OFFICE OF INSPECTOR GENERAL

FOLLOW-UP AUDIT OF USAID MISSION FOR UKRAINE, BELARUS AND MOLDOVA'S MANAGEMENT OF U.S. PERSONAL SERVICES CONTRACTORS

AUDIT REPORT NO. 8-121-06-003-P
July 10, 2006

FRANKFURT, GERMANY

Office of Inspector General

July 10, 2006

MEMORANDUM

TO: USAID Mission for Ukraine, Belarus and Moldova Mission Director, Earl Gast

FROM: Regional Inspector General, Frankfurt, Gerard M. Custer /s/

SUBJECT: Follow-up Audit of USAID Mission for Ukraine, Belarus and Moldova's Management of U.S. Personal Services Contractors

This memorandum transmits our final report on the subject audit. In finalizing the report, we considered your comments on the draft report and have included them in their entirety in Appendix II. We have also adjusted some of the report language in response to comments from our headquarters staff. The report contains no recommendations.

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

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Did USAID/WNIS take corrective actions to justify final action on the recommendations from Audit Report No. B-121-04-003-P, dated March 17, 2004?

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SUMMARY OF RESULTS

This follow-up audit was conducted to determine if the USAID Mission for Ukraine, Belarus and Moldova (USAID/WNIS) took appropriate corrective actions on Recommendation Nos. 1, 2 and 3 of the *Audit of USAID Mission for Ukraine, Belarus and Moldova's Management of U.S. Personal Services Contractors* [Audit Report No. B-121-04-003-P, dated March 17, 2004] (see page 2).

In response to the March 2004 audit, USAID/WNIS developed new procedures to correct three weaknesses related to the Mission's management of U.S. Personal Services Contractors (USPSCs). In two areas, the Mission's new procedures proved to be effective, justifying final action on the recommendations. Specifically, the Mission:

- developed a checklist that documented its consideration of alternative hiring options before seeking offshore USPSCs for new positions (see page 3); and

- developed appropriate language for its job announcements that clearly explain the requirement for signed salary statements (see page 4).

In the third area—compliance with USAID's policy relating to USPSC annual leave—USAID/WNIS did not initially implement effective actions to justify final action on the recommendation. Although the Mission developed detailed guidance requiring documentation of exceptional circumstances before contractors could obtain lump-sum payments for annual leave (or leave at the end of a contract period), the Mission did not adequately implement the new guidance. Since the new policy's adoption, the Mission has approved, in three out of seven cases, lump-sum payment or end-of-contract leave without obtaining the documentation required by the new guidance. As a result, the Mission was still unable to demonstrate its compliance with USAID's policy regarding USPSC leave. Furthermore, because of processing errors, the Mission overpaid the USPSCs for their accrued leave by $6,700 (see pages 3 and 4).

In its comments to our report, USAID/WNIS concurred with our findings regarding Recommendations Nos. 1 and 3. Regarding Recommendation No. 2, however, the Mission contended that the scheduling of USPSC annual leave on a quarterly basis was sufficient to meet USAID's requirement that leave be scheduled "early in the contract period", and that all Mission approvals for contractor payments or end-of-contract leave had been justified. We do not believe that the quarterly scheduling of leave fully satisfies the intent of USAID's requirement for early leave planning. For example, if USPSCs defer submitting leave plans until the final quarters of the contract, there will be a greater risk that leave balances will not be exhausted during the contract period (see p. 6).

Despite this difference of opinion, the Mission agreed to strengthen its policy regarding the approval of lump-sum payments and leave taken at the end of the contract period. According to a new Mission directive, USPSCs will develop leave plans covering all leave to be earned during the contract period. Requests for lump-sum payments or leave during the final 30 days of the contract period will generally be denied except in rare cases that meet the strict requirements of USAID policy. This action, combined with the Mission's aggressive actions to collect lump-sum overpayments, satisfies our concerns regarding the Mission's implementation of Recommendation No. 2 (see p. 6).

BACKGROUND

In March 2004, USAID's Office of Inspector General issued an audit report focused on the management of USPSC employees at USAID/WNIS. In general, the report found that USAID/WNIS' requirements for USPSCs were in accordance with USAID policies and procedures. However, the report identified reportable weaknesses in three areas:

- USAID policy requires the Mission to consider using locally hired USPSCs or Foreign Service Nationals as cost-effective alternatives to the more expensive internationally-recruited USPSCs. However, USAID/WNIS could not demonstrate that it had always followed this guidance.

- USAID policy requires contractors to use annual leave throughout the contract period. USPSCs can receive a lump-sum payment for unused leave, or extended leave at the end of a contract period only if exceptional job requirements otherwise precluded the use of such leave. Despite this guidance, USAID/WNIS routinely paid contractors lump-sums for unused annual leave but could not demonstrate that exceptional job requirements had precluded the contractor's use of this leave.

- According to USAID policy, a signed Standard Form (SF) 171 or Optional Form (OF) 612 must be submitted by each USPSC applicant. USAID requires these specific forms because each form contains a penalty clause for any false statements, which deters applicants from inflating their salary histories. USAID/WNIS did not always obtain and maintain a signed copy of one of these required forms.

The OIG issued three recommendations to correct these deficiencies. USAID/WNIS concurred with all three recommendations and agreed to implement improved procedures to address our concerns.

AUDIT OBJECTIVE

This follow-up audit was included in the Office of Inspector General's fiscal year 2006 Annual Plan and was conducted to promote improvements in the way USAID manages its human capital.

The audit was conducted to answer the following question:

- **Did USAID/WNIS take corrective actions to justify final action on the recommendations from Audit Report No. B-121-04-003-P dated March 17, 2004?**

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

AUDIT FINDINGS

USAID/WNIS has taken appropriate actions to justify final action on all three audit recommendations as discussed in detail below.

Recommendation No. 1: We recommended that USAID/WNIS adopt procedures that will document its compliance with USAID policy guidance relating to the Mission's non-direct hire workforce.

In response to Recommendation No. 1, the Mission developed a checklist to document its consideration of all hiring options before seeking an internationally-recruited USPSC for a new position. The checklist requires staff to evaluate each new position to determine if it could be filled by a more cost-effective alternative: a U.S. Direct Hire employee, a Foreign Service National employee or a locally recruited U.S. citizen. Mission staff were required to explain why each position could not be filled by one of these less-expensive personnel options.

Since establishing the checklist in 2004, the Mission has used it for three hiring actions to fill new positions; the checklist was not used in two cases where positions already held by internationally-recruited USPSCs were re-advertised. However, since personnel requirements can change from time to time, Mission officials agreed to expand the use of the checklist to all advertised positions. These actions by the Mission were judged to be sufficient to constitute final action to address the recommendation.

Recommendation No. 2: We recommended that the Mission Director, USAID/WNIS, establish procedures to ensure compliance with USAID policies and USPSC contract provisions related to annual leave lump-sum payments.

In response to Recommendation No. 2, USAID/WNIS established clear guidance that complied with USAID's USPSC leave policies. Specifically, this guidance required that, before payments or end-of-contract leave would be granted, USPSCs had to present:

- evidence that the leave was scheduled early in the tour of duty, taking into consideration project requirements, employee preference and other factors;
- documentation (including copies of emails and/or leave request forms) between the employee and his or her supervisor that substantiates that the leave was canceled due to exceptional or emergency work demands;
- documentation that supports a good-faith attempt on the part of the employee to reschedule the annual leave for another date before the termination of the contract; and
- a written request from the employee describing the events which precluded the employee from taking his or her leave balance. This request must be approved by the Contracting Officer and have the concurrence of the Mission Director.

However, of the seven USPSC terminations processed since the policy took effect, the Mission had followed the policy in only four instances. In three of these cases, the employees received no lump-sum payments. In the fourth case, the employee received a lump-sum payment after providing the required evidence of a plan to use the leave and documentation of the unforeseen job requirements that had disrupted the plan and prevented the leave from being taken.

In the three remaining cases, however, USPSCs received either lump-sum payments or end-of-contract leave without fulfilling the requirements to submit suitable supporting documentation. Specifically, the USPSCs were not required to present evidence that:

- the employees had scheduled leave early in the contract period;
- exceptional or emergency job requirements had disrupted established leave plans; or
- the employees had made good-faith efforts to reschedule leave before contract termination.

The payments and leave granted by the Mission resulted in $21,145 of additional contract costs. Since the payments lacked the required documentation, the Mission could not demonstrate that these incurred costs were in compliance with USAID's policies regarding USPSC annual leave.

Furthermore, due to processing errors by Mission staff who were unfamiliar with leave payment procedures at the time, some payments exceeded USAID's ceiling on such payments while other payments violated restrictions pertaining to salary differentials. Specifically:

- USAID's standard contract language states that lump-sum payments cannot be made for more than the number of leave days earned in a 12-month period. In two cases, USAID/WNIS made lump-sum payments in excess of this ceiling; the overpayments totaled about $5,100.
- USAID policy states that a person earning a salary differential at an overseas post cannot receive this differential while in the U.S. One USPSC who was granted extended leave at the end of the contract took this leave in the U.S. but continued to receive the differential. This resulted in an overpayment of about $1,600.

In response to our follow-on work, USAID/WNIS (1) initiated appropriate action to confirm and collect the overpayments and (2) agreed to develop new procedures to ensure the appropriate implementation of USAID policy. Among other things, the new procedures remind USPSC employees of their responsibilities to plan their leave usage in advance, and made it clear that (1) lump-sum payments would rarely be granted and (2) leave should not be scheduled for the final 30 days of the contract period. These new measures, combined with earlier guidance, were judged to be sufficient to justify final action on the recommendation. As a result, no further recommendations will be issued in connection with this matter.

Recommendation No. 3: We recommended that USAID/WNIS obtain and maintain a certified statement of past salary history for all USPSC contractors in the format mandated by USAID policy.

In response to Recommendation No. 3, the Mission agreed to include in each USPSC job solicitation a clear statement that a signed SF 171 or OF 612 must be submitted or the applicant would not be considered for employment.

Since March 2004, USAID/WNIS included appropriate language regarding signed forms in four of the Mission's five USPSC solicitations; according to Mission officials, the language was inadvertently left out the remaining solicitation. There was no material impact from the error, as the candidates for each job announcement submitted signed OF 612 or SF 171 forms. The actions taken by the Mission were judged to be sufficient to justify final action on the recommendation.

EVALUATION OF MANAGEMENT COMMENTS

In response to our draft report, USAID/WNIS fully concurred with our findings regarding Recommendations Nos. 1 and 3.

Regarding Recommendation No. 2, the Mission stated that, in their opinion, management's approval of lump-sum payments or end-of-contract leave had been fully justified in all cases. According to the Mission, the quarterly scheduling of USPSC annual leave met USAID's requirement that leave be scheduled "early in the contract period". The Mission further stated that it did not see the managerial utility of having USPSCs developing comprehensive leave plans covering the entire contract period.

As noted in the report, we identified three cases where USPSCs had not presented evidence in accordance with Mission policy indicating that:

- employees had scheduled leave early in the contract period;
- exceptional or emergency job requirements had disrupted leave plans; or
- employees made good-faith efforts to reschedule leave before contract termination.

We do not feel that the Mission's procedures requiring leave to be scheduled on a quarterly basis fully satisfies the intent of USAID's requirement for USPSCs to schedule leave early in the contract period. This contract provision is specifically designed to discourage the accumulation of large leave balances and thus alleviate the need for either lump-sum payments or end-of-contract leave. If USPSCs wait until the final quarters of a contract to develop leave plans as the Mission policy currently allows, there is increased risk that leave balances will not be exhausted during the contract period. This risk is especially high when contractors carry large accumulated leave balances into the final quarters of a contract, as the Mission's USPSCs often did.

Despite this difference of opinion over USAID's requirement for early leave planning, the Mission agreed to strengthen its policy regarding approvals of lump-sum payments and leave scheduled at the end of the contract period. According to a new Mission directive, USPSCs are required to develop leave plans covering all leave to be earned during the contract period. The directive notes that requests for lump-sum payments or leave during the final 30 days of the contract period will generally be denied except in rare cases that meet the strict requirements of USAID policy. This action, combined with the Mission's aggressive actions to collect lump-sum overpayments, satisfies our concerns regarding the Mission's implementation of Recommendation No. 2. Consequently, we are not issuing any further recommendations in connection with this matter.

Mission comments have been included in their entirety in Appendix II of this report.

SCOPE AND METHODOLOGY

Scope

The Regional Inspector General in Frankfurt conducted this follow-up audit of USAID/WNIS' management of U.S. personal services contractors in accordance with generally accepted government auditing standards.

In planning and performing this limited scope audit, we assessed the effectiveness of the Mission's new procedures on USPSC hiring and termination actions during the time frame period from March 17, 2004 through March 30, 2006. The audit fieldwork was conducted from April 3, 2006 through April 21, 2006 at the USAID/WINS Mission in Kiev, Ukraine.

Methodology

In planning and performing our audit work, we obtained and reviewed the *Audit of USAID Mission for Ukraine, Belarus and Moldova's' Management of U.S. Personal Services Contractors*, dated March 17, 2004. We accomplished the audit objective by performing the following tasks:

- reviewing applicable Mission guidance issued in response to our March 2004 audit report;
- interviewing appropriate Mission officials regarding implementation of the new guidance;
- collecting and evaluating data related to five USPSC hiring actions that had occurred since that date; and
- reviewing and evaluating payment and leave records for USPSCs who had left the Mission since March 2004.

MANAGEMENT COMMENTS

June 6, 2006

Gerald M. Custer,
Regional Inspector General
Frankfurt, Germany

Subject: Comments to Draft Report of the Follow-up Audit of USAID Mission for Ukraine, Belarus and Moldova's Management of U.S. Personal Services Contractors.

Dear Mr. Custer:

Thank you for allowing us the opportunity to review the subject draft report and for the professional and cooperative way in which the follow-up audit was conducted. We fully concur with the auditor regarding conclusions related to recommendations No. 1 and No. 3.

Regarding recommendation No. 2, I would like to clarify that management felt fully justified in approving lump-sum payments or end-of-contract leave usage in all the cases reviewed by the auditor.

The Mission's standard management practice regarding annual leave scheduling and approval includes the preparation of projected quarterly leave schedules covering all employees (i.e. USDH, USPSC, FSN and TCN) within each operational unit in the Mission. This practice satisfies our managerial need for orderly and timely scheduling of employee earned leave and, in our view, meets the documentary evidence that employees schedule their leave "early in the contract period." Changes to the quarterly leave plan due to personal or job requirements are common practice and are often done verbally or via e-mail. This management practice also ensures that any resulting leave changes get reflected in the leave schedule of the following quarter.

However, in the case of USPSC employees, the auditor indicated that documentary expectation was for a single leave plan covering the entire contract period (not just quarterly periods) of the employee in question. The Mission does not share such a narrow interpretation of this requirement nor do we see the managerial utility of such a plan given that work and employee circumstances tend to vary widely over an extended period of time. In addition we have strengthened Mission policy regarding documentary requirements for the scheduling and/or payment of unused annual leave balances at the end of the employee's contract period, as further detailed in the attached memorandum dated May 15, 2006.

Sincerely,

Earl Gast, /s/
Mission Director

USAID | UKRAINE
FROM THE AMERICAN PEOPLE

Action Memorandum to the Mission Director

Date: May 15, 2006

Subject: US Personal Service Contractor (USPSC) Compensation for Annual Leave

Reference: Action Memorandum to the Mission Director dated 2/9/04

Purpose:

To further clarify the Mission policy established in the above referenced memorandum regarding lump-sum payments or end of contract leave granted to USPSC employees for annual leave remaining at the termination of their contracts and ensure that mission application of this policy complies with the standard provisions of the USPSC contracts, AAPD 5-10 and AIDAR Appendix D.

Background:

In response to recommendations in RIG's audit report No. B-121-04-003-P related to Mission's management of U.S. Personal Service Contractors, in above referenced memorandum (copy attached), Mission established guidelines and documentation requirements for the approval of lump-sum payments for unused annual leave balances remaining at the time of contract termination of a USPSC.

During audit follow-up work conducted by RIG in April 2006 on the same subject, the auditor called the Mission's attention to several lump-sum payments made to various USPSC employees for unused annual leave during 2004 and 2005. Although Mission management felt justified in each and every case approved, the RIG auditor found that the documentation on file did not adequately complied with the requirement regarding evidence that the contractor developed "*a vacation leave schedule early in his/her tour of duty."* The Mission's management practice of maintaining quarterly vacation schedules for all employee categories was not deemed compliant by the auditor as the quarterly schedules did not cover the entire contract period of the USPSC. Mission believes that this practice is adequate management of leave balances for its staff and satisfies the letter and spirit of the governing policy. Nevertheless, Mission has agreed to strengthen its policy in this respect as follows:

All USPSC and TCN employees must develop an annual leave plan. The leave plan should include all leave that one anticipates earning during the period covered by the USPSC/TCN's contract. When scheduling leave, staff should consider that:

1. As a general rule, no lump-sum payments will be made for any unused annual leave upon contract termination. Exceptions will be rare and must be approved by the Contracting Officer in accordance with the strict standards found in AAPD 05-10.

2. Annual leave not taken before the final 30 days of the contract will nearly always be forfeited. Exceptions will be rare and must be approved by the Contracting Officer in accordance with the strict standards found in AAPD 05-10.