins are documents issued by OAA to provide information to contracting personnel and can include general guidance, best practices, reminders, and frequently asked questions.

Although USAID has contract termination guidance that is consistent with the FAR, COs at all years of experience indicated that they wanted additional resources when terminating contracts. Developing additional guidance, support, or other resources may allow COs to more effectively navigate the termination process when they deem it necessary. Without the necessary tools and resources, COs may not fully utilize the termination process to effectively administer USAID foreign assistance projects and, as a result, the Agency may inadvertently promote poor performance among contractors.

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## **RECOMMENDATION**

To identify opportunities to strengthen its foreign assistance contract terminations process, we recommend that the Bureau for Management's Office of Acquisition and Assistance take the following action:

- I. Conduct and document an analysis to determine what types of supplemental guidance, training, or resources may be needed to assist and support contracting officers in conducting terminations of foreign assistance contracts, and implement actions as needed.

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## **OIG RESPONSE TO AGENCY COMMENTS**

We provided our draft report to USAID on July 23, 2021. On September 8, 2021, we received the Agency's response, which is included as Appendix C of this report; the Agency also provided information to supplement its response between September 13 and 16, 2021.

The report included one recommendation, which we consider to be closed.

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## APPENDIX A. SCOPE AND METHODOLOGY

We conducted our audit work from September 2019 to July 2021 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

Our audit objective was to assess USAID’s policies and procedures guiding foreign assistance contract terminations and the extent to which they were applied.

Our audit scope included foreign assistance contracts terminated in FY 2017-2019, the most recent 3-year period at the start of our audit. In FY 2017-2019, USAID terminated 497 contracts for the convenience of the government as well as for default of contract terms. Of these 497, 5 were contracts implementing foreign assistance activities—the focus of our audit. The five contracts had a combined estimated value of \$61 million and all were terminated for the convenience of the government.

We assessed the extent to which USAID’s termination policies and procedures define objectives and risk tolerances, identify and respond to risks, and are communicated internally. We identified and assessed internal controls significant to our audit objectives. Specifically, we reviewed Agency contract management practices focused on terminations (including relevant policies and procedures), as well as contract documents related to terminations (including notices of termination, memoranda of negotiation, and contract modifications). We also conducted procedures related to internal control principles 6, 7, 10, 12, and 14 under three of the five components of internal control as defined by the U.S. Government Accountability Office (GAO).<sup>15</sup>

USAID does not maintain a system that tracks terminated contracts. Given this, we obtained the universe of terminated contracts directly from USAID, which provided data from the General Services Administration’s Federal Procurement Data System Next Generation (FPDS-NG) and the government-wide Federal Awardee Performance and Integrity Information System (FAPIIS). We believe the data is sufficiently reliable for the purposes of our audit.

To answer our audit objective, we reviewed the FAR to identify requirements related to contract termination. We then reviewed USAID’s policies and procedures relevant to terminating foreign assistance contracts and assessed the extent to which they were in line with the FAR. We also interviewed key officials with roles in the Agency’s contract terminations process, including stakeholders from USAID’s OAA; Office of General Counsel; and the Office of Management Policy, Budget, and Performance.

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<sup>15</sup> GAO, Standards for Internal Control in the Federal Government (GAO-14-704G), Principle 6 - “Define Objectives and Risk Tolerances,” Principle 7 - “Identify, Analyze, and Respond to Risks,” Principle 10, “Design Control Activities,” Principle 12 - “Implement Control Activities,” and Principle 14 - “Communicate Internally,” September 2014.

We obtained a listing of all contracts terminated by USAID between October 1, 2016, and September 30, 2019 (FY 2017-2019)—the most recent 3-year period at the start of the audit. We then reviewed the contract descriptions to identify all contracts that were for foreign assistance programs, regardless of termination type, and to eliminate all personal service and mission support contracts, which were outside the audit scope.

Based on the review of all terminated contracts, we identified the five foreign assistance contracts that were terminated—all for convenience—during the selected period. We created a data collection instrument based on the requirements laid out in FAR 49, AIDAR Part 749, and ADS 302. Using the data collection instrument, we then analyzed these five contracts to determine the extent to which (1) terminations were done in accordance with established policies and procedures and (2) termination files included sufficient documentation to support the termination steps.

We conducted a survey of USAID's COs to obtain information on their experiences related to contract terminations. We developed survey questions based on potential issues identified both through interviews with USAID officials and prior OIG work. We pretested the survey with a CO from OIG and with COs from the Agency and modified the survey based on pretest responses. To develop the survey universe, we obtained a list from OAA of all USAID staff with warrants as of April 17, 2020.<sup>16</sup> From this list, we identified all staff with the CO title (the Agency's personnel most likely to be engaged in foreign assistance contracts) for a total survey population of 129 COs. The survey was administered to all 129 identified COs, and 72 responded (a 56 percent response rate). The survey was conducted using Qualtrics and was open for a 2-week period from July 20, 2020, to July 31, 2020. We do not project the results of this survey to the universe of COs. Likewise, the survey responses do not represent a uniform Agency point of view, nor do they reflect an Agency-wide position. Rather, they offer perspectives from key employees responsible for the Agency's contract termination process.

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<sup>16</sup> COs must maintain a warrant that allows them to negotiate on behalf of the U.S. government.

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## APPENDIX B. QUALTRICS SURVEY QUESTIONS

Have you ever terminated a contract, in whole or in part, for convenience or default?

- Yes, in whole, for convenience.
- Yes, in part, for convenience.
- Yes, in whole, for default.
- Yes, In part, for default.
- No.

Have you ever considered terminating a contract for poor performance?

- Yes, and I terminated the contract.
- Yes, but the contractor/implementing partner remedied the issue.
- Yes, but it was too late in the project to be worth the effort.
- Yes, but I did not have sufficient guidance on how to terminate the contract.
- No.
- Other, please explain.

What is the most important factor you consider prior to terminating an award?

- Cost-Benefit Analysis
- Legal implications
- Impact on Mission CDCS/Bureau Goals
- Other, please explain.

Do you consult with any of the following when terminating a contract (please select all that apply)?

- USAID Office of General Counsel
- Regional Legal Officer
- Mission Director/Deputy Mission Director
- Independent Office/Mission Program Officer
- I do not consult with others outside my office when terminating a contract
- Other, please explain.

Do you believe USAID has provided you with the appropriate tools and guidance to terminate a contract for **convenience**?

- Yes.
- No.

If yes, what tools and guidance have you been provided?

What additional tools or guidance do you need?

Do you believe the Agency has provided you with the appropriate tools and guidance to terminate a contract for **default**?

- Yes.
- No.

If yes, what tools and guidance have you been provided?

What additional tools or guidance do you need?

Do you use any of the following resources when considering or executing a contract termination?

- FAI.gov
- Virtual Acquisition Office
- Internal Agency resources, please specify
- Foreign Acquisition Regulation (FAR)
- Other, please specify.

What is the **earliest** point in the activity that you would consider terminating a poor performing contract?

- 10-30 percent into the life of the contract
- 30-50 percent into the life of the contract
- 50-70 percent into the life of the contract
- 70-90 percent into the life of the contract
- Other, please specify

What is the **latest** point in the activity that you would consider terminating a poor performing contract?

- 10-30 percent into the life of the contract

- 30-50 percent into the life of the contract
- 50-70 percent into the life of the contract
- 70-90 percent into the life of the contract
- Other, please specify

Has anyone exerted any undue influence on any of your contract termination decisions?

- Yes
- No
- If yes, by whom (position)?
- If yes, how? Please explain.

Have you experienced challenges in terminating a contract for **convenience**?

- Yes
- No
- N/A – I have never attempted to terminate a contract

If yes, please explain.

Have you ever experienced challenges in terminating a contract for **default**?

- Yes
- No
- N/A – I have never attempted to terminate a contract

If yes, please explain.

How many years of experience do you have being a CO?

- 1 to 5 years
- 5 to 10 years
- 10+ years

Is there anything else you would like the OIG to know about your experience in terminating contracts at USAID?

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## APPENDIX C. AGENCY COMMENTS



### MEMORANDUM

**TO:** Global and Strategic Audits Division, Director, Emily Gardiner

**FROM:** USAID Bureau for Management, Office of Acquisition and Assistance,  
Director, Mark Walther /s/

**DATE:** August 20, 2021

**SUBJECT:** Thirty-Day Management Comments to Respond to Draft Report from the Office of Inspector General (OIG), entitled, USAID Has Contract Termination Guidance That Aligns With Federal Contracting Requirements, but Employees Could Benefit From Additional Resources (9-000-21-00X-P) (Task No. 99100119)

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The U.S. Agency for International Development (USAID) would like to thank the Office of Inspector General (OIG) for the opportunity to provide comments on the subject report. The Agency agrees with the recommendation, herein provides actions for implementing it, and reports on the significant progress already made.

USAID is pleased to note that the audit results were generally positive. USAID policies and practices were found to be consistent with federal requirements, successful in informing our Contracting Officers of the requirements. In response to the report, USAID is taking immediate action as described herein.

**COMMENTS BY THE U.S. AGENCY FOR INTERNATIONAL DEVELOPMENT (USAID) ON THE REPORT RELEASED BY THE USAID OFFICE OF THE INSPECTOR GENERAL (OIG) TITLED, USAID Has Contract Termination Guidance That Aligns With Federal Contracting Requirements, but Employees Could Benefit From Additional Resources (9-000-21-00X-P) (Task No. 99100119)**

Please find below the management comments from the U.S. Agency for International Development (USAID) on the draft report produced by the Office of the USAID Inspector General (OIG), which contains one recommendation for USAID:

**Recommendation:** Conduct and document an analysis to determine what types of supplemental guidance, training, or resources may be needed to assist and support contracting officers in conducting terminations of foreign assistance contracts and implement actions as needed.

- **Management Comments:** USAID agrees with the recommendation and conducted an analysis with staff to determine the type of supplemental guidance, training, and or resources needed to support staff in conducting terminations. Conducted [an inventory of training resources](#) and [outreach with staff](#) [completed]. Additionally, we are aware of the new periodic table of innovations managed by the Federal Acquisitions Institute (FAI) which may provide a venue for sharing best or innovative practices for termination approaches. [Reached out to FAI for their expansion plans for the periodic table](#) [completed via website portal submission].

**Target Completion Dates:** Requesting closure of Recommendation 1 upon Final Audit Report issuance.

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## **APPENDIX D. MAJOR CONTRIBUTORS TO THIS REPORT**

The following people were major contributors to this report: Emily Gardiner, director; Van Nguyen, director; Kristen Lipuma, assistant director; Ryan McGonagle, assistant director; Robyn Blount, auditor; Abbas Busari, auditor; Eve Joseph, auditor; Mary Llacer-Salcedo, auditor; Augusto Urrego, auditor; Saifuddin Kalolwala, attorney; and Tovah Rom, writer-editor.