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OFFICE OF INSPECTOR GENERAL

FOLLOW-UP AUDIT OF USAID'S CARGO PREFERENCE REIMBURSEMENTS UNDER SECTION 901d OF THE MERCHANT MARINE ACT OF 1936

AUDIT REPORT NO. 9-000-06-005-P
April 27, 2006

WASHINGTON, DC

Office of Inspector General

April 27, 2006

MEMORANDUM

TO: DCHA/FFP Acting Director, Jonathan Dworken

FROM: IG/A/PA Director, Steven H. Bernstein /s/

SUBJECT: Follow-up of Recommendation No. 1 Included in the Audit of USAID's Cargo Preference Reimbursements under Section 901d of the Merchant Marine Act of 1936, Audit Report No. 9-000-01-003-P, dated March 30, 2001. (Report No. 9-000-06-005-P)

This memorandum is our final report on the subject audit. In finalizing this report, we considered your comments on our draft report and have included your response in Appendix II

This report does not contain any recommendations for your action.

Once again, I want to express my sincere appreciation for the cooperation and courtesy extended to my staff during the audit.

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Did USAID's Office of Food For Peace request the Commodity Credit Corporation prepare and submit to the Maritime Administration invoices to recover all outstanding cargo preference reimbursements for excess ocean freight for shipping costs incurred under P.L. 480 Title II and Title III programs?

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SUMMARY OF RESULTS

The Office of Inspector General (OIG), Performance Audits Division, conducted this follow-up audit to determine whether the Director of Food for Peace took corrective action on Recommendation No.1 of the Office of Inspector General's Audit of USAID's Cargo Preference Reimbursements under Section 901d of the Merchant Marine Act of 1936, (Audit Report No. 9-000-01-003-P), dated March 30, 2001. Recommendation No. 1, recommended that the Director of Food for Peace request the U. S. Department of Agriculture's (USDA) Commodity Credit Corporation (CCC) to prepare and submit invoices to recover all outstanding cargo preference reimbursements for excess ocean freight and to determine if all outstanding reimbursements[1] were recovered (see pages 2 and 3).

On August 17, 2001, USAID's Office of Food for Peace (FFP) requested the CCC to prepare and submit invoices to the Department of Transportation's Maritime Administration for the outstanding reimbursement for excess ocean freight. After a lengthy calculation methodology dispute, USAID recovered the outstanding reimbursement valued at approximately $193 million,[2] as of September 2004 (see page 4).

FFP officials have begun increasing their management controls over the cargo preference reimbursement process by conducting verification procedures to increase the efficiency and effectiveness of the process. As a result of these efforts, FFP determined that USDA's estimated reimbursement calculations were reasonable for fiscal years 1994 - 2000 (see page 4).

In addition, USAID, USDA and the Department of Transportation are working together to improve aspects of the Cargo Preference Reimbursements process that includes updating a memorandum of understanding, clarifying calculation methodologies, and investigating payment options for reimbursements (see page 5).

Management comments are included in the report at Appendix II (see page 9). USAID's Office of Food For Peace agreed with the contents of this audit report.

[1] In March 2001, the OIG determined that USAID was due an estimated $175 million in outstanding reimbursement for excess ocean freight.

[2] After CCC made further calculations, the corporation estimated that USAID should be reimbursed approximately $193 million for 20 percent excess ocean freight.

BACKGROUND

The United States implements its international food assistance initiatives through five separate food assistance programs.[3] Each of the five food assistance programs is required by law to ship a certain percentage of tonnage on privately-owned U.S.-flag commercial vessels. This requirement, known as “cargo preference,” is found in the Merchant Marine Act of 1936 (the “Act”), as amended. In 1985, Congress amended the Act to increase this requirement from 50 percent to 75 percent for commodities shipped under certain U.S. food assistance programs. At the same time, Congress directed that any increase in food assistance shipping costs under these programs, due to the application of this new cargo preference requirement, would be financed by the U.S. Department of Transportation.

A 1987 Memorandum of Understanding between USAID, the United States Department of Agriculture’s (USDA) Commodity Credit Corporation (CCC), and the Department of Transportation’s Maritime Administration, set forth procedures through which the Maritime Administration would reimburse CCC for higher shipping costs resulting from the 1985 amendment. The Memorandum of Understanding provided that CCC would initially bear all ocean freight costs and that the Maritime Administration would then reimburse CCC based upon the submission of periodic invoices, accompanied by supporting documentation. After receiving reimbursements from the Maritime Administration, CCC would arrange for reimbursed amounts to be apportioned to the food assistance programs from which they originated. Any rights USAID had to cargo preference reimbursements arose from this 1987 Memorandum of Understanding, as well as customary practices between USAID and USDA concerning the administration and funding of P.L. 480 Title II and III programs.

In 2001, USAID’s Office of Inspector General issued an audit report[4] stating, among other things, that as of February 2001, USDA had not claimed an estimated $175 million in reimbursements for excess ocean freight costs incurred from fiscal year (FY) 1993 to FY 2000, on behalf of USAID. According to the aforementioned report, this occurred because USDA officials were unclear as to which office had the responsibility for preparing and submitting reimbursement claims for excess ocean freight costs. Furthermore, USAID was unaware that these reimbursements were not being claimed because of competing management priorities and the lack of sufficient qualified staff to monitor the cargo preference reimbursements.

AUDIT OBJECTIVE

As a part of the fiscal year 2006 audit plan, the Office of Inspector General conducted this follow-up audit to verify and evaluate the final action on a selected audit recommendation from the Audit of USAID’s Cargo Preference Reimbursements under

[3] The U.S. Department of Agriculture administers the P.L. 480 Title I, Section 416 (b), Food for Progress, and Food for Education programs, while USAID is responsible for administering funds for food assistance under P.L. 480 Titles II and III.
[4] Audit of USAID’s Cargo Preference Reimbursements under Section 901d of the Merchant Marine Act of 1936, Audit Report No. 9-000-01-003-P, dated March 30, 2001.

Section 901d of the Merchant Marine Act of 1936 (Audit Report No. 9-000-01-003-P). The audit was designed to answer the following question:

- Did USAID's Office of Food for Peace request the Commodity Credit Corporation prepare and submit to the Maritime Administration invoices to recover all outstanding cargo preference reimbursements for excess ocean freight for shipping cost incurred under the P.L. 480 Title II and Title III programs?

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

AUDIT FINDINGS

USAID's Office of Food For Peace (FFP) requested that the U.S. Department of Agriculture's (USDA) Commodity Credit Corporation (CCC) prepare and submit to the Department of Transportation's Maritime Administration invoices to recover all outstanding cargo preference reimbursements for the 20 percent excess ocean freight for shipping costs incurred under P.L. 480 Title II and Title III programs. Subsequently, Maritime Administration reimbursed USDA approximately $193 million for USAID's outstanding 20 percent excess ocean freight costs incurred for fiscal years 1994 though 2000.

As Recommendation No. 1 of the 2001 audit required, on August 17, 2001, USAID sent a memorandum requesting that USDA prepare and submit to the Maritime Administration invoices to recover all outstanding cargo preference reimbursements for excess ocean freight for shipping costs incurred under the P.L. 480 Title II and Title III programs. CCC re-calculated the amount to be reimbursed for the outstanding 20 percent excess ocean freight[5] to include actual incremental ocean freight differential[6] reimbursements. Consequently, CCC found that Maritime Administration owed USAID food programs approximately $193 million.

In 2004, CCC received the USAID portion of the reimbursement of approximately $193 million, in total, from Maritime Administration (as illustrated in Appendix III). Since much of the cargo preference reimbursement process is centralized within USDA, FFP officials enhanced their monitoring efforts by reviewing supporting documentation. CCC created a spreadsheet to document the breakdown of the 20 percent excess ocean freight reimbursement, for each fiscal year, by food program and provided it to FFP officials for management review. The spreadsheet included, the total value of commodities shipped; the total cost of ocean freight; the total program cost; and ocean freight differential previously reimbursed by Maritime Administration. To complete the cargo preference reimbursement process, CCC officials apportioned the funds to an account established within the U. S. Department of Treasury for USAID.[7] After FFP officials received the spreadsheet, they independently tested the data and determined that USDA's estimated reimbursement calculations were reasonable.

Much of the delay in USAID's receipt of the outstanding 20 percent excess ocean freight reimbursement received in 2004 was caused by a disagreement over the interpretation of the July 1987 Memorandum of Understanding, which established the administrative responsibilities for the cooperation between USAID, USDA, and the Department of Transportation. Although these U. S. Government agencies were tasked with specific responsibilities for the cargo preference programs, a lengthy calculation methodology dispute between the three agencies arose, which lasted more than 3 years. Initially, in 2001, Maritime Administration refused to pay any of the outstanding 20 percent excess

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[5] The amount by which the total cost of ocean freight borne by CCC exceeds 20 percent of the total value of the commodities shipped for all CCC programs.

[6] The amount by which the cost of ocean transportation is higher because of cargo preference regulations than it would be if foreign transportation was used.

[7] Maritime Administration made five reimbursements to CCC totaling approximately $193 million from May 2004 to September 2004 for USAID food programs (see Appendix III).

ocean freight reimbursements because of this dispute. Both USAID and USDA, as shipper agencies, believed that the incremental ocean freight differential reimbursement should be deducted from the shipping costs before calculating the 20 percent excess ocean freight reimbursement. Maritime Administration, on the other hand, took the position that the ocean freight differential reimbursement should have been deducted from the total program costs. The calculation methodology preferred by Maritime Administration would result in a reduced reimbursement of the 20 percent excess ocean freight.

Because of ambiguities in the Memorandum of Understanding, the Maritime Administration was not able to adequately determine when the previously reimbursed incremental ocean freight differential should be subtracted in the calculation of the 20 percent excess ocean freight reimbursement. In attempts to resolve this dispute, the Department of Transportation's Office of Inspector General released an audit report[8] that included a recommendation that required Maritime Administration to pay the lesser amount of the two calculation methodologies. In a subsequent review, the Department of Transportation's General Counsel concluded that the calculation methodology of the shipper agencies (i.e., USAID and USDA) was the appropriate method. Consequently, Maritime Administration was required to reimburse all of the remaining outstanding 20 percent excess ocean freight to the shipper agencies.

USAID, USDA and the Department of Transportation are working together to improve other aspects of the Cargo Preference Reimbursements process. The three agencies have made efforts to (1) update the Memorandum of Understanding to reflect more current situations, (2) clarify the calculation methodologies, and (3) investigate accelerated payment options to facilitate expedited cargo preference reimbursements.

[8] *Cargo Preference Billing and Payment Process,* Report Number FI-2004-057, dated May 5, 2004.

EVALUATION OF MANAGEMENT COMMENTS

USAID’s Office of Food For Peace agreed with the contents of this audit report.

SCOPE AND METHODOLOGY

Scope

The Office of Inspector General conducted this follow-up audit of Recommendation No.1 included in the *Audit of USAID's Cargo Preference Reimbursements under Section 901d of the Merchant Marine Act of 1936*, dated March 30, 2001, in accordance with generally accepted U.S. government auditing standards. Recommendation No. 1 stated:

> We recommend that USAID's Director of the Office of Food for Peace request the Commodity Credit Corporation to prepare and submit to the Maritime Administration invoices to recover all outstanding cargo preference reimbursements for excess ocean freight, currently estimated at $175 million, for shipping cost incurred under the P.L. 480 Title II and Title III programs during fiscal years 1994 through 2000.

This limited scope audit included fieldwork that was performed between October 27, 2005 and February 24, 2006 in USAID's Washington, D.C. offices. The audit covered cargo preference reimbursements for outstanding excess ocean freight shipments incurred under the P.L. 480 Title II and Title III programs from fiscal years 1994 through 2000. Our review of management controls focused on reviews by management at the functional and activity levels, controls over information processing, and accurate and timely recording of transactions and events.

Methodology

In planning and performing our audit work, we obtained and reviewed the *Audit of USAID's Cargo Preference Reimbursements under Section 901d of the Merchant Marine Act of 1936*, dated March 30, 2001. To accomplish the audit objective, we conducted interviews with officials at USAID and USDA. We developed the audit program to facilitate accomplishing the audit objective by performing the following tasks:

- Gathered information and examined relevant laws, regulations and guidance that included Section 901d of the Merchant Marine Act of 1936, as amended, to gain a better understanding of cargo preference and the reimbursement process.

- Flowcharted the 20 percent excess ocean freight reimbursement process to review the controls over the process.

- Reconciled excess ocean freight annual cargo preference amounts to supporting documentation.

- Verified that USAID received the outstanding reimbursements from fiscal years 1994 through 2000.

We relied on supporting documentation from USAID and USDA officials; computer-generated data from Intra-Governmental Payment and Collection (IPAC) System; and the Program Commodities Inventory Management System, that is also known as PCIMS-core, a financial accounting system used to support our audit conclusions. During the audit, we did not verify the adequacy and application controls of either the IPAC or PCIMS-core systems; but we determined the reliability of the computer-generated data through alternate methods, such as reviewing documentation supporting the cargo preference reimbursement billings and payments.

The materiality threshold for this audit was such that, if at least 95 percent of the outstanding reimbursement was received, the audit objective would be answered positively; if the amount of outstanding reimbursement received was at least 90 percent but less than 95 percent, the audit objective would receive a positive answer with a qualification; however, if less than 90 percent of the outstanding reimbursement was received, the audit objective would be answered negatively.

MANAGEMENT COMMENTS

MEMORANDUM

TO: **IG/A/PA Director, Steven H. Bernstein**

FROM: **DCHA/FFP Acting Director, Jonathan Dworken**

DATE: **April 6, 2006**

SUBJECT: **Follow-up Audit of Recommendation No. 1 Included in the Audit of USAID's Cargo Preference Reimbursements under Section 901d of the Merchant Marine Act of 1936, Audit Report No. 9-000-01-003-P, dated March 30, 2001.(Report No. 9-000-06-00X-P)**

Thank you for the opportunity to review the draft subject audit memorandum. The results of this report clearly indicate that the auditors took appropriate measures to ensure the collection of MARAD reimbursements occurred and all outstanding collections were recovered for excess ocean freight for shipping costs under P.L. 480 Title II and Title III programs. In addition, the audit serves as documentation for FFP implementing a system of internal controls and acknowledges the continued improvement efforts between USAID, the U.S. Department of Agriculture and the Department of Transportation.

Since there were no Inspector General recommendations cited in this report, FFP will not have any follow-up actions. In addition, FFP does not have any management comments to add to this report.

The IG's performance audit staff is to be commended for conducting such a thorough follow-up of the Cargo Preference Reimbursement Audit.

20 Percent Excess Ocean Freight Reimbursements Received

Date	Amount Received	Explanation
May 2004	$ 72,124,375	FY ’97/99/00[9]
June 2004	$ 69,658,003	FY ‘97/99/00
July 2004	$ 16,228,138	FY ‘97/99/00[10]
August 2004	$ 20,830,995	FY ‘98
September 2004	$ 13,732,470	FY ’95 & ‘96
Total Reimbursements Received	**$ 192,573,981**[11]	

[9] This amount was based on Maritime Administration’s calculation methodology.
[10] Additional reimbursement due to correction of calculation methodology.
[11] Fiscal year 1994 resulted in no reimbursement due to the averaging of all food aid programs, not meeting the qualifying criteria for reimbursement.

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