



USAID
FROM THE AMERICAN PEOPLE

OFFICE OF INSPECTOR GENERAL

**AUDIT OF THE MANAGEMENT
OF USAID'S FEDERAL
EMPLOYEES' COMPENSATION
ACT (FECA) PROGRAM**

AUDIT REPORT NO. 9-000-07-003-P
DECEMBER 4, 2006

WASHINGTON, DC



USAID
FROM THE AMERICAN PEOPLE

Office of Inspector General

December 4, 2006

MEMORANDUM

TO: Director, Office of Human Resources, David E. Eckerson

FROM: Director, Performance Audits Division, Steven H. Bernstein /s/

SUBJECT: Audit of the Management of USAID's Federal Employees' Compensation Act (FECA) Program (Report No. 9-000-07-003-P)

This memorandum transmits our final report on the subject audit. In finalizing the report, we considered your comments on our draft report and have incorporated them, where appropriate. We have included your comments in their entirety as Appendix II.

The report includes six recommendations. One recommendation concerns the implementation of a master inventory to document USAID's workers' compensation case files. Another recommendation addresses the utilization of a file checklist and copies of critical documents to ensure that benefit payments are properly authorized. The third recommendation indicates that quarterly preliminary billings should be verified for accuracy and propriety, with appropriate actions taken to resolve any discrepancies. Two recommendations address the need for developing processes to monitor continuation of pay benefits and updating workers' compensation files with continuation of pay information. The final recommendation requires revising and updating the workers' compensation policies and procedures contained in the Automated Directives System.

You concurred with five of the six recommendations. Regarding Recommendations Nos. 1, 3, 4, 5, and 6, we determined that the planned actions, when implemented, will address these recommendations. Accordingly, management decisions have been reached on each of these recommendations. Please coordinate final action on Recommendation Nos. 1, 3, 4, 5, and 6 with the Bureau for Management's Office of the Chief Financial Officer, Audit, Performance and Compliance Division.

You did not concur with Recommendation No. 2, in its entirety. Therefore, we do not have a management decision. A management decision can be recorded for Recommendation No. 2 when we have agreed with USAID's Office of Human Resources on a firm plan of action, with target dates, for implementing the recommendation.

I appreciate the cooperation and courtesy extended to each member of my staff throughout the audit.

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SUMMARY OF RESULTS

The Performance Audits Division of USAID's Office of Inspector General designed this audit to determine if USAID effectively managed its Federal Employees' Compensation Act (FECA) Program to reduce costs to the U.S. Government (see page 3).

For about the past four years, USAID had not effectively managed its FECA Program to reduce costs to the U.S. Government. Most significantly, USAID had neither maintained sufficient records (see page 5) nor systematically reviewed the Department of Labor's Office of Workers' Compensation Programs (OWCP) quarterly preliminary billing reports to ensure that costs were appropriate (see page 7). As a result, USAID had not undertaken prudent steps against fraud, waste, and abuse, such as periodically reviewing a sample of cases for continued beneficiary eligibility, or fulfilled basic fiduciary responsibilities, such as verifying monetary obligations on OWCP preliminary billing reports. Furthermore, USAID had not adequately verified and accounted for "continuation of pay" benefits, which are a component of total workers' compensation costs, to ensure that those costs were authorized (see page 9). Consequently, USAID had made erroneous and unauthorized "continuation of pay" payments to at least one employee. In addition, USAID had neglected to revise and update its internal guidance in a timely manner (see page 11); not adequately tracked the occurrence of workplace injuries and illnesses (see page 12); and had not followed procedures to share information among appropriate officials for accident abatement purposes (see page 13).

We made six recommendations to address the issues identified in this report. We recommended that USAID's Office of Human Resources (HR) develop a master inventory to document its workers' compensation case files (see page 7); update those case files with a checklist and with copies of critical documents for missing and incomplete files to establish adequate documentation for effective case management (see page 7); develop procedures to promptly verify, validate, and document the Office of Workers' Compensation Programs' quarterly preliminary billings for accuracy and propriety, and take appropriate actions to resolve any discrepancies (see page 8); coordinate with USAID Payroll officials to properly track and monitor "continuation of pay" benefits (see page 10); update workers' compensation case files with "continuation of pay" information to determine propriety and take corrective action, if necessary (see page 10); and revise and update workers' compensation policies and procedures contained in the Automated Directives System to be consistent with current laws, regulations, and management practices (see page 12).

In response to the draft report, HR officials agreed with the audit findings. In that regard, HR officials concurred with five of the six recommendations including Recommendations Nos. 1, 3, 4, 5, and 6. As a result, management decisions have been reached for the five recommendations. For Recommendation No. 2, HR did not fully concur with the recommendation (see page 15). Therefore, we do not have a management decision, but will record a management decision when we have agreed with USAID's Office of Human Resources on a firm plan of action, with target dates, for implementing the recommendation. Management comments are included in their entirety in Appendix II.

BACKGROUND

Congress enacted the Federal Employees' Compensation Act (FECA or the Act) in 1916 as a comprehensive workers' compensation program for federal civilian employees who suffer death or disability as a result of either a work-related injury or disease.¹ For deceased employees, one of the Act's main goals is to provide benefits to surviving spouses and dependent children, subject to statutory restrictions. The other main goal of the Act is to return disabled employees to work as fully and as expeditiously as possible while providing assistance during the recuperative and rehabilitative phases of recovery. This assistance includes payment of medical expenses, schedule awards for the loss of a body part or function, vocational rehabilitation services, and compensation for lost wages for covered employees. Additionally, the Act also provides for the continuation of an employee's regular pay for up to 45 days to assist employees recovering from certain injuries.

The Department of Labor's Office of Workers' Compensation Programs (OWCP) administers the FECA Program government-wide by, among other things, adjudicating claims, paying benefits, and billing agencies for benefits attributable to their employees. To carry out these responsibilities, OWCP uses a series of district offices across the United States to perform functions such as scheduling medical examinations, conducting hearings regarding claimant appeals, and verifying beneficiaries' continued eligibility to receive payments.

Within USAID, the Bureau for Management's Office of Human Resources (HR) is responsible for the overall management of the Agency's FECA Program. These responsibilities include such functions as validating OWCP benefit payments subsequently billed to USAID, presenting evidence to OWCP to deny questionable claims, identifying light-duty positions for partially disabled employees, and ensuring that supervisors maintain personal contact with injured employees to determine alternative or light-duty work assignments.

The amount of compensation for lost wages for beneficiaries, such as a surviving family member or a disabled employee, depends primarily on three factors. These factors include the employee's salary at the time of the death or injury, the number of legal dependents, and whether the claim is for death or disability. Under FECA, surviving spouses of employees who become deceased as a result of a work-related injury or illness are entitled to receive death benefits for life, unless they remarry before age 55. Conversely, disabled employees are entitled to receive compensation until they are able to return to work. Although beneficiaries are entitled to receive FECA benefits for work-related death or disability, several important provisions apply equally. First, all FECA benefits constitute the sole remedy against the United States. Consequently, a surviving dependent or a federal employee is not entitled to sue the United States or recover damages for such death or injury under any other Federal law.² Second, compensation

¹ The Federal Employees' Compensation Act is contained in 5 U.S.C. 8100 et seq.

² In one exception, Section 413 of the Foreign Service Act of 1980 (22 U.S.C. 3973) provides that the surviving dependents of a Foreign Service employee who dies as a result of injuries sustained while performing duties abroad are entitled to a death gratuity equal to one year's salary at the

benefits under the Act are exempt from federal income tax. Moreover, the Act prohibits concurrent compensation payments and certain other federal benefits, that include most notably, federal civilian retirement annuities.

The cost of providing FECA benefits has risen dramatically. In 2005, for example, total U.S. Government FECA benefit costs rose about 26 percent to nearly \$2.4 billion from about \$1.9 billion in 1997. In recent years at some of the larger federal government agencies, Inspectors General identified improper and excessive workers' compensation payments made to beneficiaries. Moreover, several federal audits revealed that some erroneous or excess payments had been made to deceased or remarried surviving spouses. Comparatively at USAID, as a smaller government agency, the annual FECA benefit costs increased at a rate of about 5 percent from \$2.99 million in 1997 to \$3.13 million in 2005. As of September 30, 2005, USAID's estimated liability for future FECA benefit payments was \$23.7 million.³

AUDIT OBJECTIVE

The audit was conducted to answer the following question:

- Has USAID effectively managed its Federal Employees' Compensation Act (FECA) Program to reduce costs to the U.S. Government?

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

time of death. According to the statute, the death gratuity is considered to be a gift and is in addition to any other benefit payable from any other source. At USAID, a foreign service employee is a U.S. Federal employee appointed to help formulate and implement American foreign policy around the world.

³ The Department of Labor (DOL) determines estimated future FECA costs. This liability is determined using a paid losses extrapolation method calculated over a 37 year period. Using this method, DOL reviews historical benefit payment patterns related to a specific incurred period to predict the ultimate payments related to that period. These annual benefit payments have been discounted to present value. The interest rate assumptions used for discounting were 4.88% in year one and 5.235% in year two and thereafter.

AUDIT FINDINGS

While the Department of Labor's Office of Workers' Compensation Programs (OWCP) administers the Federal Employees' Compensation Act (FECA) Program government-wide, federal agencies, such as USAID, have the obligation to be responsible stewards on behalf of the American taxpayer. For about four years, USAID's Bureau for Management, Office of Human Resources (HR) had not effectively managed its FECA program to reduce costs to the U.S. Government. Most significantly, HR had neither maintained sufficient records to enable it to manage its workers' compensation cases nor systematically reviewed the OWCP preliminary billing records called "chargeback reports" to verify monetary obligations that will become reimbursable to the Department of Labor. Although HR has suffered numerous personnel shortages and faces competing work priorities, the office has begun updating its case files and reviewing its chargeback reports.

From July 2002 through March 2006, USAID incurred more than \$12.9 million in workers' compensation costs for medical and compensation benefits payable to beneficiaries in 116 workers' compensation cases. These costs and claims are illustrated in Appendix III and occurred as early as calendar year 1961 – resulting in some of its cases being more than 40 years old.⁴ Approximately two-thirds of the \$12.9 million that USAID incurred for workers' compensation costs, or \$8.3 million, were attributable to 46 work-related fatalities. The remaining \$4.6 million was attributable to 44 claimants who suffered work-related injuries or illnesses. Twenty-six workers' compensation cases did not result in costs to USAID for either compensation or medical benefits.

The workers' compensation case file is the most important repository of information about an employee's claim for FECA benefits. However, HR had not updated its case files with the basic information necessary to verify ongoing beneficiary eligibility or requested this information from OWCP to effectively manage its workers' compensation cases. For any workers' compensation claim, pertinent documentation in a case file enables HR to, among other things, establish the facts of an employee's death or injury, determine possible alternative or light-duty work assignments for disabled employees, and verify the validity of charges on quarterly chargeback reports. During our review of 57 workers' compensation case files, we found that some of HR's case files were either missing or contained incomplete documentation that would allow HR's staff to adequately and effectively perform their FECA duties. Since 31 of USAID's 46 fatal cases are more than 25 years old and account for 40 percent of USAID's total FECA costs, the Agency is entering a period of heightened risk for potential excess payments.⁵

⁴ Appendix III only includes those cases for which compensation and/or medical benefits were paid.

⁵ A significant number of surviving spouses will likely die over the next 10 years. USAID's heightened risk for potential excess payments also increases because OWCP experienced some difficulties in the past, and thus made some erroneous or excess payments to deceased or remarried surviving spouses, and did not always terminate compensation benefits in a timely manner, as required.

Additionally, some responsibilities to reduce actual and potentially unnecessary costs to the U.S. Government and opportunities to assist in USAID's accident abatement efforts were missed. Such accident abatement efforts would include maintaining a log of workplace injuries and illnesses for trend analyses, and sharing information with responsible USAID safety and health officials. Moreover, HR lacked a system to adequately account for and quantify "continuation of pay" payments. Consequently, in at least one instance, USAID made unauthorized payments to one ineligible recipient.

Finally, the Automated Directives System guidance that HR uses is outdated. In several cases, some of the authorities and citations noted were incorrect and inconsistent with current U.S. laws and practices. The lack of accurate information in USAID's guidance can result in the misinterpretation of legal requirements and potentially reduce organizational effectiveness and efficiency.

Taken as a whole, these six audit findings hindered HR's ability to effectively manage the FECA Program in order to reduce costs to the U.S. Government. The audit findings, together with any appropriate recommendations, are discussed in detail below.

The Office of Human Resources Needs to Improve Its Workers' Compensation Case Management

Summary: Automated Directives System (ADS) 596, *Management Accountability and Control*, requires USAID managers to maintain adequate documentation to verify the validity of transactions and adequately monitor program performance and associated costs. However, numerous instances of workers' compensation case files were either missing or incomplete. This occurred, primarily, for two reasons. First, USAID's Bureau for Management, Office of Human Resources' (HR) officials did not maintain either a master list of files or develop a checklist that would indicate the most basic documentation that should be included in a workers' compensation case file. Second, HR officials also did not update their case files with the basic information necessary to verify ongoing beneficiary eligibility. Moreover, HR did not request this information from the Department of Labor's Office of Workers' Compensation Programs (OWCP). Without verifying a sample of its workers' compensation cases on a routine basis, HR missed opportunities to possibly reduce program costs and avoid excess payments to ineligible beneficiaries.

Automated Directives System (ADS) 596, *Management Accountability and Control*, requires USAID managers to implement cost-effective controls to reasonably ensure that costs comply with applicable laws, that revenues and expenditures are properly recorded and accounted for, and that assets are safeguarded against fraud and abuse. An integral part of management's overall controls are the proper execution of transactions and events, as well as the maintenance of adequate documentation to verify the validity of transactions to adequately monitor program performance and associated costs.

USAID's Bureau for Management, Office of Human Resources (HR) did not have an adequate workers' compensation case file inventory. The office had not developed a master list of case files that should be available for review or created a file inventory

form that indicates whether each file contains, at a minimum, the basic claim forms necessary to determine facts about a case for adequate case management. As illustrated in Appendix IV, our review of a sample of 27 USAID workers' compensation case files for death claims (fatal cases) revealed that the files contained insufficient information that would allow HR to effectively manage its FECA program. Of the 27 fatal cases, valued at approximately \$5.5 million in survivor benefits, nine cases did not have a corresponding file, 14 case files contained no evidence that survivors' continuing eligibility had ever been verified, and three contained eligibility verifications that were no longer current. The remaining case in this sample is currently being reviewed further by USAID Office of Inspector General investigators.

In addition, a significant number of the 18 fatal cases, which included corresponding files, lacked the most basic documentation necessary for adequate case management, such as forms used to document a surviving spouse's compensation claim or a supervisor's death report. Only eight of the 18 workers' compensation case files contained both of these forms. These eight case files contained a "*Claim for Compensation by Widow, Widower, and/or Children*" or *Form CA-5*, which provides such basic information as the surviving spouse's name, birth date, and social security number. The *Form CA-5* also contains information necessary to monitor the continued eligibility of the decedents' children, as well as pending or actual claims made against third parties. Furthermore, only 10 of the 18 case files contained an "*Official Superior's Report of Employee's Death*" or *Form CA-6*. The *Form CA-6* contains such pertinent information as the employee's pay grade and the Agency and particular office to which the employee was assigned at the time of death.

While USAID expenditures for non-fatal cases were lower than expenditures for its fatal cases, insufficient documentation remained the prevalent theme for the sample of non-fatal cases. For example, as shown in Appendix V, in a sample of 30 non-fatal cases, three files were missing and 11 contained insufficient medical evidence that would allow HR officials to effectively monitor the claimant's continued eligibility for benefits. These 14 cases represented approximately \$2.6 million, or 57 percent, of the \$4.6 million in FECA costs that were attributable to non-fatal cases from July 2002 – March 2006. Although HR officials stated that efforts had been made in the past to find suitable light-duty positions for some claimants with active cases, the officials had not systematically evaluated some of their long-term disability cases for light-duty potential. However, during the audit, HR officials began corresponding with non-fatal case claimants to explore opportunities for some of the claimants to return to work in light-duty positions.

The USAID FECA case files were incomplete, in part, because, according to HR officials, they did not have time to request some of the more significant or critical workers' compensation documents. The HR division chief stated that the HR staff did not have time to request such documents from OWCP, even though Department of Labor guidance indicates that agency personnel should receive copies of all significant correspondence to employees, even when the employees are no longer on an agency's rolls. One significant and critical document would be the "*Claim for Continuance of Compensation under the Federal Employees' Compensation Act*," or *Form CA-12*. Among other things, the *Form CA-12* requires a beneficiary to inform OWCP of events such as the remarriage of a surviving spouse, the receipt of other federal pensions or allowances, and the marriage of dependents during an annual certification of eligibility. Furthermore, the form requires the claimant to affirm that he or she will immediately notify the OWCP of any changes in eligibility status. If a beneficiary fails to return the

annually-requested written certification within a specified time period, federal regulations require OWCP to suspend compensation benefits until the certification is returned.

Although federal regulations require beneficiaries to provide annual certification for eligibility to continue receiving death benefits, USAID did not follow up on, request or verify any of this documentation from OWCP to reasonably assure that claims were valid and properly authorized. At a minimum, as a prudent management practice, USAID should follow up on or verify a sample of its claims for beneficiary eligibility, since some USAID cases are more than 40 years old. Without such follow up or verification of a sample of its fatal and non-fatal cases on a routine basis, USAID misses opportunities to possibly reduce program costs and avoid excess payments to, or identify ineligible beneficiaries.

Recommendation 1: We recommend that the Office of Human Resources develop a master inventory to document its workers' compensation case files.

Recommendation 2: We recommend that the Office of Human Resources update its workers' compensation case files with a checklist and with copies of critical documents, which would allow officials to verify beneficiary eligibility and to ensure the proper authorization of benefit payments.

The Office of Human Resources Should Verify Quarterly Billing Reports

Summary: Automated Directives System (ADS) 442.3, *Workers' Compensation Program*, Section 2.h, entitled "Responsibility," requires USAID's Office of Human Resources to validate the Department of Labor's Office of Workers' Compensation Programs' (OWCP) preliminary quarterly billing report, known as a "chargeback" report, and resolve any discrepancies. Although HR officials received the chargeback reports in a timely manner, the staff did not review the reports for accuracy. The HR division chief stated that he believed that the administration of the FECA program, including the provision of accurate chargeback information, was an OWCP responsibility. Without verifying and validating the accuracy of the information on the chargeback reports, USAID could potentially incur additional compensation costs for non-USAID employees, as well as pay benefits to ineligible beneficiaries.

Automated Directives System (ADS) 442.3, *Workers' Compensation Program*, Section 2.h, entitled "Responsibility," requires the cognizant HR division office to validate the OWCP preliminary quarterly billing report, or "chargeback" report, and resolve any discrepancies. The chargeback report provides information on FECA costs and activity that are attributable to USAID, ranging from the receipt of an initial accident notice or compensation claim to the payment of medical and/or compensation benefits. The costs on the chargeback report, which is issued quarterly, included benefit payments that OWCP has made to eligible beneficiaries on behalf of USAID from July 2002 through March 2006. Since the chargeback year runs from July 1 – June 30, each quarterly chargeback report is cumulative for that particular chargeback year. OWCP issues these reports, which summarize benefit payments on a per-case basis, to permit

review, verification, and any necessary correction of cases and payments before the final annual billing is produced.

Although HR received the chargeback reports in a timely manner, HR staff filed the reports in an office repository and did not review any of the reports for discrepancies. Moreover, HR's division chief did not conduct any management review of these chargeback reports. In one illustrative example, USAID compensation costs increased because OWCP added an employee to the USAID chargeback reports for the June 30, 2006 chargeback year. The employee was injured in 1967, but was not included on the previous USAID chargeback reports since July 2002. Although USAID estimated costs increased, HR officials did not verify or investigate this addition to the chargeback report that resulted in additional USAID costs. During the audit, HR officials discovered that the office did not have a case file by which to verify that either the employee was a USAID employee and that, subsequently, compensation costs for the claimant had been erroneously charged to another Federal agency. In this case, OWCP discovered its error and transferred the case to the USAID chargeback report.

According to the HR division chief, OWCP is responsible for administering the FECA Program, which includes functions such as monitoring case file information and providing accurate billing information to Federal agencies. Given staffing shortages and competing work priorities, the HR division chief stated that his office may not be able to fulfill some of its other HR responsibilities if staff verified information on the chargeback reports. However, notwithstanding this assertion, USAID clearly imposes an unambiguous requirement to routinely review the chargeback report.

The desirability of periodically reviewing the quarterly billing reports is firmly rooted in prudent management practice. Since the chargeback report forms the basis for the final agency billing, failure to verify and validate the report for accuracy could potentially result in USAID incurring additional compensation costs for non-USAID employees, as well as paying benefits to ineligible beneficiaries. In addition, failure to review the chargeback report could result in USAID officials being unaware of potentially questionable claims that warrant further investigation. Undetected errors resulting in erroneous and unnecessary costs to USAID can be sustained and abound for many years absent a chargeback report review and appropriate actions to resolve discrepancies in a timely manner.

Recommendation 3: We recommend that the Office of Human Resources develop procedures to ensure that it promptly verifies, validates and documents its Office of Workers' Compensation Programs' quarterly preliminary billings for accuracy and propriety and take appropriate actions to resolve any discrepancies.

The Office of Human Resources Should Improve Monitoring of Special Benefits

Summary: Automated Directives System (ADS) 442.3, *Workers' Compensation Program*, Section 2.e, entitled "*Responsibility*," stipulates that USAID's Office of Human Resources should coordinate with the Agency's payroll and personnel systems to track and monitor a special benefit called "continuation of pay" (COP). HR officials, however, had not coordinated with payroll or personnel officials to monitor COP use, statutory limitations or associated costs. HR relied solely on USAID office supervisors and timekeepers to monitor the use of this benefit. Inasmuch as HR had not properly tracked, monitored, or accounted for "continuation of pay", USAID was not able to quantify total FECA costs and consequently, was not able to effectively manage COP to reduce costs to the U.S. Government.

Automated Directives System (ADS) 442.3, *Workers' Compensation Program*, Section 2.e, entitled "*Responsibility*," requires USAID's Office of Human Resources to be responsible for coordinating with the Agency's payroll office to track and monitor "continuation of pay" benefits. In accordance with FECA at the request of an employee, USAID continues an employee's regular pay,⁶ without a charge to sick or annual leave, for a period of up to 45 calendar days after an employee suffers a traumatic injury.⁷ The benefit allows the employee to avoid an interruption of pay during recuperation time. As such, this benefit constitutes an integral element of USAID's FECA program.

Due to its limited duration and function as an income-replacement mechanism, "continuation of pay" is unique from other FECA benefits in a number of ways. First, COP, unlike compensation for death or disability, is taxable income to the recipient. Second, USAID pays this benefit directly to the beneficiary. Since OWCP does not monitor the 45-day statutory limit and does not provide any information on COP on the quarterly chargeback report, USAID is solely responsible to track the payment of these monetary benefits.

However, Human Resources and USAID payroll officials did not communicate or coordinate efforts to monitor "continuation of pay" payments to ensure that payments were accurate, allowable, and authorized. Moreover, HR did not quantify the cost of these benefits to USAID. In fact, USAID's accounting system, as currently configured, cannot specify the amount of COP expense incurred for any given accounting period. Currently, USAID's timekeepers use a code to record time attributable to "injury leave." Within USAID's payroll system, injury leave is a component of the administrative absence category. As a result, USAID managers could not easily isolate COP time charges or ultimately quantify these costs to the Agency.

⁶ An employee's regular pay is his or her bi-weekly earnings, including night or shift differential and various kinds of premium pay (but not Sunday pay). Overtime pay is not usually included.

⁷ A traumatic injury is an injury caused by an external force and is identifiable by time and place of occurrence, as well as the part of the body affected. In addition, it must be caused by a single event, or series of events, occurring during a single day or work shift.

According to HR officials, they did not coordinate with USAID's payroll and personnel officials to track and monitor "continuation of pay" because HR staff relied on individual office supervisors and timekeepers to monitor injury time charges to ensure that the 45-day limit is not exceeded. HR did not monitor, consolidate, or coordinate the results of the supervisor/timekeeper records for cost information or analyses that could identify trends or unauthorized benefit payments. Due to the lack of monitoring, USAID made improper and unauthorized "continuation of pay" payments to one foreign service national employee in calendar year 2004 and had not been able to quantify the payments, although HR officials continue to attempt to specify the amount. Although foreign service nationals are entitled to medical benefits and compensation for death and disability, the continuation of pay benefit is prohibited by U.S. law.⁸

The inability to properly report track, monitor, and account for "continuation of pay" expenses has additional deleterious effects for USAID. Since these expenses are a component of total workers' compensation costs, this inability means that management cannot quantify USAID's total workers' compensation expenses. While USAID guidance may require specific staff to monitor this special benefit to ensure that it does not exceed the 45-day limit, HR did not provide the necessary oversight that would decrease the risks that USAID incurs from improper and unauthorized excess payments.

Coordination between HR, the payroll office, and timekeepers is an integral part of managing this special benefit to reduce costs to the U.S. Government. Furthermore, the absence of tracking, monitoring, and accounting for this benefit hinders the ability of supervisors and managers to control workers' compensation costs and thereby reduce operating expenses. Even reports indicating no "continuation of pay" activity can have utility for management officials. Since USAID's levels of activity have been minimal, the Agency has been fortunate. However, given the ongoing deployment of USAID personnel to sometimes dangerous and unstable regions around the world, these benefits could easily become significant, making the adoption of effective procedures to track, monitor, and account for "continuation of pay" even more important.

Recommendation 4: We recommend that the Office of Human Resources coordinate with the Payroll Division to develop processes to track and monitor USAID's continuation of pay benefits.

Recommendation 5: We recommend that the Office of Human Resources update its workers' compensation case files to include continuation of pay information to determine propriety and take corrective action, if necessary.

⁸ Title 20 of the Code of Federal Regulations, *Employee Benefits*, Section 10.220 (20 CFR 10.220), stipulates that an employing agency may not pay "continuation of pay" benefits to a non-citizen of the United States or Canada.

The Office of Human Resources Should Update Information in USAID's Automated Directives System

Summary: Automated Directives System 501, *The Automated Directives System (ADS)*, Section 3.5 requires that authors of the guidance material should update it, as appropriate. However, USAID's Office of Human Resources had not revised or updated ADS 442, *Workers' Compensation Program*, in a timely manner. This occurred principally because HR staff was unaware that ADS 442 was not consistent, in some instances, with current law. Moreover, even though the HR division chief reviewed the ADS, competing priorities and insufficient staffing prevented the office from revising and updating the guidance. Since HR had not updated, revised, or published the Agency's guidance in a timely manner to ensure that it was consistent with laws, regulations, sound policy, and current practices, USAID personnel did not have access to readily-available, up-to-date, and accurate information.

USAID's Automated Directives System provides the structure for managing USAID's internal regulations. These internal regulations include both policy directives and required procedures. ADS 501, *The Automated Directives System (ADS)*, Section 3.5 requires that ADS authors regularly review internal regulations and modify them to ensure that the information is up-to-date and consistent with laws, regulations, sound policy, and current management practices.

Despite this requirement, USAID's Human Resources' officials had not updated, revised, or published the Agency's guidance on the FECA program, outlined in ADS 442, since it was released in February 1998. In at least three specific instances, USAID's guidance reflected incorrect law, references, and titles. First, ADS 442.5.1, *Workers' Compensation Program*, Section g, entitled "*Basic Benefits*" stipulates that death benefits are payable to a decedent's surviving spouse until either the surviving spouse's death or remarriage before age 60. However, Title 5 of the United States Code, Section 8133 [5 USC 8133(b)(1)], specifies that benefits are payable until either the surviving spouse dies or remarries *before* age 55. Prior to 1990, U. S. law specified age 60 as the minimum age at which a decedent's surviving spouse could remarry and continue to receive benefits. However, in May 1990, Public Law 101-303 amended 5 U.S.C. 8133 to change this minimum age at which a surviving spouse could remarry to age 55.

Secondly, ADS 442.1, *Workers' Compensation Program*, entitled "*Authority*," incorrectly cites several underlying authorities. For instance, ADS 442.1 lists 5 U.S.C 81 as an authority, although this Code section does not exist. Although the citation is nonexistent, the hyperlink in the electronic version of ADS 442 transfers the reader to a subchapter of the United States Code pertaining to drug abuse and alcoholism among federal employees. The correct citation for the Federal Employees' Compensation Act (FECA) is 5 U.S.C 8100 et seq. Similarly, ADS 442.1 cites a Department of Labor publication entitled "FPM 810, *Injury Compensation*" as an underlying authority. However, again, this underlying authority was revised and replaced by Department of Labor Publication CA-810, *Injury Compensation for Federal Employees*, in February 1994.

Thirdly, ADS 442.3, *Workers' Compensation Program*, Section 2.a, entitled "Responsibility," refers to the Bureau of Management, Office of Human Resources, Personnel Operations Division, Employee Services Branch as responsible for the overall management of USAID's FECA Program. But due to a reorganization of HR in 1998, the Labor and Employee Relations and Benefits Division became responsible for the management of the USAID FECA Program.

Human Resources' officials became aware that ADS 442 directly conflicted with applicable U.S. laws and USAID management practice during the audit. Despite being contacted by the Bureau of Management, Administrative Services, Information and Records Division between January 2000 and October 2003 for required revisions to the guidance, HR officials did not update or revise its FECA guidance. According to the HR division chief, competing priorities and inadequate staffing prevented the office from revising and updating the workers' compensation guidance in a timely manner.

Since HR had not updated, revised, or published the Agency's guidance in a timely manner to ensure that it was consistent with laws, regulations, sound policy, and current practices, USAID personnel did not have access to readily-available, up-to-date, and accurate information. Inasmuch as USAID employees often rely on the ADS as the initial reference for Agency policies and procedures, the lack of revised ADS information could cause personnel to have inadequate or erroneous information that potentially reduces organizational effectiveness and efficiency. Furthermore, the inattention to details could help to foster a perception of a weak control environment, which could diminish the effectiveness of the Agency's system of management controls. The lack of accurate information in USAID's guidance can easily result in misinterpretation of legal requirements.

Recommendation 6: We recommend that the Office of Human Resources revise and update the workers' compensation policies and procedures contained in the Automated Directives System.

The Office of Human Resources Should Maintain Injury/Illness Log

Summary: Automated Directives System (ADS) 442.3, *Workers' Compensation Program*, Section 2.k, entitled "Responsibility," requires Human Resources officials to maintain a log of injuries or illnesses for the employees assigned to USAID/Washington headquarters. However, HR officials had not created or maintained any log of injuries or illnesses for USAID employees. According to HR officials, the log was not maintained because of frequent personnel turnover and a lack of supervisory guidance. Without a log containing accident and injury data, USAID officials could not identify applicable trends, or plan or take remedial actions to mitigate hazardous conditions or practices that would help to minimize workers' compensation costs.

Automated Directives System (ADS) 442.3, *Workers' Compensation Program*, Section 2.k, entitled "Responsibility," requires USAID Human Resources officials to maintain a USAID/Washington log of injuries or illnesses. Similarly, ADS 442.3, Section 7.1

imposes this requirement for USAID mission officials. This guidance stipulates that the log must include the date of injury, the date the report was received, the type of injury or illness, the employee's employment status and a brief description of how the injury or illness occurred.

At the beginning of the audit, Human Resources' officials had not developed, maintained, or used a log of injuries or illnesses for USAID employees assigned to Washington, D.C. However, using an electronic tracking form that we initially developed for audit purposes to obtain preliminary information on accidents and illnesses, HR staff has expanded some of the information the office desires to track routinely on a worldwide basis. The tracking form contains such information as the employee's name, job classification, and grade; the date, time, location, and nature of the injury; the employee's supervisor; the dates that the applicable accident or injury notification was filed with HR and with the Department of Labor's Office of Workers' Compensation Programs (OWCP); and the details on the election of "continuation of pay" benefits, as well as the disposition of the case at the end of the 45-day benefit period.

Due to frequent personnel turnover and a lack of supervisory guidance, HR staff did not maintain a log of injuries and illnesses for personnel based at USAID's headquarters in Washington, D. C., as required. Without a log containing agency-wide data by which to monitor workplace injuries and illnesses, USAID managers could not identify trends by specific categories such as locations of incidents and employees involved. Consequently, USAID managers did not have information by which to (1) plan for developmental programs or take remedial action to reduce injuries; (2) request timely investigations; or (3) minimize future program costs. Furthermore, without the log HR staff can not verify the completeness and accuracy of the OWCP quarterly chargeback report for recent claims activity.

HR officials are currently using an electronic tracking form to obtain workers' compensation information both at its Washington headquarters as well as its mission locations worldwide. In addition to the positive attributes of a procedure to monitor injuries and illnesses, HR officials believe that this centralized log will also facilitate its review of quarterly OWCP chargeback reports. Since HR has taken proactive steps to develop a log of workplace injuries and illnesses, we are not making a recommendation at this time.

The Office of Human Resources Should Share Information with Safety and Health Officials

Summary: Automated Directives System (ADS) 442.3, *Workers' Compensation Program*, Section 2.m. entitled "Responsibility," requires Human Resources staff to provide specific accident and illness notification forms to USAID's Safety and Health personnel. Although required, HR had not provided these forms to the appropriate officials. According to HR staff, this occurred because HR staff was not aware that copies of any of the applicable forms should be routinely given to personnel outside of the Office of Human Resources. The lack of coordination between the Office of Human Resources and USAID's Safety and Health personnel hampers or does not allow USAID managers to have complete information necessary to recommend appropriate accident and injury abatement efforts.

Automated Directives System (ADS) 442.3, *Workers' Compensation Program*, Section 2.m, entitled "*Responsibility*," requires HR to provide copies of specific accident and illness notification forms to USAID's Safety and Health personnel. These forms document traumatic injuries as well as occupational illnesses and injuries, and also contain a wealth of information useful for analytical, accident, and injury abatement purposes. The information on these forms includes such things as the time, location, and nature of the injury, the cause of the injury, and any witness statements.

Historically, HR officials had not provided USAID's Safety and Health staff with copies of these key workers' compensation forms. In fact, the Safety and Health function had suffered a longstanding institutional neglect that had only been rectified in the aftermath of the September 11, 2001 terrorist attacks. Prior to this time, the Safety and Health function was overseen by an employee who was untrained in the occupational safety and health function. This employee would typically only document accidents that he became aware of, but did not conduct any investigations to determine cause and any corrective actions needed. About two years ago, USAID hired an employee with dual duties as the Continuity of Operations coordinator and the Safety and Health Officer. Although USAID hired an employee with dual duties, the continuity-of-operations function predominated. Recently, USAID hired an experienced Occupational Safety and Health Manager to manage its occupational safety and health program.

Although the longstanding vacancy of the Occupational Safety & Health Manager position may have prevented Human Resources staff from providing copies of worker compensation forms to an appropriate incumbent, HR staff was not aware that copies of any of the applicable forms should be provided to any staff outside of the Office of Human Resources. The lack of coordination between HR and the Safety and Health function precluded USAID managers from identifying trends in workplace injuries and illnesses. Consequently, USAID managers did not have information by which to plan or take remedial action to mitigate hazardous conditions and practices, request timely investigations, or minimize future workers' compensation program costs.

The most effective means of reducing workers' compensation costs is to prevent workplace accidents and illnesses from occurring, if at all possible. Moreover, a healthy workforce contributes to the timely accomplishment of USAID's program objectives. During the audit, HR began providing the appropriate workers' compensation forms to the recently hired Occupational Safety & Health Manager. USAID's Bureau of Management, Office of Administrative Services, which oversees the Safety and Health function, plans to utilize this information to compile an accident database for use in facilities' assessment and injury abatement functions. Consequently, we are not making a recommendation at this time.

EVALUATION OF MANAGEMENT COMMENTS

In their response to the draft report, HR officials concurred with Recommendations Nos. 1, 3, 4, 5, and 6, but did not concur with Recommendation No. 2 in its entirety. HR's response to each of the six recommendations is evaluated below.

To address Recommendation No. 1, HR officials have begun developing a master inventory listing of all workers' compensation cases for which files should be maintained. We believe that this action will assist HR's ongoing improvement of its workers' compensation case management functions. Accordingly, a management decision has been reached on this recommendation.

Regarding Recommendation No. 2, although a management decision has not been reached, HR officials agreed that a checklist for critical documents included in a workers' compensation case file is an effective tool for ensuring that the case file is complete. HR believes that including copies of the Form CA-12 and verifying the information contained therein would be an unnecessary duplication of the Department of Labor's (DOL) duties and outside the scope of HR's administrative role. However, our recommendation strives to balance HR's legitimate workload concerns with the prudent management practice of ensuring that benefit payments are properly authorized. As noted in the report, such prudence is justified given the difficulties that DOL has previously experienced coupled with the fact that the CA-12 is the primary document by which beneficiaries inform DOL about critical eligibility requirements. USAID has a vested interest to ensure that either these annual forms are received in a timely manner or that benefit payments are suspended for those who do complete and return the form, as required by federal regulations. At a minimum, as a prudent management practice, HR should follow up on, request, or verify the timely receipt of a sample of the CA-12 by DOL. In this manner, HR would verify the timely receipt of this pertinent information contained on the CA-12, without verifying the accuracy of the information. This action would serve as a reasonable and cost-effective exercise of USAID's oversight responsibilities.

Regarding Recommendation No. 3, HR officials generally concurred that verification of quarterly billing reports, at some level of detail, is appropriate. Moreover, HR concurs that whereas a "reasonably rigorous anomaly-spotting leads to the identification of discrepancies, HR can and should reconcile them." By performing this task on a routine basis to verify and validate quarterly billings, at a minimum, HR can facilitate the management oversight of recurring individual beneficiary payments for reasonableness. Such management oversight can ensure that new individuals listed are proper USAID obligations as well as to identify and resolve other anomalous items, as required. Accordingly, we consider that a management decision has been reached on this recommendation.

To address Recommendation No. 4, HR has begun coordinating with the Payroll Division to produce the reports necessary to track and monitor "continuation of pay" benefits. We believe these reports, in conjunction with a greater overall awareness of

“continuation of pay” management issues by both HR and Payroll Division officials, will lead to enhanced organizational effectiveness. Accordingly, a management decision has been reached on this recommendation.

To address Recommendation No. 5, HR officials plan to supplement workers’ compensation case files with a record of “continuation of pay” usage as well as any adverse DOL adjudication that requires corrective action. These actions will serve to enhance HR’s overall management of the FECA program. Accordingly, a management decision has been reached on this recommendation.

To address Recommendation No. 6, HR officials plan to revise and update ADS 442 to conform with current statutes, DOL guidance, and HR organizational designations. Accordingly, a management decision has been reached on this recommendation.

Management’s comments are included in their entirety in Appendix II.

SCOPE AND METHODOLOGY

Scope

The Office of Inspector General's Performance Audits Division conducted this audit in accordance with generally accepted government auditing standards. The purpose of the audit was to determine if USAID has effectively managed its Federal Employees' Compensation Act (FECA) Program to reduce costs to the U.S. Government. We conducted this audit at USAID's Bureau for Management, Office of Human Resources, Labor and Employee Relations and Benefits Division (HR) in Washington, D.C. from May 22 to September 15, 2006.

In planning and performing the audit, we obtained an understanding of the management controls related to documentation, accurate and timely recording of transactions and events, and supervision for HR in its administration of USAID's FECA Program. Our audit covered claims activity that included new claims filed and benefits paid for existing claims from July 2002 through March 2006. We reviewed a sample of 57 of the 116 workers' compensation case files at USAID. The sample cases represented \$9.85 million, or 76 percent of the \$12.9 million in FECA medical and compensation costs incurred by USAID.

During our initial planning, we considered the significance or noncompliance rate for the entire universe of workers' compensation case files that HR developed. We did not determine materiality thresholds for the audit objective because we included workers' compensation cases as well as benefits paid for continuation of pay that did not include medical and/or compensation benefits.

Methodology

To answer our audit objective, we reviewed applicable guidance on the FECA Program and management controls. This guidance included the Federal Employees' Compensation Act, as amended (5 U.S.C. 8100 et seq.); Title 20 of the Code of Federal Regulations, Chapter 1, Part 10; Department of Labor Publication CA-810, *Injury Compensation for Federal Employees*; applicable audit reports by other Inspectors General; and additional pertinent background materials. We also reviewed USAID's Automated Directives System (ADS) 442, *Workers' Compensation Program*; ADS 501, *The Automated Directives System (ADS)*; and ADS 596, *Management Accountability and Control*.

Next, we developed a spreadsheet to identify workers' compensation case file attributes for claims filed during the audit period, to include the employee's name, job classification, and grade; the date, time, location, and nature of the injury; the employee's supervisor; the dates that the applicable accident or injury notification was filed with HR and with the Department of Labor's Office of Workers' Compensation Programs (OWCP); and the details on the election of "continuation of pay" benefits as well as the disposition of the case at the end of the 45-day benefit period. Additionally, we reviewed copies of the OWCP billing reports for the chargeback years ended June

30, 2003, 2004, and 2005, as well as the 9-month period that ended as of March 31, 2006 to establish the audit universe. We also interviewed personnel from the Office of Human Resources, Labor and Employee Relations and Benefit Division; the Bureau of Management, Office of Administrative Services; and the Office of the Chief Financial Officer, Payroll Division.

To facilitate analysis of the audit universe, we stratified the billing data into fatal and non-fatal strata, and selected a total of 57 case files for review. We initially selected 43 cases in which the claimants elected "continuation of pay" benefits; fatal cases in which the claimant received compensation for a long period of time; and non-fatal cases in which the claimant received compensation for a long period of time combined with little or no medical costs indicated on the quarterly billing reports. We then randomly selected seven case files based on the total value of compensation paid. Finally, we judgmentally selected an additional seven cases, based on the criteria stated above for fatal and non-fatal cases, in order to yield more substantial coverage of the audit universe.

To ensure that the case file reviews were reliable and consistent, we developed a master checklist for both fatal and non-fatal cases. These master checklists addressed such issues as the existence of a case file, the presence of key forms, and documentation of continued eligibility and any efforts to reduce costs to the U.S. Government

MANAGEMENT COMMENTS

November 17, 2006

To: Steven H. Bernstein, Director, Performance Audits Division
Office of Inspector General

From: David E. Eckerson, Director /s/
Office of Human Resources

Re: Requested Comments on Draft Report of Audit of
Federal Employees' Compensation Act Program

I. Introduction

The captioned audit began with an "entrance conference" on July 12, 2006. During that initial encounter between auditors and program staff, representatives of the Office of Inspector General (OIG) observed that the Agency's Federal Employees' Compensation Act Program had not been reviewed by OIG for 17 years. They explained that they expected the audit to be an educational experience for all concerned and that it would be collaborative with, as one OIG representative put it, "no gotchas." As it turns out, the audit was collaborative at the staff level and educational on several planes.

Following the audit's reasonably amicable "exit conference" on September 15, 2006, during which a seven page draft report containing six recommendations was distributed, constructively discussed, and fairly summarized by OIG employees, the OIG prepared the instant October 18, 2006 "draft" report (consisting now of 16 pages of text and three appendices). While the essence of the modest, essentially recordkeeping and reconciliation recommendations remained the same, the tenor of the draft morphed from neutral to gratuitously negative and alarmist. To the extent program management improvements and innovations were underway before the audit began or were initiated during the review, they are occasionally noted.

The report is understandably silent on the OIG's review of its own superintendency of FECA cases involving OIG employees and does not acknowledge either that the workers' compensation caseload entrusted to Human Resources includes all OIG compensation cases or that the OIG has yet to offer any staff or budget assistance in support of the program administration improvements it recommends.

Program management's review of the October 18, 2006 report generates this response.

Staff was pleased with the opportunity to work with a dedicated auditor committed to issue identification and sensible resolution. It is compelled to emphasize that it initiated program review and revision well before the OIG announced its intent to audit, has already taken a number of steps to address OIG concerns, is substantially fulfilling program obligations, has established improved communication links with the Department

of Labor nationally and within its district offices, and, subject to review of the results of the one case the OIG asserts it continues to examine (but has not identified), it recognizes that the OIG unearthed a single expenditure which should not have occurred, an expenditure staff is seeking guidance on recouping.

II. Background

Civilian employees of the federal government who become unable to work as a result of a work-related injury, illness or disease are eligible for compensation. Compensation can include a brief period (following injury but not illness) during which regular pay continues, payment of relevant medical expenses, payment of set amounts for a covered loss of function, and/or ongoing income support for extended work-related disabilities. Compensation payments to the employee continue for as long as the work-related impairment precludes a return to work. In addition, eligible surviving spouses and dependents may qualify for between 50 and 75 percent of the employee's salary following the employee's death.

The Federal Employees' Compensation Act governs workers' compensation for federal civilian employees and their families. It is largely administered by the Department of Labor (DOL). Employing agencies publicize the availability of benefits and claims procedures. They facilitate the preparation and filing of claims forms, respond to questions and concerns, alert DOL to questionable claims, effect an up to 45 day continuation of pay requirement in appropriate cases, monitor the status of employees absent from work to ensure proper time and attendance reporting and encourage and, where possible, provide for prompt returns to work for recovering employees. They coordinate with in-house payroll and safety personnel, maintain certain records and check charges by DOL for payments made to compensation recipients, identifying any that may not be warranted.

These responsibilities are important and necessary. They are, however, limited. The Department of Labor is vested with the authority and responsibility to administer the statute, adjudicate claims, evaluate all relevant information, particularly medical documentation, ensure continuing eligibility for benefits, document payments, entertain appeals, pursue third party contributions toward the cost of compensation, and produce case status and cost reports.

USAID has historically placed responsibility for the Agency's portions of the workers' compensation program within the Office of Human Resources. Human Resources has shifted responsibility from division to division several times during the past 15 years. With each movement, staffing changes occurred as well. Responsibility currently resides within M/HR/LERB where, for at least the past three years, a single Benefits Specialist has been the primary point of contact and program administrator. She devotes the vast preponderance of her time to retirement counseling and application preparation and processing, as well as primary oversight of the day-to-day implementation of the Federal Employees Health Benefits program. Occasionally assisted by her two colleagues, who have other programmatic priorities, this Benefits Specialist reports to a Division Chief. The Chief is ultimately responsible for all benefits, retirement, labor relations and employee relations programs and functions. The Division Chief has been heading LERB for approximately 22 months.

III. The OIG Draft Report in Context

The Report summarizes the audit findings as: inadequate maintenance of records, less than systematic review of DOL's quarterly billing reports, absence of updated guidance and ongoing verification of the validity of the up to 45 day "continuation of pay" status of eligible claimants, and a lack of sharing information "among appropriate officials for accident abatement purposes." As referenced in the Introduction, above, it recounts an instance in which an injured Foreign Service National received continuation of pay when, because she was neither an American nor Canadian citizen, she should not have. With its factual predicates established, and its view of risk avoidance presented, the Report concludes that six additional steps need to be taken to decrease opportunities for fraud, waste and abuse.

In early 2005, management recognized a need for improvement well before an audit was announced, then knew and now concurs that program administration must be enhanced, and is already well along the path toward responsible, affordable improvement. In contrast to the OIG's vision of achieving essentially zero risk of loss tolerance irrespective of available resources, management does not have the luxury of investing whatever it might take to ensure that all records of arguable relevance to injuries or deaths occurring as long as forty years ago be located or recreated; nor does it embrace the notion that Agency responsibilities be expanded to encompass the auditing of information solicited, received and reviewed by DOL to eliminate any possibility of a modest loss occasioned by DOL oversight, untimeliness, or error. The firmness of this conviction is strengthened by a recognition that the OIG has thus far identified no such loss.

Well before the audit had commenced, management began to position the Agency to more effectively and knowledgeably fulfill its program administration responsibilities. Because it had been recognized that program improvement had to begin with training, two Benefits Specialists participated in agency-focused training seminars at the Department of Labor. They garnered a better appreciation of the government's workers' compensation framework, DOL's perspective on the ideal division of responsibilities between it and employing agencies, compensation claims procedures, and program administration expectations. Each returned with information, handbooks and materials positioning them (one as primary, one as back up) to more knowledgeably fulfill Agency responsibilities going forward.

Quarterly billing reports that had previously been difficult to decipher had become more useful once coding and case characterization conventions were learned. Whereas prior to this time, processing papers and responding to rare inquiries constituted the main activities within this function, staff was now positioned to raise questions and concerns regarding the program, and to appreciate the interrelation of one program element with another, while at the same time providing better, more authoritative guidance to employees and supervisors regarding relevant rights and responsibilities.

In addition, because of contacts formed during these training sessions, staff became more comfortable in reaching out to DOL resources for assistance and advice. It also learned of and began to use DOL's web-based case event and status tracking system, AQS (Automated Query System). Current case files were reviewed and began to be updated with information from the DOL system. Outdated point of contact information was revised and provided to DOL to increase the likelihood of DOL generated information and correspondence reaching the right people at USAID sooner than had

been the case. A fall 2005 self-review of the existing ADS 442 confirmed that it warranted revision for several reasons, not the least of which was that responsibilities within Human Resources had been shifted to divisions and units not mentioned within the workers' compensation regulation. That self-review also led to a search for "appropriate officials for accident abatement," i.e., a safety officer, with whom injury and illness could be shared. None was located.

As became apparent, the Agency had not had a professional responsible for employee safety and occupational health for at least two years. An employee originally hired to focus on safety had been redeployed to oversee the COOP function on a full-time basis. Claims reports that should have gone to a safety presence went to a holding bin instead. Not until mid-2006 was the Agency successful in hiring a new safety professional, an event that immediately provided the opportunity to begin sharing workers' compensation information with an appropriate official for reporting purposes and an occurrence that foreshadowed what has already developed into a productive work relationship as the Agency repositions itself to prevent injuries and illnesses in addition to addressing them after they occur.

Upon receipt of notice in May 2006, that the OIG had decided to audit the workers' compensation program, staff continued to pursue program improvements. As an example, to better fulfill its responsibility to educate employees regarding workers' compensation rights and responsibilities, preliminary work was underway to create a web link to useful workers' compensation information through the USAID intranet's Human Resources portal. That link became functional during the earliest stage of the audit. Clicking "Employee Benefits" and then "Workers' Comp/Forms" delivers browsers to USAID contact information, a link to the information-packed DOL web site and, separately, to each form commonly needed during the workers' compensation claims process.

As auditors began to comb files, staff reached out to all employees and former employees⁹ then receiving workers' compensation benefits. These individuals were reminded of the Agency's continuing interest in their well being, and provided updated contact information in the event they had questions, concerns, or otherwise could use staff assistance, particularly with any recovery initiatives leading to a potential for a return to work. Each recipient was also requested to supply updated contact information to facilitate communication. This mailing engendered a positive response and a fair number of address change updates.

As discussions with the staff auditor began in earnest in July 2006, so too did mutual education and collaboration. As noted below, rather than debate why one approach to current case documentation and recordkeeping might be just as effective as another, staff immediately embraced useful suggestions offered by the auditor. It produced files it had for review and proceeded to create several files the Agency had not originally established twenty to forty years earlier, a clear benefit of the OIG's spotlight shining on this function. Staff responded to scores of questions on a host of concerns. It worked with DOL to explain how third party settlements following an airplane crash that generated compensation claims decades ago later produced substantial sums that were

⁹ As of today, 21 of the 65 existing workers' compensation cases related to "employees" as opposed to beneficiaries of now deceased former employees. Four (4) of those 21 are actually still employed by the Agency. Seventeen are former employees. This caseload breakdown is important when evaluating OIG commentary on issues related to employees.

reflected on quarterly billing reports as offsets to Agency compensation payments. It scoured DOL case files at its Washington, DC district office to locate information substantiating that long deceased employees', on whose behalf compensation payments continued to beneficiaries, actually had worked for USAID. This was no mean feat as old file correspondence often referred to the Department of State as the employer of record. Staff also sent requests for original files to six DOL district offices, only to learn that DOL requires personal visits to inspect files. Through detailed review of old DOL case files, staff eventually was able to satisfy a concern as to why compensation payments were originally granted to a youngster. As it turned out, a 15 year old boy had been hired by USAID in Africa 30 years ago and within days suffered brain damage in an automobile accident, resulting in extraordinarily expensive costs for care for life.

Staff's collaboration with the OIG staff auditor reached its zenith when, toward the end of the audit, a new fact question arose regarding someone's continuing entitlement to benefits. The OIG auditor and HR division chief visited the local DOL district office and together reviewed all paper and electronic records regarding this dated case. Encountering what turned out to be a handwritten error on a European marriage certificate, they acquired collateral proof that benefits were properly being paid.

And so it went. Fair questions were posed and substantial effort was devoted to producing an authoritative response. In the end, staff learned a good deal from the experience and implemented improvements that could be effected right away; the workers' compensation program surely benefited; and the OIG chose, nonetheless, to pen an unnecessarily scathing draft Report.

The fact remains that USAID, for all its program imperfections, staff changes, resource challenges and competing priorities has enjoyed relative good fortune in keeping workers' compensation costs within bounds. The OIG observed in the introductory portion off its draft report that federal FECA costs averaged a 26.3% percent increase from 1997 through 2005 whereas USAID's costs somehow rose only 4.7% during the same period. Whereas the OIG notes that between July 2002 and March 2006, the Agency had incurred costs associated with 116 cases, today it pays benefits in 65, 58 of which predate 2000.

The Report's Appendix III, though apparently jumbled in the column reflecting cases generated from 2000 onward, illustrates clearly the downward trend of USAID workers' compensation cases, both for death and disability claims, and the fact that about 87% of the Agency's total workers' compensation costs flow from deaths and disabilities occurring before 1990, with just over 3% associated with claims accepted since 2000. More importantly, Appendix III highlights the coincidence of workers' compensation activity with evolution of the Agency's business. During the 1960s and 1970s, according to the OIG chart, we had 29 death claims for which the government is still providing compensation. The 1980's produced 14 more understandably expensive death claims. Since 1990, USAID fortunately has had only three additional claims as the result of deaths of employees which continue to require compensation. As the dates on the USAID lobby memorial to those who died the line of service indicate, we lost many employees in service in the 1960s and 1970s, and a fair number in the 1980s, some from injuries suffered earlier in Southeast Asia. For death cases accepted by DOL, there is little that can or should be done, except to recognize that if beneficiaries become ineligible for continuing benefits, DOL is to halt payments. Otherwise, prior to their deaths, compensation payments, adjusted modestly upward each year, will flow unabated to eligible survivors and dependents, as they should.

With the audit experience behind us and the recommended program improvements either implemented or, with one significant exception, planned to be implemented, I am confident that our program performance is being markedly enhanced.

IV. Recommendations and Responses

Recommendation 1.

Develop a master inventory to document workers' compensation files.

This recommendation is being implemented. This task was begun in the earliest stages of the audit. It consists of transcribing individual case identifying information from individual case files onto a single form. Prior to the surfacing of this recommendation, HR used the DOL-produced quarterly chargeback summaries as a working inventory of all cases generating compensation of any kind. The recommended more comprehensive file listing is a preferable tool.

Recommendation 2.

Update case files with a checklist and with copies of critical documents, which would allow verification of beneficiary eligibility and ensure the proper authorization of benefit payments.

HR agrees that a checklist is a useful tool and will create and implement one. The scope of that checklist should, however, be limited to those items clearly falling within the Agency's responsibility to acquire, review and maintain. HR does not agree that DOL expects agencies to duplicate its work by acquiring and reviewing annually submitted CA-12s (certifications of continuing eligibility for benefits). The best evidence of this is that DOL does not furnish employing agencies with copies of CA-12s. While HR could request or otherwise obtain copies at some point after DOL receipt and review, HR believes that USAID would not benefit on balance from this second review of CA-12s. Were USAID to actually seek to verify the information contained in or missing from CA-12s, it would be greatly expanding its program administration role to overlap with DOL's by taking it upon itself to assess the accuracy and validity of the eligibility assertions submitted by compensation recipients to DOL for its disposition. Unless there's evidence that has not been brought to staff's attention, the OIG review of compensation benefit eligibility turned up no instance in which CA-12 information had been falsified. Nor did it highlight any example of a CA-12 which, if subjected to review and further inquiry, would have produced any change in benefits. Although HR understands the theory behind this portion of the OIG's recommendation, it cannot concur that HR should transform its administrative role into that of a DOL watchdog. That role is presumably performed by the DOL OIG.

Recommendation 3.

Develop procedures to ensure prompt verification, validation and documentation of quarterly preliminary billings for accuracy and propriety and take appropriate actions to resolve any discrepancies.

The OIG points out that verification of DOL-provided billing information can help avoid costs to USAID for non-USAID employees and payments to ineligible beneficiaries. HR

generally concurs that verification at some level of detail is appropriate. The issue here is the level of expected scrutiny.

Chargeback reports contain names of recipients, social security numbers, total payments for medical payments and salary replacement compensation. The March 15, 2006 report, as an example, lists \$150,280.46 in medical payments made on behalf of compensation recipients during the quarter. The only detail consists of subtotals for each beneficiary. No agency is in a position to verify the accuracy of such information. The investment of resources needed to not only to access DOL files but also to confirm the relatedness of documented expenditures with vendors and providers would be enormous. Even if the “verification, validation and documentation ...for accuracy and propriety” were to be limited to a substantiation of the existence of underlying qualifying charges from vendors, one employee would need to devote no less than two months per work year to such a task.

Compensation payments are also sub-totaled for each recipient on the report. Absent USAID’s reliance on auditors to examine the underlying bases for each sub-total, including the occurrence of life events during the quarter reported that could have affected eligibility for benefits, HR staff would be incapable of verifying, validating and documenting the accuracy and propriety of each entry. What it has done and can do is “validate” generally by comparing one quarter’s entries for each individual to the next quarter’s entries. Spotting and following up on anomalies is within staff’s capability, as is verifying the USAID bona fides of each new individual listed on a chargeback report. If the OIG believes that only deeper verification is acceptable, HR can not comply with this recommendation. It would, however, be comfortable in having the OIG verify all of the information it believes requires up to the moment proof. In this fashion, the OIG could simply expand the verification we assume it will demand of its own staff for the 10 OIG cases on HR’s current chargeback reports to include the 55 USAID cases.

HR concurs that where reasonably rigorous anomaly- spotting leads to the identification of discrepancies, HR can and should reconcile them.

Given that HR agrees with Recommendation 6, which calls for minor revision of ADS 442, HR is prepared to revise that internal regulation to reflect a realistic expectation for staff review of and action in response to chargeback reports. This revision will eliminate any perceived ambiguity currently arising from the use of the word “validating” in the ADS 442.3.2.h.

Recommendation 4.

Coordinate with the Payroll Division to develop processes to track and monitor USAID’s continuation of pay benefits.

HR agrees with and, as the OIG knows, has begun to implement this recommendation so that the few claims eligible for the application of continuation of pay are collectively tracked and even more closely monitored.

Recommendation 5.

Update case files to include continuation of pay information to determine propriety and take corrective action, if necessary.

Rather than relying exclusively on supervisory oversight, workers’ compensation case

files will henceforth be supplemented with a record of the number of days each claimant is allotted for continuation of pay (COP). Because, as the OIG is aware, a DOL denial of a claim results in retroactive disqualification from COP eligibility, case files will also be annotated to memorialize leave recoupment.

Recommendation 6.

Revise and update the workers' compensation policies and procedures contained in the Automated Directives System.

As urged by the OIG, ADS 442 will be updated to:

---conform with a 1990 change in the law, changing 60 to 55 as the age after which the marriage of a surviving spouse will not disqualify her/him from benefits;

--- change the 5 U.S.C. 81 reference to 5 U.S.C. 8100, *et seq.*;

---change a pamphlet title from "FPM 810, Injury Compensation" to "CA-10, Injury Compensation for Federal Employees"; and

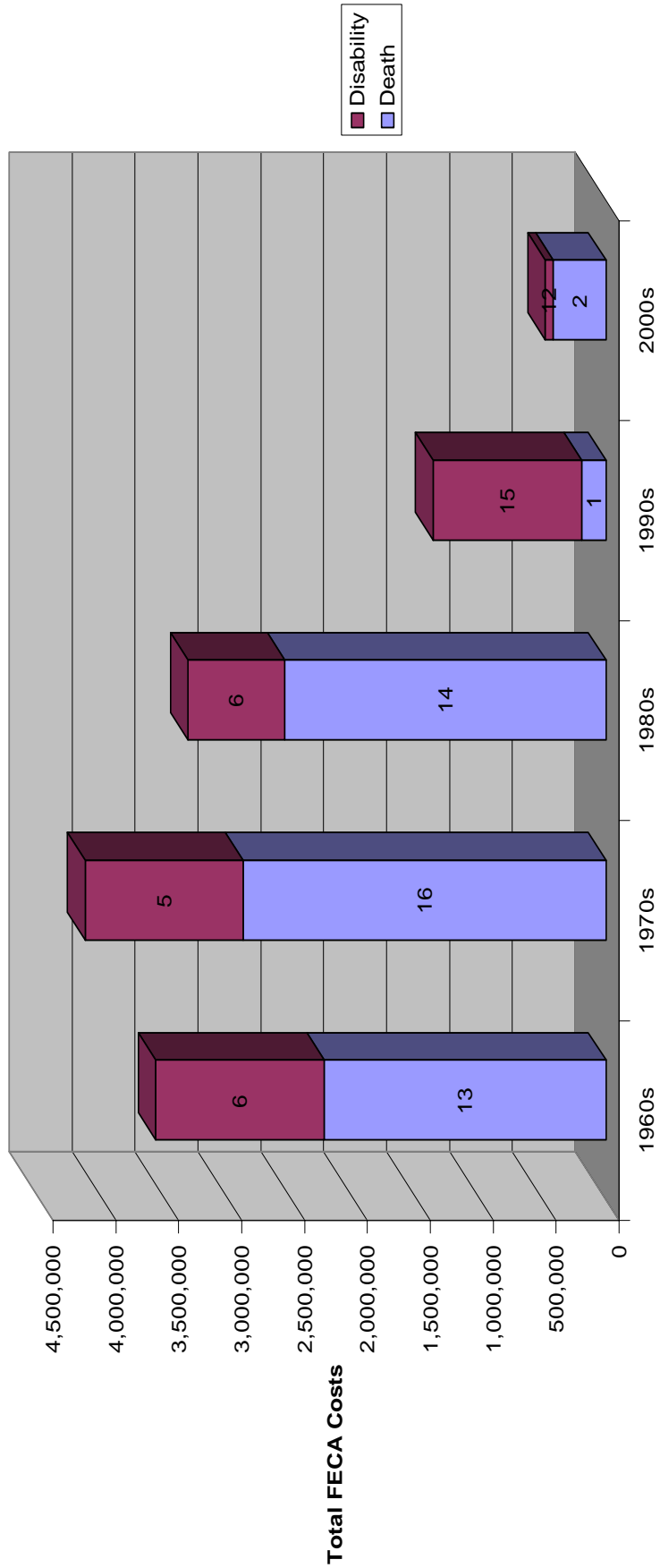
--- change outdated internal HR organizational references and corresponding acronyms

It should be noted, with respect to the OIG's observation that HR was contacted by Administrative Services prior to October 2003 for the purpose of scheduling revisions to the ADS, present program personnel are unaware of this and were not apprised of this during the audit. In any event, while HR is pleased to make the recommended ADS revisions (and more), we believe that OIG's rhetoric in paragraph 3 on page 12, in particular, regarding the significance of the matters necessitating change is gratuitously hyperbolic, to the point of being mean-spirited. More importantly, it detracts attention from the constructive value of some of the sound observations and recommendations appearing elsewhere in the report. A typographical error and outdated reference in an ADS are radically less indicative of a "weak control environment" than would be the expansion of program responsibilities with insufficient resources to support it.

IV. Conclusion

HR will continue its progress in implementing program improvements begun before the audit, institutionalize each of the actions taken during the audit with the approbation of the OIG, and implement program modifications flowing from the recommendations with which HR agrees. Without mandatory instruction to the contrary, it will not implement those portions of recommendations with which it does not concur.

USAID's FECA Claims and Costs



Source: Unaudited Office of Human Resources' Data

USAID Federal Employees' Compensation Act Activity
Fatal Claims
Summary of Sample Results

| Type of Exception ¹⁰ | Number of Exceptions in Sample | Number of Exceptions as Percent of Sample ¹¹ | Dollar Value of Exceptions in Sample | Dollar Value of Exceptions as Percent of Sample ¹² |
|---------------------------------------|--------------------------------|---|--------------------------------------|---|
| Missing File | 9 | 33% | \$1,659,445 | 30% |
| No verification of eligibility | 14 | 52% | \$2,830,757 | 52% |
| No recent verification of eligibility | 3 | 11% | \$667,852 | 12% |
| Further investigation needed | 1 | 4% | \$318,930 | 6% |
| Total | 27 | 100% | \$5,476,984 | 100% |

Source: Unaudited Office of Human Resources' data

¹⁰ The types of exceptions in this table are mutually exclusive.

¹¹ The total sample size is 27 cases.

¹² The total dollar value of the sample is \$5,476,984.

USAID Federal Employees' Compensation Act Activity
Non-Fatal Claims
Summary of Sample Results

| Type of Exception ¹³ | Number of Exceptions in Sample | Number of Exceptions as Percent of Sample ¹⁴ | Dollar Amount of Exceptions in Sample | Dollar Amount of Exceptions as Percent of Sample ¹⁵ |
|---------------------------------|--------------------------------|---|---------------------------------------|--|
| Missing File | 3 | 10% | \$444,685 | 10% |
| Insufficient Medical Evidence | 11 | 37% | 2,114,969 | 49% |
| Total | 14 | 47% | 2,559,654 | 59% |

Source: Unaudited Office of Human Resources' data

¹³ The types of exceptions in this table are mutually exclusive.

¹⁴ The total sample size is 30 cases.

¹⁵ The total dollar value of the sample is \$4,373,310.

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