

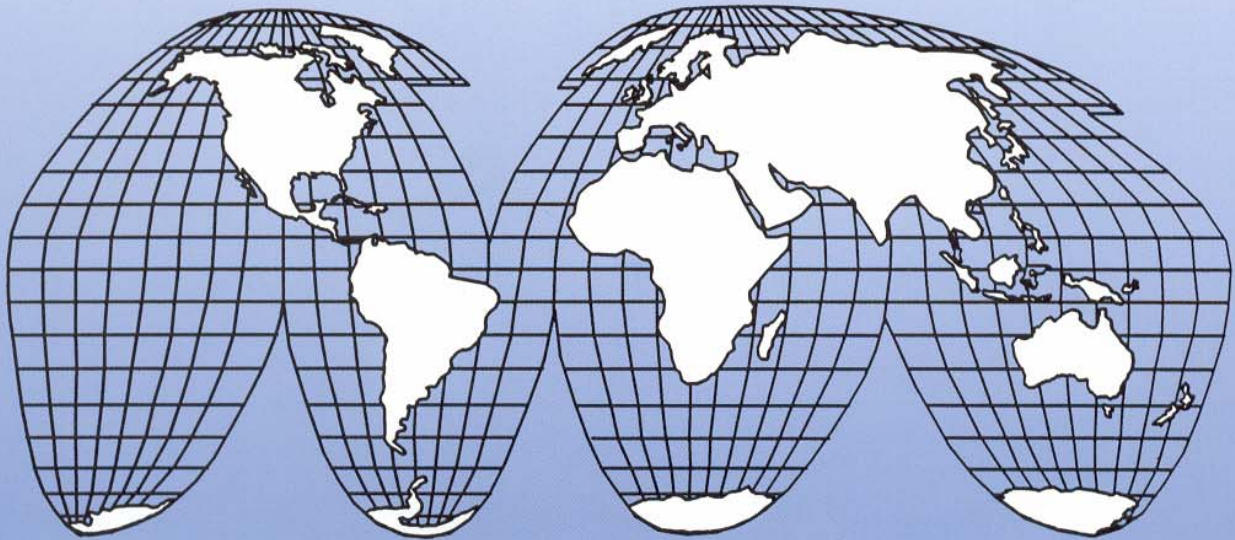
USAID

OFFICE OF INSPECTOR GENERAL

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

7-620-04-004-P

April 23, 2004



Dakar, Senegal

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April 23, 2004

MEMORANDUM

FOR: USAID/Nigeria Director, Dawn Liberi

FROM: RIG/Dakar, Lee Jewell III /s/

SUBJECT: Audit of USAID/Nigeria's Management of U.S. Personal Services Contractors (Report No. 7-620-04-004-P)

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

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

I appreciate the cooperation and courtesy extended to each of the members of RIG/Dakar throughout the audit.

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Summary of Results

This audit was conducted by RIG/Dakar to determine whether USAID/Nigeria (1) determined its requirements for U.S. personal services contractors (USPSCs) in accordance with applicable USAID policies and procedures and (2) awarded U.S. personal services contracts in accordance with selected policies and procedures. The audit concluded that the Mission had determined its USPSC staffing requirements in accordance with USAID policies and procedures and had awarded its U.S. personal services contracts in accordance with selected USAID policies and procedures (See pages 6 to 8).

Although USAID/Nigeria followed key policies and procedures, the Mission did not always adhere to its own policy regarding selection committee composition, did not adequately document the basis for offered salaries, and included an improper benefit in the contract of a locally hired USPSC (see pages 8 to 10). To address these issues, we recommended that USAID/Nigeria:

1. revise Mission Order 500-47 to include requirements to fully justify and document deviations from selection panel or committee composition policy;
2. revise Mission Order 500-47 to include procedures to document the market value of personal services contractor positions; and
3. amend Mission Order 500-47, Attachment A, to classify medical evacuation insurance allowance as a benefit item for internationally recruited USPSCs.

Management comments are included in their entirety in Appendix II. (To be inserted at page 14.)

Background

USAID's complex personnel system encompasses several categories of employees. The primary workforce includes four distinct groups:

- U.S. Direct Hires (USDHs) – U.S. Foreign Service and U.S. Civil Service
- U.S. Personal Services Contractors (USPSCs)
- Foreign Service Nationals (FSNs)
- Third Country Nationals (TCNs)

USPSCs are one of the primary sources of specialized assistance available to managers in designing and implementing development assistance programs and in providing administrative support. A personal services contract is defined as a contract that, by its express terms or as administered, makes the individual working under the contract appear, in effect, a government employee. Depending on the nature of the duties and responsibilities assigned to USPSCs, these employment contracts may be funded from either program or operating expense accounts and

may be either long term (over one year in duration) or short term (less than one year in duration).

There are two types of USPSCs: those recruited locally and those recruited internationally. Locally recruited USPSCs offer skills and experience that are not available in the local labor force or that would be expensive to import. They often provide services that are short term in nature, such as administrative and project management. These individuals receive limited benefits and allowances. Internationally recruited (often called offshore) USPSCs frequently possess specialized technical skills and are often recruited under long-term contracts. They receive benefits and allowances similar to those of a USDH.

Each year, USAID/Washington's Office of Budget establishes a target workforce ceiling for the missions and controls, and monitors the overall allocations and on-board staffing levels. Within these target workforce ceilings, USAID/Nigeria program managers prepare workforce requests reflecting the skills needed by each of their offices to carry out USAID's program objectives.

To meet its requirements under the latest strategic plan, USAID/Nigeria projected a total need for ten USPSCs. At the time of the audit, the Mission had six of these positions filled (senior civil society advisor, deputy controller, senior education advisor, senior sector analysis advisor, data management specialist, and inventory manager). The Mission had also identified and is in the process of hiring for two USPSC vacancies in the economic development strategic objective (macro economic advisor and private sector-micro finance advisor) and has two other USPSC positions vacant for the democracy and governance strategic objective (elections advisor and conflict advisor).

Audit Objectives

This audit was conducted by RIG/Dakar as part of a worldwide audit to answer the following audit objectives:

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

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

Audit Findings

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

USAID/Nigeria determined its requirements for U.S. personal services contractors (USPSCs) in accordance with USAID policies and procedures.

Those policies and procedures are contained in USAID's Automated Directives System (ADS) 400 series in the form of a USAID General Notice addressing the appropriate use and funding of USAID's non-direct hire workforce. This notice provides guidance to USAID managers on the appropriate roles and responsibilities of various types of personnel hired by USAID. For example, the notice states that USDHs shall manage the core business areas and perform the basic work of USAID and that a USPSC should only be considered when the staffing requirement is clearly temporary, when the local recruitment of U.S. citizens is uniquely suitable, or when all alternatives for utilizing direct hires have been exhausted.

The limited availability of USDHs directly impacts the staffing pattern of the Mission. USAID/Nigeria has designated these limited direct hire positions to staff the basic functions of the Mission, functions required to be filled by USDHs such as those of the director, the controller, the executive officer, and the regional contracting officer. The Mission has designated the remaining allocated USDHs to supervisory positions. These include the team leaders in each of the strategic objectives and the program office, which includes a director and a program officer. Because of the limited number of USDHs available, the Mission relies on USPSCs and other categories of non-direct employees to fill positions that do not absolutely require direct hire authorities but do require technical and other expertise not readily available within country. For instance:

- In the case of the Strengthened Foundations for Democratic Governance Strategic Objective, the Mission properly justified an overseas USPSC for the position of conflict resolution advisor due to the complexities of issues between local ethnicities and the problems they would have caused a local hire.
- For the temporary election advisor position, the Mission felt that a local USPSC would be justified due to the position's specific requirements and temporary nature.
- For the Improved Livelihoods in Selected Areas Strategic Objective, the Mission chose to recruit two international USPSCs to fill the positions of macro economist and private sector analyst. The Mission properly justified that these were highly technical positions with extensive reporting requirements and that they could not be filled locally.

In the case of the Increased Use of Social Sector Services and Reduced Impact of HIV/AIDS in Selected States Strategic Objectives, the Mission was more creative in the way it filled vacant positions by relying on USPSCs and other categories of employees. Mainly because of in-country competition for highly qualified

individuals and possibly because of the perception of Nigeria as a hardship post, the Mission has had difficulty in filling these highly technical positions at all levels. At the time of the audit, both of these strategic objectives were headed by a USDH general development officer and had unfilled USDH team leader positions.

In our opinion, USAID/Nigeria determined its requirements for the above-mentioned positions, as well as other positions filled by USPSCs, in accordance with USAID policies and procedures.

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

USAID/Nigeria awarded its U.S. personal services contracts in accordance with selected USAID policies and procedures, including those for using full and open competition, establishing salaries, and setting fringe benefits.

USAID/Nigeria followed key USAID policies and procedures for full and open competition, establishing salaries, and setting fringe benefits in awarding U.S. personal services contracts. A review of 18 contracts did not reveal any exceptions in the Mission's application of key procedures in awarding contracts under full and open competition. In all cases, the Mission properly solicited for and awarded contracts to local and international USPSCs. For example, two recently hired USPSCs the Senior Civil Society Advisor and the Deputy Controller were internationally recruited and hired under full and open competition and were offered salaries and fringe benefits in accordance with applicable policies and procedures. Furthermore, our review of the Mission's hiring practices associated with the current procurement of the macro economist and private sector analyst positions revealed no exceptions in the Mission's application of these procedures. These positions were properly advertised, and candidates were selected under full and open competition. Moreover, the Mission properly determined salaries and fringe benefits for these candidates in accordance with appropriate policies.

However, in several cases the Mission did not fully justify or document instances where it deviated or did not comply with policies. These instances included the composition of technical selection panels or selection committees, the determination of market salaries, and the medical evacuation allowance provided to a locally hired USPSC – all cases that Mission management should address.

Deviation from Selection Committee Composition Requirements Should Be Documented

The Federal Acquisition Regulations (FAR) and the USAID Acquisition Regulations (AIDAR) govern all direct procurement done by USAID. When it is necessary to implement changes prior to formal amendment of acquisition regulations, Contract Information Bulletins (CIBs) are often used to implement new procurement requirements. For example, CIB 98-12 states that once applications have been received by the technical

office from the contracting office, a technical panel shall be convened (preferably comprised of at least three individuals) who shall review the applications, score the proposals based upon the criteria and scoring guidelines and rank the individuals. Moreover, USAID/Nigeria's Mission Order, M.O. 500-47 dated December 12, 2003, covering USPSC and TCN employee policies and procedures states that after receipt of applications, a selection committee comprised of the chairperson representing the requesting office and at least two other individuals in the Mission will meet to make the selection.

During the audit, we determined that the Mission had not always used a three member selection committee or justified the reason for not doing so. This was the case with the selection of three international USPSC candidates (former deputy controller, former deputy executive officer, and current HIV/AIDS advisor) and two locally hired USPSC candidates (data management specialist and former performance monitoring specialist). In all of these cases, the Mission only had two voting members on the respective selection committees.

According to current Mission management, the selection process had taken place for three of these contracts before their arrival at post. Due to inadequate documentation, current management was unable to provide an explanation as to why the Mission's selection policies were not followed. The only exceptions were the cases of the HIV/AIDS Advisor and the Data Management Specialist currently employed by the Mission. In the case of the HIV/AIDS Advisor, the Mission decided to act quickly to fill this hard-to-staff position, so it used a selection committee with two members. In the case of the Data Management Specialist, there were three members on the selection committee but only two members provided scores. Mission management could not explain why all of the members did not provide scores.

Awarding personal services contracts without adhering to USAID and Mission selection policy with respect to selection committee size can potentially result in acquiring less than the best qualified candidate and detracts from the intended transparency during the selection process. To address the above oversight and to prevent future noncompliance, we are making the following recommendation.

Recommendation No. 1: We recommend USAID/Nigeria revise Mission Order 500-47 to include requirements to fully justify and document deviations from selection panel or committee composition policy.

Basis for Offered Salary Should Be Documented

AIDAR Appendix D states two methods for establishing salaries to be offered to prospective personal services contractors. Method 1 states that salaries for personal services contractors shall be established based on the market value in the United States of the position being recruited for. Method 2 states that if approved in writing by the Mission Director or the cognizant Assistant Administrator, salary may be negotiated based on the applicant's current earnings adjusted for certain factors. The Mission

generally uses Method 1, which requires that the contracting officer in coordination with the technical selection officer determine the correct market value (salary range) of the position to be filled. As a basis for salary negotiations, the Mission uses both the established market value and the certified salary of the applicant.

During the audit, we determined that the establishment of market rates for two personal services contractors was not clearly documented. Therefore, we could not ascertain the basis of the salaries negotiated with these employees. Furthermore, the negotiation memos for these contract files were missing, which made it impossible for us to determine how the rates offered to these contractors were established.

While the Mission management acknowledged that market rates for the two contractors was not clearly documented, it could not provide definitive cause as to why such documentation was missing from the contract files. One cause offered by current management is that documentation from the files could have been lost during transport from Ghana which served as the regional contracting office at the time these contracts were negotiated. Another cause offered was that it might have been an oversight by the regional contracting officer at the time of negotiations.

Without a documented market value for a position and a negotiation memorandum, sufficient information was not available on which to base the salary offer that was made. To address this finding and to prevent a future occurrence, we are making the following recommendation.

Recommendation No. 2: We recommend that USAID/Nigeria revise Mission Order 500-47 to include procedures to document the market value of personal services contractor positions.

Allowances Inconsistent with Regulations Should Be Disallowed

USAID and Mission policies define and limit benefits and allowances provided to locally hired USPSCs. AIDAR Appendix D provides guidance on the allowances and differentials provided to USPSCs. In general, internationally recruited USPSCs are entitled to receive the same benefits as direct hire employees. Locally hired USPSCs are provided with very limited benefits and are not entitled to the medical evacuation insurance allowance. Mission Order 500-47, Attachment A, specifies benefits for locally hired and international USPSCs, as well as for TCNs, in the form of a checklist.

During the audit, we noted that the contract of a locally hired part-time USPSC included an allowance for medical evacuation insurance. As stated above, only internationally recruited USPSCs are entitled to receive this allowance.

Further review revealed that the checklist in Mission Order 500-47, Attachment A, did not include an allowance for medical evacuation insurance for any of the USPSC categories. Not having the medical evacuation insurance allowance on the checklist can

result in either providing the benefit to an unqualified employee, or in the case of international USPSCs, excluding a vital benefit to eligible employees. In this case, because it relies on the Mission Order as guidance and the medical evacuation insurance eligibility was not on the Order's checklist, the Mission inadvertently included medical evacuation insurance allowance in the contract of the locally hired USPSC. However, at the time of the audit fieldwork, the Mission had not made a payment related to this allowance. Subsequently, the Mission amended the contract to exclude the allowance.

To address the above issue and to prevent future occurrences related to the medical evacuation insurance benefit, we are making the following recommendation.

Recommendation No. 3: We recommend USAID/Nigeria amend Mission Order 500-47, Attachment A, to classify medical evacuation insurance allowance as a benefit item for internationally recruited USPSCs.

**Management
Comments
and Our
Evaluation**

In its response to our draft report, USAID/Nigeria concurred with Recommendation Nos. 1 through 3 and described the actions taken to address them. Based on the Mission's response and further review, Recommendation No. 4 which was in our draft report, has not been included in the final report. We believe the actions taken by the Mission should strengthen its management of U.S. personal services contracts.

To address Recommendation No.1, USAID/Nigeria revised Mission Order 500-47 to explicitly state that selection committees are to be composed of "preferably at least 3 individuals" in accordance with CIB 98-12. Furthermore, if determination is made to include fewer than three individuals, such rationale is to be fully documented in the negotiation memorandum.

To address Recommendation No. 2, USAID/Nigeria revised Mission Order 500-47 to state that the General Services salary schedule is to be used in establishing the market value equivalent of the proposed USPSC position in accordance with CIB 98-11. Moreover, the basis for the determination will be fully documented in the negotiation memorandum.

To address Recommendation No. 3, USAID/Nigeria amended Mission Order 500-47, Attachment A, to include medical evacuation insurance as a benefit item.

Based on the actions the Mission has taken to address recommendations one through three, we concluded that final action has been taken on all recommendations.

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**Scope and
Methodology****Scope**

The Regional Inspector General/Dakar conducted this audit of USAID/Nigeria's management of U.S. personal services contractors (USPSCs) in accordance with generally accepted government auditing standards.

Audit fieldwork was performed at USAID/Nigeria from January 15, 2004, through February 4, 2004. The scope of the audit included the review of active U.S. personal services contracts since fiscal year 2003 (October 1, 2002 to January 15, 2004). We reviewed 18 personal services contracts, of which 6 are currently active. The estimated obligated value of these contracts was \$5,503,391

The audit included an examination of management controls, including those associated with determining overall Mission staffing needs and those associated with awarding personal services contracts. This review included the Mission's strategic plan, annual report and strategic objective grant agreements. Management controls over USPSCs include guidance contained in the USAID Acquisition Regulation, various contract information bulletins, and relevant Mission orders. In planning for the audit we considered prior relevant audit findings and coordinated with OIG Investigations to determine if there were any concerns in this area.

Methodology

In performing the audit, we reviewed and examined relevant documentation and files and discussed USPSC and general staffing pattern related issues with responsible officials. While performing audit steps related to the first objective (which focused on whether the Mission determined its requirements for U.S. personal services contractors in accordance with USAID policies and procedures), we reviewed and analyzed the latest five year strategic plan, the latest Mission annual report, strategic objective grant agreements, and the General Notice titled "Appropriate Use and Funding of USAID's Non-Direct Hire Workforce." In addition we conducted interviews with various team leaders to determine their level of input and participation in determining the latest staffing pattern and to analyze if there was consistency between anticipated work objectives and the staffing structure.

While performing audit steps related to the second objective (which focused on whether the Mission awarded U.S. personal services contracts in accordance with selected USAID policies and procedures), we reviewed the applicable policies and procedures and analyzed files of U.S. personal services contractors at USAID/Nigeria in effect since October 1, 2002. In addition, we conducted interviews and discussions with key Mission managers to obtain information about the management controls and local procedures used to manage USPSC contracts.

The audit did not assess the overall economy and efficiency of the USAID/Nigeria personal services contracting process.

**Management
Comments**



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Nigeria**

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To: RIG/Dakar, Lee Jewell III

From: USAID Nigeria director, Dawn Liberi /s/

Date: March 24, 2004

Subject: Recommendations from Audit of USAID/Nigeria's Management of U.S. Personal Services Contractors (Report No. 7-620-04-###-P)

Regarding the audit of USAID/Nigeria's Management of U.S. Personal Services Contractors (Report No. 7-620-04-###-P), please find below the Mission's responses to the recommendations. USAID/Nigeria expresses its gratitude for the excellent relationship established between the Audit Team and Mission Management.

USAID/Nigeria notes that a number of the findings of the audit refer to issues that pre-date the arrival of current Mission Management.

Recommendation No. 1: We recommend USAID/Nigeria revise Mission Order 500-47 to include requirements for deviations from the policy regarding selection panel or committee composition be fully justified and documented.

Response: Mission concurs with the recommendation. The Mission has amended Mission Order 500-47 to read "CIB 98-12 states that "preferably at least 3 individuals" be part of

the Selection Committee. In certain instances, the EXO may determine that fewer than three individuals be part of the Selection Committee. If that determination is made, the reasons will be fully documented in the Negotiation Memorandum.”

Recommendation No. 2: We recommend USAID/Nigeria develop procedures for documentation of established market rates used for the basis in salary negotiations when applicable.

Response: The Mission notes that the audit report identified weaknesses from an earlier period before the arrival of the current Mission management and before the execution of a Mission Order addresses this issue. Mission Order 500-47 (Section VII) has been amended to state that “USPSC positions will be classified and rates for salary established in accordance with CIB 98-11 using the General Services salary schedule to establish the market value equivalent of the proposed position. The basis for the determination of USPSC and TCN salaries will be fully documented in the Negotiation Memorandum.” Current Mission Management uses this policy exclusively to determine USPSC salaries.

Recommendation No. 3: We recommend USAID/Nigeria amend Mission Order 500-47 Attachment A to classify medical evacuation insurance as a benefit item.

Response: The Mission fully concurs with this recommendation and has amended Mission Order 500-47 to include medical evacuation insurance.

The response to Recommendation No. 4 in the draft report is deleted because that recommendation is not included in the final report.