

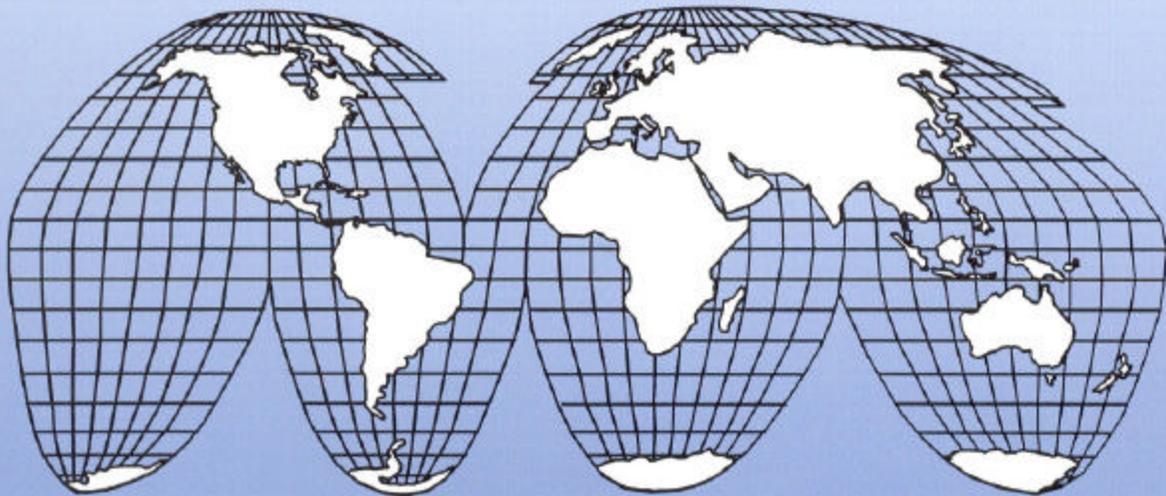
USAID

OFFICE OF INSPECTOR GENERAL

Audit of USAID/Egypt's Management of U.S. Personal Services Contractors

Audit Report Number 6-263-04-005-P

May 19, 2004



Cairo, Egypt



May 19, 2004

MEMORANDUM

FOR: Director, USAID/Egypt, Kenneth C. Ellis

FROM: Regional Inspector General/Cairo, David H. Pritchard /s/

SUBJECT: Audit of USAID/Egypt's Management of U.S. Personal Services Contractors (Report No. 6-263-04-005-P)

This memorandum transmits our final audit report on the subject audit. In finalizing the report, we considered your comments on our draft report and have included them as Appendix II.

This report includes six recommendations to strengthen USAID/Egypt's management of U.S. personal services contracts. In your written comments, you concurred with these recommendations and identified actions taken to address our concerns. Therefore, we consider that final action has been taken on all recommendations.

I appreciate the cooperation and courtesy extended to my staff during the audit.

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Summary of Results

Regional Inspector General/Cairo audited USAID/Egypt's management of U.S. personal services contractors to assess whether USAID/Egypt (1) determined its requirements for these contractors in accordance with USAID policies and procedures, and (2) awarded the contracts in accordance with selected USAID policies and procedures. (See page 6)

USAID/Egypt determined its requirements in accordance with USAID policies and procedures, except that USAID/Egypt did not consider cost effective local hire opportunities before soliciting for off-shore¹ contractors. We recommended that USAID/Egypt establish Mission guidelines to consider locally-recruited U.S. and Foreign National personal services contractors as an economical option for meeting staffing requirements. (See pages 8-9)

In most cases, USAID/Egypt awarded U.S. personal services contracts in accordance with selected USAID policies and procedures. However, inconsistencies within contracts and lack of supporting award documentation indicated that administrative controls needed improvement. In addition, procedures for administering contract extensions were not always supportive of Other-Than-Full-and-Open-Competition requirements. Lastly, USAID/Egypt needed to better document justifications when a contract award deviated from the regulations. (See pages 9-12)

We recommended that the Mission Director:

- Establish controls to complete and review the negotiation memorandum for execution of personal services contract awards. (See page 12)
- Institute the use of a check-off list, similar to that included in USAID's Management Services Review Guidelines² for U.S. personal services contracts, to use as a tool to ensure that contract files are complete and accurate. (See page 13)
- Establish a standardized format to use when developing budgets for both local and internationally recruited personal services contracts. (See page 13)
- Require offices to comply with justification requirements prior to extending U.S. off-shore personal services contracts beyond five years from the basic effective contract date. (See page 13)

¹ U.S. citizens or U.S. resident aliens recruited from the United States.

² USAID's Bureau for Management issued The Management Services Review Guidelines to provide a basic reference point for the evaluation of all segments of administrative management services at missions. The Bureau designed the document for broad management assessment of the entire mission spectrum of Executive Office Support Services.

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- Determine how two contracts will be managed once the current extensions are completed to ensure that compensation and benefits are paid in accordance with USAID Acquisition Regulation. (See page 15)

In responding to this report, USAID/Egypt agreed with the six recommendations and took corrective actions. Appendix II contains USAID/Egypt's comments in their entirety. (See page 19)

Background

The Federal Acquisition Regulation, Part 37, Service Contracting, prescribes policy and procedures that are specific to the acquisition and management of services by contract. A personal services contract creates an employer-employee relationship between the Government and the contractor. The Regulation says that agencies shall not award personal services contracts unless specifically authorized by statute to do so.

Section 636(a)(3) of the Foreign Assistance Act (22 U.S.C. 2396(a)(3)) authorizes USAID to enter into personal services contracts for personal services abroad and provides further that such individuals shall not be regarded as employees of the U.S. Government for the purpose of any law administered by the Civil Service Commission.

Three following circumstances drive the need to request authorization for a U.S. personal services contractor

- When USAID no longer employs the skills needed in critical functions.
- When the activity would not lend to hiring a U.S. direct-hire because the activity is of limited duration.
- When the position requires specialized skills that are not available within the American direct-hire workforce.

From October 2002 through November 2003, USAID/Egypt's workforce included 20 authorized U.S. personal services contractor positions.³ Of the 20 positions, the Mission allocated 11 to its 3 program offices and the remaining 9 to the following offices: management (4), financial management (1), legal (1), procurement (1), and program planning (2). USAID/Egypt's offices of procurement and management were responsible for the award and administration of the U.S. personal services contracts.

³ USAID/Egypt awarded 21 contracts in this same period with 2 contracts awarded to the same contractor for the same services.

Audit Objectives

This audit represented one in a series of worldwide audits included in the Office of Inspector General's multi-year strategy for auditing USAID's human capital activities. Regional Inspector General/Cairo performed the audit to answer the following questions:

- Did USAID/Egypt determine its requirements for U.S. personal services contractors in accordance with USAID policies and procedures?
- Did USAID/Egypt award U.S. personal services contracts in accordance with selected USAID policies and procedures?

Appendix I contains a discussion of the audit's scope and methodology.

Audit Findings **Did USAID/Egypt determine its requirements for U.S. personal services contractors in accordance with USAID policies and procedures?**

USAID/Egypt determined its requirements for U.S. personal services contractors in accordance with USAID policies and procedures, except that USAID/Egypt did not consider cost effective local hire opportunities before soliciting for off-shore contractors.

A USAID General Notice entitled "Appropriate Use and Funding of USAID's Non-Direct Hire Workforce"⁴ provides USAID managers information and guidance on the appropriate roles, responsibilities, and employment mechanisms for the various types of personnel working with USAID. For example, the Notice says that:

- Direct-hire U.S. citizens shall perform the basic work of USAID.
- The first option for filling a position that must be filled by a U.S. citizen is the assignment of a direct-hire employee.
- A U.S. personal services contractor should only be considered when staffing requirements are clearly temporary, when the local recruitment of U.S. citizens is uniquely suitable, or when all alternatives for utilizing direct-hires have been exhausted.

USAID/Egypt based its U.S. direct-hire workforce allocation on the key inputs reported by the Overseas Workforce Group.⁵ The Overseas Workforce Group created a staffing template to allocate USAID's overseas U.S. direct-hires.

⁴ ADS 400 Series Updates, Part I, 1995 #2

⁵ USAID established the Overseas Workforce Group as part of the President's Management Agenda which was tasked to develop guidelines and criteria for overseas staffing.

According to a report of this Group, the most relevant allocation variable for determining U.S. direct-hire allocation was program size (in dollars). Therefore, the allocation template gave primary importance to program dollars. However, the workforce plan placed a ceiling on the total number of U.S. direct-hires at 25 for each mission, and the ceiling did not include staffing requirements for contracting officers and legal advisors as these backstops supported regional activities.

USAID/Egypt also had an approved organizational structure that identified the positions and skills needed to support the defined structure. This data was the basis for the staffing plan which USAID/Egypt revalidated annually. Each year, the Mission revalidated the structure along with the positions. The Mission identified what positions needed to be filled in the next fiscal year and generated a list of annual vacancies available for U.S. direct-hires to bid on through the annual assignment cycle.

As of the end of fiscal year 2003, USAID/Egypt had 48 U.S. direct-hire staff. However, based on the allocation method described above, USAID/Egypt's total allocated requirements were 25 U.S. direct-hire (not including 10 additional direct-hire positions for contracting and legal advisors), which the Mission was required to meet by fiscal year 2005.

With respect to staffing for U.S. personal services contracts, USAID/Egypt based its staffing plan on the needs of the Mission and not on the results of the U.S. direct-hire planning process. For example, USAID/Egypt had requirements for a communications and records supervisor. The Mission did not plan to recruit U.S. direct-hires for this position because, according to USAID/Egypt Management representatives, USAID no longer hired the skills required of this position. Therefore, management staffed this position with a contractor regardless of the allocation results of U.S. direct-hires. According to representatives from USAID/Egypt's Executive Office, USAID/Egypt established U.S. personal services contract positions for the following reasons:

- USAID/Egypt historically contracted out critical functions to fill gaps where no U.S. direct-hires were available to fill the positions.
- The activity did not lend itself to hiring a U.S. direct-hire because the activity was of limited duration. For example, USAID/Egypt's Management Office recently designed a human resource position expected to last two years. According to Management officials, the Mission did not consider allocating a U.S. direct-hire resource for this position because it was temporary.
- The position required specialized skills that were not available within the American direct-hire workforce. For example, according to the supervisor for the Commodity Management Office, USAID had very few direct-hires

with commodity experience, and all were currently assigned to USAID/Egypt. According to Mission officials, the Mission will likely fill this position with a retired USAID employee with previous commodities experience interested in contracting as a personal services contractor.

For fiscal year 2004, USAID/Egypt's Mission Director authorized 24 U.S. personal services contractor positions. Of this total, USAID no longer had employees with the skills for 16 of the positions, according to representatives from each of the Mission's offices that identified these requirements. Furthermore, the Mission contracted out five positions as a result of the U.S. direct-hire ceilings. Lastly, USAID/Egypt established two of the positions as local residency hire positions and one as a temporary position.

Although USAID/Egypt followed USAID's guidance for identifying U.S. personal contract service positions, it did not solicit for most of these positions with local hire possibilities prior to advertising off-shore. The following section discusses this issue.

USAID/Egypt Needed To Consider Hiring Locally

Contrary to USAID policies and procedures, USAID/Egypt did not consider cost effective local hire opportunities before soliciting for off-shore contractors. This occurred because USAID/Egypt normally did not seek local employment opportunities prior to advertising for off-shore candidates. In those instances where the Mission did not seek and take advantage of local hire opportunities, the U.S. Government incurred an estimated \$198,000⁶ of additional costs on each two-year contract awarded to an off-shore candidate.

USAID guidance addressing the appropriate use and funding of USAID's non-direct-hire workforce points out that locally-recruited personal services contracts are usually more cost-effective than contractors recruited internationally, as these individuals receive limited benefits and allowances. Therefore, managers who propose to establish positions should review existing guidance carefully in determining the type of employee required to provide the services necessary.

USAID can recruit locally or internationally to meet its staffing needs. The term "locally recruited" refers to recruitment of those individuals who are covered under the class justification, i.e., Cooperating Country Nationals,⁷ Third Country

⁶ The estimated \$198,000 was based on budgeted amounts for assignment costs, travel entitlements and in country costs while residing in Egypt. This amount does not include educational allowances for contractor's traveling with school aged dependents.

⁷ An individual/employee who is a Cooperating Country citizen or a non-Cooperating Country citizen lawfully admitted for permanent residence in the Cooperating Country.

Nationals⁸ hired under the local compensation plan, and U.S. citizens who are living in the cooperating country, referred to as U.S. Resident Hires.⁹

When USAID/Egypt targeted the recruitment locally, it publicized the solicitation throughout the local U.S. community, i.e., USAID/Egypt's website, the U.S. Embassy newsletter, U.S. Embassy and Mission bulletin boards, and local publications. When USAID/Egypt recruited internationally it publicized the solicitation via the USAID external home page to target U.S. personal services contractors from outside the cooperating country.

USAID/Egypt's normal practice was to solicit through USAID's external home page and, thus, seek off-shore candidates without first considering the potential opportunities available through the local recruitment process. Of the 20 personal services contracted positions, the Mission limited competition to local resident hires for 2 of the 20 positions.

The reason USAID/Egypt had not targeted more positions for a local resident was because USAID/Egypt normally did not to seek local employment opportunities prior to advertising for off-shore candidates.

When the Mission targeted recruitment to off-shore candidates without seeking local employment opportunities, the increased costs on a two-year contract was \$198,000.

As resources become increasingly scarce, budgetary concerns must drive human resource decisions, and all options should be carefully considered. Accordingly, we recommend the following:

Recommendation No. 1: We recommend that the Director, USAID/Egypt, establish Mission guidelines to consider locally-recruited personal services contractors as an economical option for meeting staffing requirements.

Did USAID/Egypt award U.S. personal services contracts in accordance with selected USAID policies and procedures?

In most cases, USAID/Egypt awarded U.S. personal services contracts in accordance with USAID policies and procedures related to Full-and-Open-Competition¹⁰, establishing fringe benefits, and establishing salaries.

⁸ A legal permanent resident, but not a citizen, of the non-US country in which the sponsoring unit is operating.

⁹ Resident Hire means a U.S. citizen who, at the time of hire as a personal service contractor, resides in the cooperating country.

¹⁰ Full and Open Competition means all responsible sources are permitted to compete for a contract under specifically prescribed procedures, such as sealed bids and competitive proposals.

As required by USAID Acquisition Regulation, Appendix D, USAID/Egypt issued solicitations and relied on technical evaluation panels for 19 of the 20 U.S. personal services contract positions in effect as of October 1, 2002. Furthermore, USAID/Egypt awarded 15 contracts based on Full-and-Open-Competition and 4 using Other-Than-Full-and-Open-Competition in accordance with USAID Acquisition Regulation. USAID/Egypt also established market values for all 20 of the contracted positions and negotiated the appropriate salary class (grade) with 19 of the contractors.

However, inconsistencies within contracts and lack of supporting award documentation indicated that administrative controls needed improvement. In addition, procedures for administering contract extensions were not always supportive of Other-Than-Full-and-Open-Competition requirements. Lastly, USAID/Egypt needed to better document justifications when a contract award deviated from the regulations. The following section discusses these issues.

Administrative Controls Needed Improvement

USAID/Egypt needed to better comply with the USAID Acquisition Regulation to ensure proper execution of U.S. personal services contracts. The 20 U.S. personal service contractor files contained the following discrepancies:

- Eight lacked negotiation memorandums.
- Five did not include required class justifications.¹¹
- Eight lacked sufficient documentation supporting consideration of the U.S. personal service contracts availability list¹² prior to solicitation.
- Seven included or excluded benefits inconsistent with policy.

USAID/Egypt staff either was not aware of the requirements or had competing priorities. As a result, contract files lacked required documentation. Furthermore, the Mission lacked a standardized process to incorporate provisions into the contracts. As a result, contracting officers were not consistent across contracts when incorporating contract provisions. Therefore, USAID/Egypt did not always execute its contract awards properly.

Negotiation Memoranda - Federal Acquisition Regulation, Part 15.406-3, Documenting the Negotiation, requires that the contracting officer promptly prepare a negotiation memorandum outlining the principle elements of the contract negotiation and include a copy in the contract file at the close of each negotiation. USAID Acquisition Regulation, Appendix D, Direct USAID Contracts with a U.S. Citizen or a U.S. Resident Alien for Personal Services

¹¹ A justification supporting less than full and open competition in accordance with Federal Acquisition Regulations 6.303

¹² This list includes individuals involved in a settlement agreement stemming from a class action suit against USAID. The settlement required USAID to consider these individuals for personal services contracts before publishing or advertising the solicitations for personal services.

Abroad, Part 7 Part (k) further supplements the Federal Acquisition Regulation and identifies a list of clearances, approvals and forms which are to be obtained, properly completed, and placed in the contract file *before the contract is signed by both parties*. Part (k) item no. 11 identifies the negotiation memorandum as one of the requirements.

USAID/Egypt's procurement officials did not complete negotiation memorandums for 8 the 20 U.S. personal services contract positions. Consequently, in the event of a protest, USAID/Egypt was at risk because the Mission could not properly support the basis for the award.

According to USAID/Egypt's Procurement office, the negotiation memorandums on U.S. personal services contracts had less priority when the procurement staff were tasked with other demands, Therefore, the staff did not prepare the negotiation memorandums, left the memorandums incomplete, or did not include them in the file.

Class Justifications - USAID Acquisition Regulation 706.302-70(b)(1), Impairment of Foreign Aid Programs, allows USAID to exercise its authority for using Other-Than-Full-and-Open-Competition when awarding personal services contracts (except those recruited from the U.S.). When exercising this authority, the contracting officer must: (1) request offers from as many potential offerors as is practicable under the circumstances, and (2) prepare a justification supporting less than full and open competition in accordance with Federal Acquisition Regulation 6.303.

To comply with the second limitation, USAID's Office of Procurement released Contract Information Bulletin 97-16, dated July 10, 1997, issuing policy for certifying and documenting contract files. The policy contained a class justification that the contracting officer was to include in the contract file together with a written statement, signed by the contracting officer, that the contract was awarded pursuant to USAID Acquisition Regulation.

USAID/Egypt did not include the required class justification in five U.S. personal services contracts awarded to resident hires. Of the 20 U.S. personal services contracted positions, the Mission awarded 5 to resident hires which required class justifications for using Other-Than-Full-and-Open-Competition. As a result, the Mission did not properly justify limited competition awards. This occurred, in part, because Mission staff was not aware of the requirements and had misplaced supporting documents.

Availability List - In 1996, a class of Foreign Service employees subject to a Reduction-in-Force filed a class action suit, alleging age discrimination in the conduct of the Reduction-in-Force. The parties entered into a settlement agreement in 2000 which involved, among other provisions, an agreement by

USAID to allow early consideration and selection of interested class members for personal services contract opportunities without full and open competition.

As a result of the settlement, USAID's Office of Procurement released Contract Information Bulletin 00-08, Revision of Competitive Process Personal Services Contracts with U.S. Citizens, dated October 19, 2000. The guidance said that the contracting officer or negotiator shall indicate, as part of the negotiation memorandum, that the requiring office reviewed the personal services contractor availability list and determined that no candidate met the needs for the position. In all cases, the requiring office was responsible to complete a required form affirming that it reviewed the availability list on the basis of USAID's needs.

USAID/Egypt's procurement and management officials did not comply with the documentation requirements for 8 of the 20 U.S. personal services contractor files reviewed. USAID/Egypt's staff did not consider the availability list in six of the awards because the staff was not aware of the requirements. In two cases, USAID/Egypt's procurement negotiators made reference to a review within the negotiation memoranda, but the contracting staff either misplaced or did not complete the required documents for the contract file. By not considering the availability list, the Mission placed itself at risk of further suits for not adhering to the requirements.

Inconsistent Benefits - Benefits allowed for U.S. personal services contractors depend on whether a mission awards a local or international contract. USAID Acquisition Regulation, Appendix D, Part 4(c) Withholding and Fringe Benefits, and (d) U.S. Resident Hire Personal Services Contractors, prescribes the policy for establishing withholdings and fringe benefits for both internationally and locally recruited services.

USAID/Egypt procurement negotiators included or excluded benefits for 7 of the 20 contracted positions contrary to USAID regulation. For example, the Mission included insurance costs to cover medical evacuation services in three local resident hire contracts and physical exam costs in one which were not allowed as part of a resident hire contract. Also, three off-shore contracts did not include "Residential Furniture and Supplies" line item in their original budget. This oversight occurred because the contracting staff did not have clear guidelines outlining a consistent budget format. As a result, the Mission lacked reliable budgetary data to assess the full cost of contracted services. Furthermore, U.S. personal service contractors may have received more benefits than entitled, thus increasing the cost to either operating or program funds.

Recommendation No. 2: We recommend that the Director, USAID/Egypt, establish controls to complete and review the negotiation memorandum for execution of personal services contract awards.

Recommendation No. 3: We recommend that the Director, USAID/Egypt, institute the use of a check-off list, similar to that included in USAID's Management Services Review Guidelines for U.S. personal services contracts, to use as a tool to ensure that contract files are complete and accurate.

Recommendation No 4: We recommend that the Director, USAID/Egypt, establish a standardized format to use when developing budgets for both local and internationally recruited personal services contracts.

Procedures for Administering Contract Extensions Needed Improvement

USAID/Egypt procurement officials extended the length of two U.S. personal service contracts from 5 to 16 years and from 2 to 6.5 years without re-competing the positions as required when the statements of work were modified and expanded. This occurred because USAID/Egypt procurement officials misinterpreted their authority to allow for indefinite extensions without further competition. As a result, USAID/Egypt did not properly administer two of its U.S. personal services contracts.

Contract Information Bulletin 01-07, dated March 23, 2001, says that extensions or renewals on U.S. personal services contracts with the same individual for the same services do not need to be publicized. According to Office of Procurement officials, this means that a significant modification of the scope of work requires that the position be re-competed.

USAID/Egypt program offices modified and expanded the major duties required on two contracted positions that changed the contract from what it was originally contracted for, and the Mission continued to extend the length of these U.S. personal services contracts from 5 to 16 and from 2 to 6.5 years.

USAID/Egypt did not address the lack of competition when it modified the statements of work and extended the two contracts. Procurement officials awarded and extended one of the two contracts without any support of competition or justification for using Other-Than-Full-and-Open-Competition. Though procurement officials initially awarded the second contract under Full-and-Open-Competition, they modified and renewed the contract beyond five years in length without any support for Other-Than-Full-and-Open-Competition.

Recommendation No. 5: We recommend that the Director, USAID/Egypt, require offices to comply with justification requirements prior to extending U.S. off-shore personal services contracts beyond five years from the basic effective contract date.

Support for Justifications Needed Improvement

Contrary to the USAID Acquisition Regulation, USAID/Egypt granted waivers on two U.S. personal services contracts for salary and benefit allowances without proper justification. As a result, the programs incurred an additional \$136,500 in costs for the first two years for the two contracts. The requesting offices sought the waivers because of the contractors' refusal to accept the contract terms offered.

Salary Waiver Not Properly Justified - USAID Acquisition Regulation, Appendix D, Part 4 (e) sets forth the policy for establishing salaries for personal services contractors. The policy says that salaries for personal services contractors shall be established based on the market value in the United States of the position being recruited. Contract Information Bulletin 96-8, dated February 23, 1996, established the guidelines for determining a market value for personal services contractors. When establishing the salary range for a U.S. personal service contractor, the General Schedule¹³ scale grade represents the market value of the work to be performed. The General Schedule salary range represents agreement within the U.S. Government on what USAID should pay for the contracted effort.

USAID/Egypt negotiated a U.S. personal services contract salary based on the applicant's current earnings in lieu of the established market value of the job. Though the Mission Director approved this decision, the Mission did not properly consider a number of issues before approving the waiver.

During the solicitation phase, one candidate identified on the personal services contractor availability list (refer to footnote 12, page 10), who met the qualifications, inquired if there would be any flexibility on the salary range based on the applicant's salary history. Procurement officials informed the candidate there would be no flexibility to exceed the ceiling established for the position. As a result, the candidate withdrew consideration for the position because of the salary ceiling. Furthermore, the selection committee identified other suitable candidates qualified for the position. However, the contracting officer did not extend offers to the other qualified candidates.

The requesting office justified the request for the salary waiver based on the candidate's unwillingness to accept a lower salary. As a result, the program office incurred \$35,200 in increased costs over the initial two-year contract period.¹⁴

¹³ The General Schedule is the basic classification and compensation system for white collar occupations in the Federal Government as established by chapter 51 of title 5, United States Code.

¹⁴ We determined this amount by comparing the salary at the highest step in the grade established for the market value of the position and the negotiated salary of the contractor.

Off-Shore Benefits Waiver Not Properly Justified - USAID Acquisition Regulation, Appendix D, Part 4 (d) says that U.S. resident-hire personal services contractors are not eligible for any fringe benefits (except contributions for social security, health insurance, and life insurance), including differentials and allowances. Missions can deviate from regulation if the individuals can demonstrate to the satisfaction of the contracting officer that they have received similar benefits and allowances from their immediately previous employer in the cooperating country, or the Mission Director may determine that payment of such benefits would be consistent with the mission's policy and practice and would be in the best interests of the U.S. Government.

In 1995, the Mission Director approved such a deviation for a U.S. resident-hire personal services contractor awarded a contract in July 1988. USAID/Egypt extended and renewed the contract as a long-term resident-hire contract through July 1995. In 1995, the contractor informed USAID that he would not accept an extension of the resident-hire personal service contract. As a result, USAID/Egypt awarded a new contract to the same contractor that changed the status of the contract from a resident to an off-shore hire. USAID/Egypt's technical office requested the Mission Director to approve this deviation because the program office hired all other program-funded contractors from the U.S. Furthermore, the contract was in effect and signed prior to the program office requesting approval to deviate from USAID regulation.

The fact that the program office hired all other contractors from the U.S. did not change the residency status of the contractor which at the time of initial award met the definition of a resident hire (refer to footnote 9 on page 9). Furthermore, the contractor could not demonstrate to the satisfaction of the Contracting Officer that he had received similar benefits and allowances from previous employers in the cooperating country, which would have supported a waiver. And lastly, the Mission did not have an established policy or practices in place to justify the off-shore benefits. Therefore, USAID/Egypt did not execute the establishment of a new contract with the same individual in accordance with USAID Acquisition Regulation.

Changing the contract to an off-shore hire contract allowed the contractor the benefits allowed under the general provisions for off-shore U.S. personal services contracts. By reclassifying the contract from a local resident hire to an off-shore, the contract costs increased by \$101,300 for the initial 24 months of the new contract.

Recommendation No. 6: We recommend that the Director, USAID/Egypt, determine how the two contracts will be managed once the current extensions are completed to ensure that compensation and benefits are paid in accordance with USAID Acquisition Regulation.

**Management
Comments
and Our
Evaluation**

In its response to our draft report, USAID/Egypt concurred with the recommendations and described actions taken to address them. We believe that the actions taken should significantly strengthen the Mission's management of U.S. personal services contracts.

To address the first five report recommendations, the Mission Director issued a memorandum to all Mission procurement staff involved in the contracting process for U.S. personal services contractors. The memorandum identified mandatory guidelines to ensure compliance with the award and administration of U.S. personal services contracts. Copies of the memorandum were provided to the Offices of procurement, management, and financial management.

In response to the sixth recommendation, the Mission acknowledged that a mistake was made in both of the contracts referenced in the audit report. The Mission Director described the corrective actions the Mission had taken to remedy both contracts. The Mission Director attached supporting documentation demonstrating the actions taken to date.

Based on the actions the Mission took to address each recommendation, we concluded that management decision had been made and final action taken on all recommendations.

Scope and Methodology**Scope**

Regional Inspector General/Cairo audited USAID/Egypt's management of U.S. personal services contractors in accordance with generally accepted government auditing standards from November 19, 2003, to January 8, 2004. We conducted the audit at USAID/Egypt.

The audit focused on 1) whether USAID/Egypt determined its requirements for U.S. personal services contractors in accordance with USAID policies and procedures, and 2) whether USAID/Egypt awarded U.S. personal services contracts in accordance with selected USAID policies and procedures.

This audit included an examination of management controls, including those associated with determining the Missions requirements for U.S. personal services contractors, awarding those contracts as they relate to full and open competition, establishing fringe benefits and establishing salaries for U.S. personal services contracts.

Our audit scope included all active U.S. personal services contracts as of October 1, 2002, through November 19, 2003.

Methodology

To answer the first audit objective, we interviewed the Mission Director, Deputy Director, Contracting Officer, Controller, and the Program Officers. We also discussed with each of the Mission's nine offices the basis for the U.S. personal services contract requirements as of November 19, 2003.

Further, we reviewed USAID/Egypt's Annual Report for fiscal year 2003 and workforce staffing planning documents for fiscal years 2003 through 2007.

In addition, we reviewed how USAID/Egypt determined its staffing needs, and the considerations made in determining the type of employee category to fill the Mission's positions. Further, we evaluated whether the Mission's basis for any such determination was reasonable.

To answer the second audit objective, we reviewed pertinent documentation, such as contract files, solicitation files, and payroll information for all U.S. personal services contractors on contract from October 2002 through November 2003.

We also evaluated each of the U.S. personal services contracts to determine if:

- The Mission awarded U.S. personal services contracts under Full-and-Open-Competition. If not, then we determined if the Mission complied with the requirements for Other-Than-Full-and-Open-Competition.

-
- The Mission included in the U.S. personal services contracts fringe benefits in accordance with USAID policies and procedures.
 - The Mission established the U.S. personal services contract salaries and salary increases in accordance with USAID policies and procedures.

The audit was not designed to assess the overall economy and efficiency of the personal services contracting process.

**Management
Comments**



UNITED STATES AGENCY for INTERNATIONAL DEVELOPMENT

CAIRO, EGYPT

MEMORANDUM

To : Darryl T. Burris, RIG/Cairo

From : Mary C. Ott, D/DIR /s/

Subject: Mission Response to Draft Report on Audit of USAID/Egypt's Management of U.S. Personal Services Contractors (Draft Report Dated February 17, 2004)

The Mission would like to express its appreciation for the professional and collegial approach to this audit by the RIG/Cairo and for the constructive audit recommendations included in the report.

Following is the Mission's response to the subject draft report.

Recommendation No. 1:

We recommend that the Director, USAID/Egypt, establish Mission guidelines to consider locally-recruited U.S. and Foreign National personal services contractors as an economical option for meeting staffing requirements.

Recommendation No. 2:

We recommend that the Director, USAID/Egypt, establish controls to complete and review the negotiation memorandum for execution of personal services contract awards.

Recommendation No. 3:

We recommend that the Director, USAID/Egypt, institute the use of a check-off list, similar to that included in USAID's Management Services Review Guidelines 7 for U.S. personal services contracts, to use as a tool to ensure that contract files are complete and accurate.

Recommendation No 4:

We recommend that the Director, USAID/Egypt, establish a standardized format to use when developing budgets for both local and internationally recruited personal services contracts.

Recommendation No. 5:

We recommend that the Director, USAID/Egypt, require offices to comply with justification requirements prior to extending U.S. off-shore personal services contracts beyond five years from the basic effective contract date.

Mission Response to Recommendations 1 through 5:

To address the report recommendations, the Mission Director has issued a memorandum to all Mission procurement staff involved in the USPSC contracting process, (Attachment A). In summary, the Mission Director required that:

- an initial solicitation on the local level be done prior to any solicitation on the international level;
- all negotiation memoranda be completed prior to signature on any USPSC contract;
- a USPSC checklist be completed and signed prior to signature on any USPSC contract. A copy of the Mission's preferred version of a checklist was attached to the memorandum, (Attachment B) ; and
- the Executive Office issue, on an annual basis, a standardized format for developing budget estimates for both locally and internationally recruited personal services contracts. A copy of this format was distributed Mission-wide early in FY 2003; this memo makes its use mandatory, (Attachment C).

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- Further, the memorandum reminded procurement staff and their supporting staff of the AIDAR requirement that all USPSC contracts be re-competed after a period of five cumulative years.

Recommendation No. 6:

We recommend that the Director, USAID/Egypt, make a determination on how these two contracts will be managed once the current extensions are completed to ensure that compensation and benefits are paid in accordance with USAID acquisition regulations.

Mission Response to Recommendation No. 6:

The Mission acknowledges that a mistake was made in both of the contracts referenced in the audit report. The Executive Office has received a Modified Acquisition and Assistance Request Document (MAARD) for the re-competition of one of these contracts and is in the process of soliciting applications in the local market, (Attachment D). The Mission confirms that no action to recruit internationally will be taken unless no suitable local candidate can be found.

Regarding the second contract referred to in the audit report, the Executive Office plans to terminate this contract upon its completion. At this time, there are no plans for any follow-on contracts in this area, however, should a requirement be identified beyond end of FY 2003, the Mission will ensure compliance with the guidance addressed in the Director's memo recently issued.

In view of the above, the Mission strongly believes that the comprehensive corrective actions taken qualify for requesting closure of the audit report recommendations one through six upon the final report issuance.

Should you have any questions relevant to the Mission's response, please contact me.

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