

---

# USAID

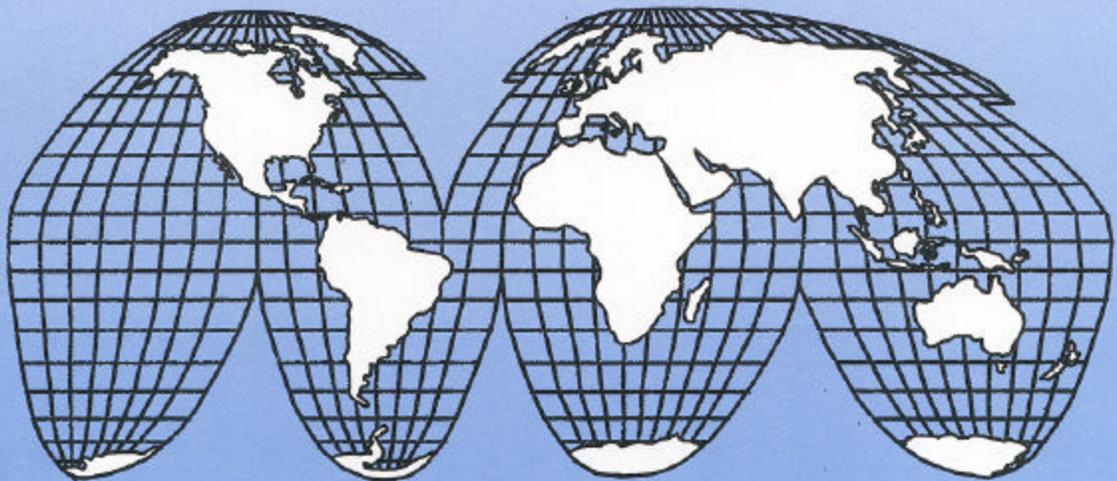
## OFFICE OF INSPECTOR GENERAL

---

### Report on USAID's Compliance with Provisions of the Federal Program Information Act of 1977

Audit Report No. 0-000-02-001-F

February 13, 2002



Washington, D.C.

U.S. Agency for International Development

---

Page intentionally left blank.



U.S. Agency for  
International  
Development

*Office of Inspector General  
Financial Audits Division*

## **MEMORANDUM**

**FOR:** M/OP, Mark Ward

**FROM:** IG/A/FA, Alvin Brown

**SUBJECT:** USAID Compliance with Provisions of the Federal Program Information Act of 1977 (Report No. 0-000-02-001-F)

The attached report summarizes the results of our audit on USAID's Compliance with Provisions of the Federal Program Information Act of 1977 (P.L. 95-220) and OMB Circular A-89. We have determined that USAID does not comply with certain provisions of the Act, or with provisions of the Circular, and that this noncompliance is having a negative impact on the assistance awarded by USAID. Accordingly, within this report, we made three recommendations to address these deficiencies. Your comments are included in their entirety in Appendix II.

Based on your comments, the Office of Procurement concurs with the recommendations made in this report. Please notify the Office of Management Planning and Innovation (M/MPI) when final actions on these recommendations are completed, and request closure.

We appreciate the cooperation and courtesies that your staff extended to my staff during our audit. If you have questions concerning this report, please contact Andrew Katsaros at (202) 712-4902.

Attachment (as stated)

cc: PPC/AA, Kenneth Schofield

---

---

<b>Table of Contents</b>	Summary of Results	3
	Background	3
	Audit Objectives	4
	Audit Findings	4
	Management Comments and Our Evaluation	11
	Appendix I - Scope and Methodology	12
	Appendix II - Management Comments	14
	Appendix III - Federal Agencies Included in the Catalog of Federal Domestic Assistance	15

---

## **Summary of Results**

We determined that USAID is not in compliance with provisions of Public Law 95-220 (31 U.S.C. 1703 § 4(b)(1)), and Office of Management & Budget (OMB) Circular A-89. The law requires each Federal agency to furnish current information on all of its domestic assistance programs to the Director of OMB. OMB Circular A-89 requires Federal agencies to include current information on all domestic assistance programs in the *Catalog of Federal Domestic Assistance* (CFDA) maintained by the General Services Administration. We determined that USAID awards to domestic nonprofit organizations meet the definition of domestic assistance programs covered by the Act and the Circular, and are therefore required to be included in the CFDA. We also determined that USAID has not provided adequate visibility of its domestic assistance awards to prospective recipients (p.5) and that the absence of programs from the CFDA could potentially negatively impact USAID-financed audits of nonprofit entities (p.6). Also, because of its noncompliance, USAID is limiting its ability to fully participate in Federal grants management reform innovations (p.7) and USAID grant award announcements are not being made available to the widest possible audience (p.8).

---

## **Background**

The Federal Program Information Act of 1977 (P.L. 95-220) was enacted to ensure that comprehensive information on Federal assistance programs was readily available to interested parties. This law required that the Director, OMB establish and maintain a computerized information system which is capable of identifying all existing Federal domestic assistance programs and which makes information about these programs available in a catalog to the public. The Federal Program Information Act of 1983 (P.L. 98-169) amended the 1977 Act. This amendment gave the Administrator of General Services the responsibility for the efficient and regular accumulation and distribution of current information on Federal domestic assistance programs. Federal agency responsibilities were not changed by the amendments.

OMB Circular A-89 implements the Act by requiring that Federal agencies provide OMB with information on their individual Federal domestic assistance programs, and by stipulating that the General Services Administration (GSA) will include the submitted information in a Catalog of Federal Domestic Assistance (CFDA). The CFDA provides potential domestic assistance recipients with a single-source of information on programs through bound versions and through its Internet web site at <http://www.cfda.gov>.

The Circular also requires that each program be assigned a unique program number (a.k.a. CFDA number). These program numbers are

---

tools by which Federal assistance, whether in practice called a program, activity or some other name, can be readily identified and categorized.

The OIG has performed several recent reviews of audits of USAID assistance recipients, which have raised questions about the absence of CFDA numbers associated with USAID domestic assistance awards. These concerns focused on whether or not these omissions negatively impacted audits of USAID award recipients, but also raised questions about whether or not USAID's assistance was receiving optimal visibility among potential applicants.

Lastly, the Federal Financial Assistance Management Improvement Act of 1999 (P.L. 106-107) has been enacted to improve the effectiveness and performance of Federal financial assistance programs, simplify Federal financial assistance application and reporting requirements, and improve the delivery of services to the public. One of the stated requirements of the Act is for Federal agencies to demonstrate appropriate agency use of a common Federal-wide grant application and reporting system. USAID does not participate in the current Federal-wide system.

---

## **Audit Objectives**

Our review addressed the following question:

**Is USAID operating in compliance with provisions of the Federal Program Information Act of 1977 (P.L. 95-220) and OMB Circular A-89 concerning the submission of program award information to GSA?**

USAID is not in compliance with the provisions of P.L. 95-220 or OMB Circular A-89 concerning the submission of program award information to GSA. Our audit was prompted by concerns about whether or not perceived adverse impacts on the effectiveness of OMB Circular A-133 audits could be caused by USAID non-compliance with the law and regulation. Our audit scope and methodology are included in Appendix I.

---

## **Audit Findings**

**Is USAID operating in compliance with provisions of the Federal Program Information Act of 1983 (P.L. 95-220) and OMB Circular A-89 concerning the submission of program award information to GSA?**

USAID has not provided GSA with information on its domestic assistance awards. Provisions contained within P.L. 95-220 and OMB Circular A-89 require that this information be sent to GSA. This noncompliance was due to USAID's misunderstandings about the law and about OMB Circular A-89. This non-compliance (1) could have a negative impact on the

---

visibility of USAID assistance programs to prospective recipients and (2) could potentially negatively impact OMB Circular A-133 audits.

**USAID Grant Programs are not Identified in the *Catalog of Federal Domestic Assistance*.**

USAID domestic assistance program information is not being published in the *Catalog of Federal Domestic Assistance* published by the General Services Administration. This Catalog provides general information about Federal domestic assistance programs to prospective award applicants and other interested users, and provides all interested parties with Federal points of contact for each individual program. This information is required by Public Law 95-220 (31 U.S.C. 1703 § 4(b)(1)), and by OMB Circular A-89. The noncompliance was caused by misunderstandings of USAID officials concerning the law and regulation, and can potentially negatively impact audits of USAID grant awards.

USAID is required by the Federal Program Information Act and by OMB Circular A-89 to assist the Director of OMB in identifying all of its existing Federal domestic assistance programs, and to provide information on each of its programs, to prospective recipients. Specifically, the Federal Program Information Act requires Federal agencies to furnish OMB with current information on all domestic assistance programs that the agency administers, and establishes the CFDA as the vehicle by which domestic assistance program information is made available to the public. OMB then provides domestic assistance program information to GSA, who maintains the CFDA, and ensures that relevant updates are recorded on a regular basis. To assist Federal agencies in preparing and submitting Federal domestic assistance program information, GSA has issued the *Catalog of Federal Domestic Assistance Reference Manual for Agency Liaisons and Staff*. The January 2001 edition of the manual contains detailed instructions and guidelines for the submission of program information and for the electronic submission of program data into the CFDA.

OMB Circular A-89 is the implementing guidance that requires Executive branch agencies to submit information to OMB related to all domestic assistance programs and activities that are federally funded and that are administered by Federal agencies. One of the objectives of OMB Circular A-89 is to establish a “single, authoritative, Government-wide comprehensive source document of Federal domestic assistance.” Although USAID provides such assistance, its grant award programs are not included in the CFDA.

According to the definitions within P.L. 95-220 and OMB Circular A-89, USAID grants and cooperative agreements to U.S.-based nonprofit organizations, universities, and state and local governments qualify as

---

Federal domestic assistance. However, according to GSA's Federal Domestic Assistance Catalog staff, USAID does not provide OMB, or GSA, with any of the Agency's domestic assistance program information.

Two USAID officials in the Office of Procurement indicated that they could not identify any USAID programs that they thought would qualify as domestic assistance programs, and that USAID programs were consequently ineligible for inclusion in the CFDA. This assumption led to the conclusion that USAID has no reporting requirements under the Federal Program Information Act of 1983 or under OMB Circular A-89.

According to Agency sources, USAID officials made these conclusions because an official from GSA instructed one of them that "for a program to be listed in the CFDA.... U.S. entities have to be beneficiaries." Unfortunately, this led to an incorrect interpretation of the language within the law and regulation. Both define "domestic assistance" as simply any function whereby a Federal entity provides assistance or benefits to a non-federal domestic entity or individual.

Through conversations with officials from GSA, OMB, and the USAID General Counsel, we have determined that there is no relationship between the nature of domestic assistance and its beneficiaries. A program in which USAID has issued a grant to a U.S.-based nonprofit organization would qualify as domestic assistance, regardless of where the non-profit organization actually conducts its federally funded activities. There is no suggestion within the law that a program's purpose or ultimate beneficiaries are a determinant of a Federal domestic assistance program. Therefore, as a Federal agency providing domestic assistance, USAID is covered under the Federal Program Information Act of 1977 and under OMB Circular A-89.

### **Audits of USAID Grant Recipients are Potentially Inconsistent Due to Noncompliance**

USAID's non-compliance with 31 U.S.C. 1703 § 4(b)(1) and with OMB Circular A-89 has allowed non-Federal auditors to exercise considerable judgment in making major program determinations related to USAID-financed OMB Circular A-133 audits of states, local governments and domestic non-profit entities. Also, because assistance programs are not effectively identified by USAID, the Agency has not aggressively attempted to provide audit guidance to non-federal auditors of USAID award recipients.

USAID furnishes assistance to States, local governments, domestic universities and domestic non-profit organizations. According to OMB Circular A-133, such recipients expending more than \$300,000 in Federal

---

assistance within a year are required to have an audit performed in accordance with the Circular. Non-federal auditors are primarily responsible for performing these audits of USAID award recipients. However, auditors conducting such audits lack guidance in identifying USAID's Federal assistance programs because these programs do not contain unique program identification numbers for inclusion in the *GSA Catalog of Federal Domestic Assistance*.

This situation can cause auditors to make substantially different judgments in determining which USAID awards are subject to compliance testing for the purpose of performing an acceptable A-133 audit.

As an example, an auditor of a USAID award recipient may determine that all USAID awards should be considered as one population for the purpose of compliance testing, regardless of the various program objectives of these individual awards. However, an auditor of another USAID award recipient may determine that each of its USAID awards should each be considered separately for the purpose of selecting those awards that will be subject to A-133 compliance testing.

Because only a sample of awards are selected for compliance testing for an A-133 audit of a nonprofit organization, the lack of guidance on the selection of these items can cause inconsistent audit approaches, as explained in the previous examples. OMB Circular A-133 audits of USAID assistance are therefore potentially inconsistent and less effective than possible.

**Recommendation No. 1: We recommend that the Director, Office of Procurement, with the assistance from the USAID Office of Policy and Program Coordination, develop and implement a plan to include USAID grant programs in the Catalog of Federal Domestic Assistance in accordance with the *Catalog of Federal Domestic Assistance Reference Manual for Agency Liaisons and Staff*.**

### **USAID Lacks Participation in the *Federal Commons* Internet Portal**

USAID does not participate in the *Federal Commons* Internet portal. This portal was developed from Federal financial assistance streamlining efforts mandated by The Federal Financial Assistance Management Improvement Act of 1999 (P.L. 106-107). USAID does not participate in the Internet portal because the Agency is not currently in compliance with OMB Circular A-89 and the Federal Program Information Act, as previously mentioned. Because of this noncompliance, it will be difficult

---

for the Agency to readily participate in grant reform efforts mandated by P.L. 106-107.

One of the goals of P.L. 106-107 is for Federal agencies to actively participate in interagency initiatives related to Federal financial assistance. In response to this objective, a Federal-wide Internet grants portal has been established for the grantee community and can be accessed at <http://www.cfda.gov/federalcommons/> (a.k.a. *Federal Commons*). Within the *Federal Commons* Internet site, grant applicants can browse all Federal programs by grant topic, regardless of the sponsoring Federal agency, thereby establishing a Federal community tailored to prospective grantees.

In order for USAID to participate in the Internet grants portal established under *Federal Commons*, USAID must begin to comply with requirements that have guided the Federal grant community since 1977, for the following reasons.

- The *Federal Commons* site is organized by grant type, not by Federal agency. Federal agencies participating in *Federal Commons*, therefore, have defined their programs based on categories of Federal financial assistance from the perspective of potential applicants. This is a simple exercise for participating agencies because the CFDA includes program descriptions and titles.
- Because USAID grant programs are not defined in the CFDA, announced in the Federal Register, or organized by type of award, the grantee community does not receive information on USAID grant programs in a manner consistent with that of other Federal agencies. Appendix III includes a list of 48 Federal agencies that make domestic grant awards, that are included in the CFDA:

By not participating in the *Catalog of Federal Domestic Assistance*, USAID is in noncompliance with several laws and regulations, as previously mentioned. As a result, the Agency's Federal financial assistance function is operating independently of the Federal grantor community, and is not able to fully participate in related Federal-wide developments, including those mandated by Public Law 106-107.

**Recommendation No. 2: We recommend that the Director, Office of Procurement, develop and implement a plan to allow USAID to participate in the Federal-wide grants Internet portal established as *Federal Commons*.**

---

**Notices of USAID Grant Awards are not Published in the *Federal Register*.**

USAID does not announce the availability of its grant awards in the *Federal Register*. OMB Circular A-89 refers to the publication of general Federal award program information in the Federal Register by requiring that an official GSA program number (i.e. CFDA number) and title are included when this information is published in the Federal Register. USAID grant awards are not published in the *Federal Register* because USAID officials did not fully understand the Federal Register Act and because they felt that the current method of announcing USAID awards was adequate. However, USAID awards are possibly being denied to potential applicants who search the *Federal Register* for notices of the availability of similar grant opportunities.

The Federal Register Act (44 U.S.C. §1505) indicates that “documents having general applicability and legal effect” shall be published in the *Federal Register*. It is the interpretation of the National Archives and Records Administration’s Office of the Federal Register, that notices of “public interest,” such as the “availability of applications” and “grant application deadlines” shall be published in the *Federal Register*.

Notices of USAID domestic assistance awards are not being announced in the *Federal Register*. USAID uses its own Internet web site to publish information about its Federal assistance programs, although Agency policy acknowledges that other media may be useful in certain circumstances.

Because USAID officials did not understand the requirements of the Federal Register Act, USAID policy and procurement managers followed ADS 303 and therefore believed that publication of USAID awards in the Federal Register was not required. Also, procurement officials felt that existing policy gave adequate notice of the availability of USAID’s assistance programs.

Compliance with 31 U.S.C. 1703 § 4(b)(1), and with OMB Circular A-89 would have made the availability of USAID’s assistance opportunities visible to applicants through recognized Federal publications, where notices of similar assistance opportunities are published. Because USAID has not published its notices of availability of its domestic awards and assistance programs in the *Federal Register*, in addition to its own Internet web site, potential applicants may have been denied opportunities for USAID awards.

**Recommendation No. 3: We recommend that the Director, Office of Procurement develop a plan to give wider notice of**

---

**the availability of future USAID grants through publication in currently acceptable Federal formats, such as *Federal Commons* and the *Federal Register*.**

---

---

**Management  
Comments and  
Our Evaluation**

The Office of Procurement concurred with our recommendations, and offered several informative observations regarding issues discussed in our report. We have included these comments in their entirety in Appendix II.

Based on the comments provided, we consider final management decisions to have been reached on each of the three recommendations included in this report. Upon completion of final actions taken to implement the recommendations identified in the report, the Office of Procurement should consult with the USAID Office of Management Planning and Innovation to request closure.

**Scope and  
Methodology**

**Scope**

This audit was conducted in accordance with generally accepted government auditing standards to assess the extent of USAID's compliance with provisions of P.L. 95-220 and with OMB Circular A-89. Although mentioned in this report, we did not audit USAID's compliance with provisions of the Federal Financial Assistance Management Improvement Act of 1999.

The scope of the audit was limited with respect to fieldwork. Because USAID noncompliance with the established criteria was quickly established throughout the Agency, testing individual grants for compliance was not necessary. USAID officials agreed that the testing of grant agreements and procedures was not necessary to address these issues. Also, because we initiated the audit with an understanding of the conditions and effects surrounding such noncompliance, these were also established without significant fieldwork. We determined the overall impact of the Agency's noncompliance to quickly bring the issues to the attention of USAID management.

The audit relates to USAID assistance to U.S.-based nonprofit recipients, and the grant-making procedures under which USAID was operating as of May 1, 2001. Annually, expenditures of USAID assistance by U.S. based nonprofit recipients are estimated to be in excess of \$1.5 billion.<sup>1</sup>

**Methodology**

This audit focused on OMB Circular A-89 and the Federal Program Information Act of 1983. The basic audit approach was to evaluate and analyze the law and regulation, and their intent, to 1) determine the applicability to USAID programs; 2) determine whether or not USAID is in compliance; 3) identify any adverse effects of non-compliance; and 4) make recommendations as necessary.

The audit involved discussions with the Agency's General Counsel, Office of Procurement and the Office of Policy and Program

---

<sup>1</sup> Based on data retrieved from the Federal Audit Clearinghouse

Coordination. Background work included work with the Office of Management and Budget and the General Services Administration.

No extensive sampling of agency awards occurred with this audit. Instead, discussions with major program managers and policy officials were used as the basis of conclusions as to whether USAID activities qualified according to the definitions within the law and regulation.

**Management  
Comments**

January 24, 2002

MEMORANDUM

TO: IG/A/FA, Alvin Brown  
FROM: M/OP/OD, Kathleen O'Hara  
SUBJECT: Draft Report No. 0-000-02-001F

Thank you for giving us the opportunity to review and comment on the draft report on USAID's Compliance with Provisions of the Federal Program Information Act of 1977 and OMB Circular A-89.

We are in basic agreement with all of the recommendations and hope to be able to fully implement them with PPC's assistance in defining Agency programs.

With regard to Recommendation No. 1 to develop and implement a plan to include USAID's programs in the CFDA, we have some concerns about whether GSA will accept them for inclusion in the Catalog. The individual who manages the program for GSA has told us several times that program beneficiaries must be U.S. entities. However, we will work with GSA to ensure that our programs are included if at all possible.

With regard to Recommendation No. 2, we are already working on issues concerning how to participate in Federal Commons. It is important for the Agency that we participate.

**Federal Agencies  
Included in the  
Catalog of  
Federal Domestic  
Assistance**

Appalachian Regional Commission	Overseas Private Investment Corporation
Architecture and Transportation Barriers Compliance Board	Pension Benefit Guaranty Corporation
Civil Rights Commission	President's Committee on Employment of People with Disabilities
Commodity Futures Trading Commission	Railroad Retirement Board
Corporation for National and Community Service	Securities Exchange Commission
Department of Agriculture	Small Business Administration
Department of Commerce	Social Security Administration
Department of Defense	U.S. Institute of Peace
Department of Education	
Department of Energy	
Department of Health and Human Services	
Department of Housing and Urban Development	
Department of Interior	
Department of Justice	
Department of Labor	
Department of State	
Department of Transportation	
Department of Treasury	
Department of Veterans' Affairs	
Environmental Protection Agency	
Equal Employment Opportunity Commission	
Federal Emergency Management Agency	
Federal Communications Commission	
Federal Maritime Commission	
Federal Mediation Conciliation Service	
Federal Trade Commission	
General Services Administration	
Government Printing Office	
Library of Congress	
National Aeronautics and Space Administration	
National Archives and Record Administration	
National Council on Disability	
National Credit Union Administration	
National Foundation of Arts and the Humanities	
National Gallery of Art	
National Labor Relations Board	
National Science Foundation	
Nuclear Regulatory Commission	
Office of Personnel Management	