

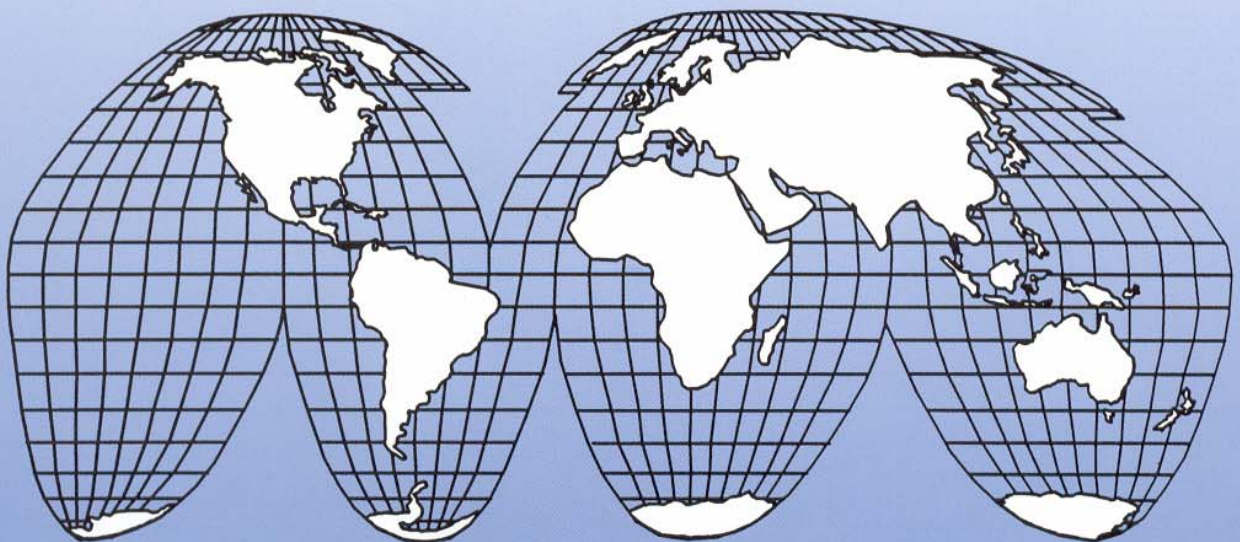
USAID

OFFICE OF INSPECTOR GENERAL

Audit of USAID's Participant Training Activities

Audit Report Number 9-000-04-005-P

September 9, 2004



Washington, D.C.



September 9, 2004

MEMORANDUM

FOR: EGAT/ED, Director, John A. Grayzel

FROM: IG/A/PA Director, Nathan S. Lokos /s/

SUBJECT: Audit of USAID's Participant Training Activities
(Report No. 9-000-04-005-P)

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

The report contains four recommendations to strengthen USAID's management of its participant training activities. In your written comments, you concurred with these recommendations. Accordingly, management decisions have been reached on all four recommendations. Moreover, for Recommendations No. 2, 3 & 4, you identified appropriate actions taken to address each recommendation, and provided us with documents to evidence that the actions were taken. Therefore, we consider those recommendations to be closed upon issuance of this report. Concerning Recommendation No. 1, additional action relating to the requirement for entry of non-returnee information into SEVIS is pending. Please coordinate final action with M/MPI.

This capping report summarizes seven individual audits of participant training activities and makes significant recommendations that for the first time will result in (a) background checks on USAID participants for security reasons, (b) full accountability of whereabouts while in the US and, (3) reimbursement responsibility to USAID if a participant does not return to their home country to fulfill the home country residency requirement.

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

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Summary of Results

This audit report presents issues regarding the USAID participant training program under which foreign individuals came to the United States for structured learning. These individuals—called participants—were expected to return to their home countries and utilize their skills or education to assist in development. The issues discussed in this report evolved from seven audits conducted in fiscal years 2003 and 2004 at missions in Bulgaria, Dominican Republic, Egypt, Mongolia, Nicaragua, Nigeria, and Tanzania.

In regards to the first audit objective on compliance with administrative requirements, the missions generally implemented selected requirements, except that not all participants were entered into USAID’s training data base (called TraiNet). However, in February 2003, new requirements for real-time data entry and data verification in TraiNet became effective and should result in better data. (See pages 7-8.)

With respect to the second objective relating to non-returnee rates and mission follow-up, we could not determine USAID-wide non-returnee rates for overseas participants trained in the United States due to incomplete data and the lack of a tracking system for non-returnees. However, for the seven missions audited, the number of participants who did not return to their home countries on schedule after training over the past several years was low. (See pages 8-9). We did determine that USAID should take three actions relating to non-returnees. First, USAID should establish a standardized system for tracking and following up on non-returnees (See pages 9-11). Second, USAID should require that non-returnees repay the cost of their training. (See pages 11-12). Third, to offset the loss of valuable training resources, USAID policy and procedures should require the issuance of bills for collection to non-returnees—a practice which two of the audited missions have already begun. (See page 12).

Concerning the third objective on additional actions related to the new requirements for the participant training program, missions should initiate background checks on prospective participants planning to come to the U.S. One of the seven missions audited had already initiated background checks on participants selected for long-term training in the U.S. (See pages 12-14).

Management concurred with our recommendations and has taken appropriate action on three of the four recommendations. (See pages 14-15). Management’s comments are included in their entirety in Appendix II. (See page 19).

Background

Each year, USAID's worldwide participant training programs bring approximately 6,000 people to the United States¹ with the intention that these individuals will return home after training and contribute to their country's development. According to USAID, "participants" may be host country residents or foreign nationals taking part in a structured learning activity. Participant training is considered as either short-term or long-term (about 9 months or more) and may include a range of learning activities such as study tours, observational tours, conferences, and academic training.

USAID's participant trainee data is collected and reported through its Training Results and Information Network (TraiNet) database which was developed and is maintained and managed by a contractor. USAID's policies and procedures concerning participant training are contained principally in Section 253 of USAID's Automated Directives System (ADS 253). It is USAID's Bureau for Economic Growth, Agriculture and Trade, Office of Education (EGAT/ED) that is responsible for maintaining ADS 253.

As a result of homeland security concerns and the recent attacks on the U.S., increased attention is now given to all visitors to the U.S., including those involved in participant training activities. In addition, new regulations by the U.S. Immigration and Naturalization Service² and the Department of State changed and established more specific procedures for issuing J-1 visas (which USAID requires for participant trainees), monitoring exchange visitors, and recording various changes in status such as new addresses, changes in training courses, etc.

The U.S. Immigration and Naturalization Service (INS) has also developed its own database known as the Student and Exchange Visitor Information System (SEVIS). All training sponsors were required to implement SEVIS, which is designed to track the status and location of all foreign students in the U.S.—including those on the J-1 visas required by USAID.

The Office of Inspector General scheduled a worldwide audit of participant training in its audit plan for fiscal year 2003 and performed audits at seven USAID missions in Bulgaria, Dominican Republic, Egypt, Mongolia, Nicaragua, Nigeria, and Tanzania. This report summarizes key issues related to

¹ Participant training can also be conducted in-country, or in a third country.

² In March 2003, the visa processing responsibilities of the U.S. Immigration and Naturalization Service (INS) were transferred to the U.S. Department of Homeland Security's Bureau of Immigration and Customs Enforcement.

participant training activities at the above missions, and makes recommendations to strengthen USAID's participant training program.

Audit Objectives This worldwide audit was conducted as part of the Office of Inspector General's fiscal year 2003 audit plan and was designed to answer the following audit objectives.

- **Have USAID missions complied with selected requirements for administering participant training conducted in the United States?**
- **What have been the non-returnee rates for overseas participants who were trained in the United States and did USAID missions take appropriate actions when participants failed to return to their home countries?**
- **What additional actions should USAID missions take to meet new requirements for selecting, monitoring, and reporting on participants training in the United States?**

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

Audit Findings **Have USAID missions complied with selected requirements for administering participant training conducted in the United States?**

USAID missions generally complied with selected administrative requirements, except that not all participant trainees were entered into USAID's training database (TraiNet).

USAID missions and their partners have implemented selected participant training requirements including: 1) the use of TraiNet as the official database and 2) the following pre-training requirements: a) health and accident coverage insurance (HAC), b) certification of medical eligibility based on medical examinations (applicable to visits of more than 30 days), c) verification of English proficiency, and d) application for and use of J-visas.

However, as discussed below, there is one area in which USAID can strengthen the administration of its participant training program.

Participant Data in TraiNet Was Incomplete Until Fiscal Year 2003

USAID's Automated Directives System states that the Training Results and Information Network (TraiNet) is USAID's official training database for participant training. Accordingly, it is important that the information in TraiNet be complete and that it include all participants coming to the U.S. for training. Nevertheless, at four of the seven missions audited, the information in TraiNet was incomplete because it did not reflect all participant trainees sent to the U.S. These omissions occurred because data entry operators were untrained and input the data infrequently and after-the-fact, and because the data was based on unverified lists of participants. Consequently, TraiNet did not reflect all USAID-sponsored participants coming to the U.S. for training. These issues have been addressed at the missions audited. The issue of infrequent data input was addressed organization-wide as well when USAID instituted the requirements for real-time data entry into TraiNet and for data verification—which are now necessary to process J-1 visas. As a result, we are not making a recommendation.

What have been the non-returnee rates for overseas participants who were trained in the United States and did USAID missions take appropriate actions when participants failed to return to their home countries?

It was not possible to determine USAID-wide non-returnee rates for overseas participants trained in the United States due to incomplete data and the lack of a tracking system for non-returnees. However, for the seven missions audited, the number of participants who did not return to their home countries on schedule after training over the past several years was low—approximately 0.52 percent. Moreover, of the five missions audited that had non-returnees, only one of the missions took an appropriate action to determine whether its one non-returnee had returned to the home country. Finally, although USAID reported non-returnees to the U.S. Immigration and Naturalization Service (INS), it did not have a list of non-returnees or a schedule for further follow-up on them—primarily due to the absence of a non-returnee tracking system and lack of formal procedures concerning non-returnees. In many cases, the USAID-sponsored training for non-returnees equated to a free college education for the non-returnee at a cost of approximately \$20,000 per year to the U.S. taxpayer.

Non-Returnee Rates

One of the key objectives of USAID's participant training program is that participants return to their country after the training and contribute to that

country's development. When a participant does not return to his or her country, USAID's participant training program, its development objectives, and the development of that country suffer.

Over approximately the last four years at the seven missions audited, there were only 28 participants who did not return to their home countries out of an estimated 5,360 total participants – a rate of 0.52 percent, which we consider low. However, the actual rate of non-returnees for all USAID participants over a longer period could be much higher. Calculating this rate was not possible due to incomplete data in TraiNet (see previous discussion) and USAID's lack of a tracking system for non-returnees (addressed in the next section of this report). The following chart shows the data on non-returnees from the seven missions audited:

Audited Period
(Fiscal Years 2000 – mid-2003) a/

<u>Countries</u>	<u>Participants</u>	<u>Non-Returnees</u>	<u>Percent</u>
Bulgaria	569	0	--
Dominican Republic	254	1	0.39
Egypt	3,678	18	0.49
Mongolia	106	5	4.72
Nicaragua	300 <u>b/</u>	2	0.67
Nigeria	253	0	--
Tanzania	200 <u>b/</u>	2	1.00
Total:	5,360	28	0.52

Notes: a/ Audited period varied. Mongolia included fiscal year 1999. Mid-2003 ranged from May to July 2003.

b/ These amounts had to be estimated because of irreconcilable differences between the mission records and TraiNet.

USAID Needs a Standardized System to Track Non-Returnees

USAID missions are required to track and follow up on participants that do not return to their home country. Four of the five missions audited that had non-returnees did not take appropriate action, primarily because they did not have effective systems for tracking and following up on non-returnees. Consequently, USAID is unable to effectively determine whether participants

have returned to their home countries and are furthering USAID's development objectives, as intended.

As previously stated in this report, one of the key objectives of USAID's participant training program is that participants return to their country after the training and contribute to that country's development. When a participant does not return to his or her country, USAID's participant training program, its development objectives, and the development of that country suffers.

Accordingly, ADS E253.5.2c requires that: "[a]ll sponsoring units must track participants for timely return to their workplace or professional setting in their home countries. Efforts at non-returnee rate reduction must be continuous and focused..." The ADS also states that missions are responsible for "...tracking participants' post-training whereabouts and reporting to [EGAT/ED] if a non-returnee is back in the country. Sponsoring units or their monitors must report all non-returnees to [EGAT/ED] in writing. [EGAT/ED] then reports the participant to the INS office having jurisdiction over the non-returnee's training site." Having an effective system for tracking and following-up on participants is an essential tool for meeting these requirements.

Of the five missions audited that had non-returnees, only one mission took appropriate actions to accurately determine whether its one non-returnee had returned to the home country. The remaining four missions did not take the appropriate actions because they lacked effective systems for tracking and following-up on participants, as well as non-returnees.

Such non-returnees represent a significant lost investment to USAID. For example, available EGAT files covered 200 non-returnees since fiscal year 1992. Of these 200 non-returnees, 159 had received training in the U.S. for one year or more which equates to over 506 years of USAID-funded training. At an estimated \$20,000 per year—covering college tuition and fees, monthly maintenance allowance, and other direct costs such as travel—these 506 years total over \$10 million in USAID-funded training. Many of these 159 participants were trained in academic programs leading to bachelor, master, and doctorate degrees. In fact, the files showed that 34 participants received as many as six years of USAID-funded training for doctorate degrees in such fields as computer science, civil engineering, animal science, medicinal chemistry, and economics. Despite USAID's investment, these individuals did not return to their country of origin to participate in that country's development, which is the intent of the participant training program.

Moreover, although the total number of non-returnees could not be determined because of incomplete records, there were definitely more non-returnees than reflected in the available EGAT records. For example, while EGAT files indicated only two non-returnees from Tanzania between 1992

and 2001, USAID/Tanzania records showed 11 known non-returnees. Furthermore, mission files identified additional non-returnees from 1990 and 1991, which brought the Mission's total non-returnees to 15 for the period 1990 thru 2001.³ While we do not know the total funds that were invested in training these participants, the Mission did spend at least \$1.4 million on training some of these participants who did not return to Tanzania.

Finally, there were also non-returnees not identified in EGAT records from USAID missions other than the seven examined in this audit. For example, an earlier OIG report on the "Audit of USAID/Tunisia's Participant Training Program," (Report No. 7-664-93-09 dated September 21, 1993) identified up to 315 non-returnees from Tunisia as of March 1993, who received up to \$11.2 million in training costs. These non-returnees were not reflected in EGAT's records.

In summary, non-returnees represent a significant lost investment to USAID. We believe that instituting a standardized system for tracking and follow-up on non-returnees will equip USAID to more effectively address this problem. Accordingly, we are making the following recommendation:

Recommendation No. 1: We recommend that the Director, Office of Education, Bureau for Economic Growth, Agriculture and Trade: a) advise USAID missions of the need to track non-returnees and, b) establish a mandatory USAID-wide system for tracking non-returnees.

USAID Should Require That Non-Returnees Repay Training Costs

USAID requires that upon the completion of the training, the participant will return to his/her home country and will contribute to the development of that country. When the participant does not return to their home country, for whatever reason, USAID's funds have not been used for their intended developmental purpose. In effect, those funds have been diverted for the personal benefit of that participant. As mentioned earlier in this report, many participants do not return to their home countries—and as much as \$10 million may have been spent on non-returnees identified from EGAT's records alone. Of course, the amount of USAID funds spent on unidentified non-returnees would only increase that figure. We believe that there may be as many causes for participants not returning to their countries as there are non-returnees—some participants may not return for economic reasons, some

³ It is possible that the Mission actually had more non-returnees. However, this cannot be determined due to the absence of an effective and reliable system to track and report non-returnees.

may not return for political reasons, and some may not return for totally different reasons or a combination of reasons, many of which may be beyond USAID's control. However, in our opinion, regardless of the reason, non-returnees should be held accountable and be required to repay the cost of their training.

In contrast, while USAID does require that participants sign "The Conditions of Training" form, which includes statements on return to the home country and a two-year residency requirement in the home country, USAID does not require repayment if the participant does not return home nor does it require that bills for collection be issued to recover costs from non-returnees. Consequently, although some missions did issue bills for collection in an attempt to recover lost funds, this occurred inconsistently with some missions issuing them and most others not. For example, of the seven missions audited, the missions in Tanzania and Egypt have issued bills of collections to recover training costs.⁴ USAID/Tanzania has issued 7 bills of collection totaling \$765,363 and USAID/Egypt has issued 11, totaling \$110,013. The other audited missions have not issued bills of collection to non-returnees.

We believe that USAID should hold non-returnees accountable for their training costs and are, therefore, making the following recommendations:

Recommendation No. 2: We recommend that the Director, Office of Education, Bureau for Economic Growth, Agriculture and Trade, in coordination with the Office of General Counsel, revise USAID participant training policy and procedures to require the legally binding repayment of training costs by non-returnees.

Recommendation No. 3: We recommend that the Director, Office of Education, Bureau for Economic Growth, Agriculture and Trade, revise USAID participant training policy and procedures to require that bills of collection be issued to non-returnees.

What additional actions should USAID missions take to meet new requirements for selecting, monitoring, and reporting on participants training in the United States?

In December 2002, the Department of State and the Immigration and Naturalization Service (now Bureau of Citizenship and Immigration Services) issued new regulations regarding J-1 visas. These regulations required

⁴ Some of these bills of collection resulted from investigations conducted by the USAID OIG Office of Investigations.

USAID and all other J-1 visa sponsors to electronically input visa application data into the Student and Exchange Visitor Information System by January 30, 2003 (later extended to February 15, 2003). This system then processes the data and allows sponsors to print a U.S. Government approval document for J-1 visa applications. The regulations also require that sponsors update data regarding the participant's status and location on a "real-time" basis through the training period.

To implement these changes, USAID/Washington issued "The Complete Guide to USAID Visa Compliance" for use by all USAID missions. This guidance changes USAID's decentralized process of implementing the administration of participant training activities to one of more centralized control. Under the new process each implementing organization enters the J-1 visa information into the Training Results and Information Network (TraiNet) database; this data is then transferred to the Visa Compliance System, a secure data system. The application data must be approved by a designated direct-hire employee at the local USAID Mission and, if approved, be forwarded to USAID/Washington for submission to the Student and Exchange Visitor Information System. We found that USAID missions had implemented these new requirements. However, we also found that USAID could strengthen the security aspects of its participant training program by performing background checks on participants.

Participants Selected for Training in the U.S. Should Undergo Background Checks

The recent attacks on the U.S. have raised concerns over the security of the country. In response, the U.S. Government (USG) had taken steps—such as establishing the Department of Homeland Security, enhancing control of borders, and revising the J-1 visa application process—to increase security. For its part, USAID, through its implementation of the revised visa process, has increased the security of its participant training program. However, the security of that program could be further strengthened by performing background checks⁵ of participants before sending them to the U.S. for training. Such background checks are especially important for prospective USAID participants because U.S. consular officers, who approve visas, generally consider USG-sponsored applicants a low-risk based on the assumption that the USG sponsor agency is familiar with the applicants.

⁵ Background checks may consist of a criminal background review, interviews, etc., to generally assess whether an individual would be an obvious security risk to American interests.

Unfortunately, such background checks are not performed consistently by all missions. For example, of the seven missions audited, background checks were performed on long-term participants at one mission and were planned to commence at one of the other missions. In contrast, the other USAID missions relied on implementing organizations (NGOS, contractors, etc.) to select participants and to be familiar with those participants. These inconsistencies occurred because ADS 253 does not require that background checks be performed on participants. We believe that such background checks serve to identify individuals who are obvious risks to American interests and that—without such checks—USAID is at greater risk of sponsoring a participant that poses a significant risk to our country. Accordingly, we are making the following recommendation:

Recommendation No. 4: We recommend that the Director, Office of Education, Bureau for Economic Growth, Agriculture and Trade, revise ADS 253 to include a requirement for background checks on persons selected for participant training in the U.S.

Evaluation of Management Comments

In their response to our draft report, the Office of Education, Bureau for Economic Growth, Agriculture, and Trade (EGAT/ED) concurred with our recommendations and described actions planned to address our concerns. In addition, EGAT/ED submitted with their response evidence that action has been taken on each of our four recommendations. These actions will significantly strengthen USAID's accountability and control over the status of participants while training in the United States. Also, for the first time, participants are now being held financially accountable for not adhering to the requirement to return to their home countries for two years after USAID-sponsored training.

Recommendation No. 1 recommends that EGAT/ED advise sponsoring units of the need to track non-returnees and establish a mandatory USAID-wide system for tracking those non-returnees. EGAT/ED issued a major revision of Chapter 253 of the ADS on Training for Development. This revision requires that Sponsoring Units (or their implementers) identify non-returnees and notify EGAT/ED of such non-returnees. It also requires that Sponsoring Units (or their implementers) notify the EGAT/ED Responsible Officer if a non-returnee is found to have returned to the home country at any time after being reported as a

non-returnee. However, while Management's response indicated that the EGAT/ED Responsible Officer is required to reflect the non-returnee in SEVIS, we did not find this requirement reflected in ADS 253. We believe that entry of non-returnee information into SEVIS is an important element of tracking non-returnees and believe that such a requirement should be formalized. Accordingly, since Management's actions and comments clearly reflect their agreement with Recommendation No. 1, we consider that a management decision has been reached. However, final action on this recommendation is pending the formalization of the requirement to enter non-returnee data into SEVIS.

Recommendation No. 2 recommends that EGAT/ED revise its participant training policy and procedures to require the legally binding repayment of training costs by non-returnees. EGAT/ED modified the Conditions of Training form signed by each participant to require repayment of training related costs if that participant does not return to the home country. We believe that appropriate action has been taken and consider this recommendation closed upon issuance of this report.

Recommendation No. 3 recommends that EGAT/ED revise USAID participant training policy and procedures to require that bills of collection be issued to non-returnees. EGAT/ED's revised ADS 253 requires that sponsoring units send a Demand for Training Costs Repayment Letter to non-returnees. We believe that appropriate action has been taken and consider this recommendation closed upon issuance of this report.

Recommendation No. 4 recommends that EGAT/ED revise ADS 253 to include background checks of persons selected for participant training in the U.S. The revised ADS 253 includes a section entitled "Participant and Dependent Security Risk Inquiry", which requires that a risk assessment be performed to identify any potential security threats that potential participants or their accompanying dependents may pose to the United States. Depending on the unique security concerns at the sponsoring mission, such risk assessments may include various elements such as background checks, police reports, inquiries with the cognizant Regional Security Officer, etc. We believe that appropriate action has been taken and consider this recommendation closed upon issuance of this report.

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Scope and Methodology**Scope**

The Office of Inspector General/Performance Audit Division conducted these audits in accordance with generally accepted auditing standards. These audits were designed to answer the following questions: (1) Have USAID missions complied with selected requirements for administering participant training conducted in the United States? (2) What have been the non-returnee rates for overseas participants who were trained in the United States and did USAID missions take appropriate actions when participants failed to return to their home countries? (3) What additional actions should USAID missions take to meet new requirements for selecting, monitoring, and reporting on participants training in the United States?

This report summarizes the results of audit work conducted at selected overseas USAID missions. It also addresses Agency-wide issues identified during the course of these audits. In carrying out these audits, fieldwork was performed respectively at the USAID mission offices in Managua, Nicaragua; Sofia, Bulgaria; Cairo, Egypt; Lagos, Nigeria; Ulaanbaatar, Mongolia; Dar es Salaam, Tanzania; and Santo Domingo, Dominican Republic and field offices of implementing organizations during spring and summer 2003. In addition, the pilot audit was performed in Managua, Nicaragua in November and December 2002.

This audit report considered USAID policies and procedures expressed in the Automated Directive System, Chapter 253 and other publications to be a significant internal control source for all missions. Other internal controls assessed included, but were not limited to, the use of J-1 visas, the maintenance of participant training records, and the reporting of non-returnees to the appropriate U.S. government agencies. The office responsible for ADS 253, namely the Bureau for Economic Growth, Agriculture and Trade's Office of Education (EGAT/ED), was not assessed during the audit, although it did provide comments and some explanatory documents to assist our understanding of current management controls.

During the audit, we found that the information contained in TraiNet, USAID's participant training database was incomplete. This limited our ability to fully address some of the audit objectives.

Methodology

In performing the audit, we assessed information drawn from the seven mission-level audits as well as had data obtained during the survey of USAID's participant training program, which was done as part of the pilot audit of USAID/Nicaragua. We held discussions in USAID/Washington with the Participant Training Division in USAID's Bureau for Economic Growth, Agriculture & Trade, Office of General Counsel, USAID contractors, and several implementing organizations. In addition, we also reviewed the Internet sites of those organizations as well as related documentation.

From this assessment, we considered those issues that might impact on governing policies and procedures. We obtained an understanding of the participant training program as it related to potential issues on the U.S. Immigration and Naturalization Service's Student and Exchange Visitor Information System and J visa regulations, and the Department of State's Exchange Visitor Program and its regulations. We reviewed a related law on international training and scholarship program for developing countries and considered prior audit reports and audit reports by other federal agencies.

During the audit, we assessed the completeness of data in the original database. Since we were not able to perform a complete count of participants, we did not have a verified baseline from which to establish materiality thresholds, a statistical sample was not used for transaction testing purposes. Accordingly, we relied on documented exceptions.

**Management
Comments**

August 2, 2004

TO: IG/A/PA, Nathan S. Lokos
THRU: EGAT/ED/OD, John A. Grayzel
FROM: EGAT/ED/PT, Diane M. Leach
SUBJECT: Capping Report for Worldwide Audit of USAID's Participant Training Activities

The Office of Education, Bureau for Economic Growth, Agriculture, and Trade (EGAT/ED) appreciates the opportunity to comment on the recommendations contained in the Capping Report for the Worldwide Audit of USAID's Participant Training Activities. Our comments are organized according to the four recommendations contained in the report and provide information on already completed actions that, we believe, will serve to close the recommendations.

Recommendation 1: We recommend that the Director, Office of Education, Bureau for Economic Growth, Agriculture and Trade: 1) remind sponsoring units of the need to track non-returnees and 2) establish a mandatory USAID-wide system for tracking non-returnees.

On June 15, 2004, EGAT/ED issued a major revision of Chapter 253 of the Automated Directives System (ADS253), Training for Development. The revised ADS253 contains policies and procedures to implement a new system to track and report on USAID participants (and their dependents if applicable) and to assure that USAID is in compliance with new Homeland Security requirements.

Under the new system, all USAID Sponsoring Units and their implementers must use the Training Results and Information Network (TraiNet) to document and track all USAID participants and their accompanying dependents (ADS253.3.1.5) A new Visa Compliance System (VCS) acts as

an interface between the TraiNet and the Student and Exchange Visitor Information System (SEVIS, developed by the Department of Homeland Security, U.S. Citizenship and Immigration Services (USCIS), and the Department of State (DOS) to manage the issuance of J visa, track students and exchange visitors, and monitor information regarding these individuals entering the U.S. for training.

The new system also requires that Sponsoring Units (or implementers) provide the EGAT/ED Responsible Officer with confirmation within three business days of the start of a training activity that each participant has begun his or her activity. Any changes in the participant's personal or program information must also be updated in the TraiNet in real time; that is, the same day the information becomes effective (ADS253.3.1.12). The program information in the system also includes fields for the training start and end dates and fields for information on program completion or program termination.

The ADS253 section on Non-Returnees (ADS253.3.7) also contains revised policies and procedures with respect to non-returnees. The revised section requires Sponsoring Units (or their implementers) to track the departure status of their participants and to inform the EGAT/ED Responsible Officer in writing within 30 days if a participant becomes a non-returnee. The Responsible Officer then changes the participant's program end date in SEVIS to show that the participant's program has terminated and provides relevant remarks concerning the non-returnee in the corresponding data entry field. Sponsoring Units (or their implementers) are also required to notify the EGAT/ED Responsible Officer if a non-returnee is found to have returned to the home country at any time after being reported as a non-returnee. Finally, new procedures have been included in this section that require Sponsoring Units to take action to recover training costs if a participant becomes a non-returnee.

With these new policies, procedures, and systems in place, EGAT/ED believes that the issuance of the revised ADS253 serves as a reminder to Sponsoring Units and their implementers of the requirement to track non-returnees and that the new TraiNet/SEVIS system does, in fact, constitute a mandatory USAID-wide system to identify and track non-returnees. Therefore, EGAT/ED believes that sufficient action has been taken to address this recommendation and requests that the recommendation be closed upon issuance of the final audit report.

Recommendation No. 2: We recommend that the Director, Office of Education, Bureau for Economic Growth, Agriculture and Trade, in coordination with the Office of General Counsel, revise USAID

participant training policy and procedures to require the legally binding repayment of training costs by non-returnees.

While it is the Office of the General Counsel's (GC's) legal opinion that such repayment is not legally required and is a matter of policy, EGAT/ED, in coordination with GC, has revised the ADS253 and the Conditions of Training for J-1 Visa Holders, Form AID1381-6 (06/04) to require Sponsoring Units to initiate action to recover training costs if a participant becomes a non-returnee. The revised Conditions of Training form (copy attached) sets out a number of requirements that a participant must read and acknowledge agreement to in writing. The form must also be co-signed by a USAID official and kept in the Sponsoring Unit's files. The revised Conditions of Training form (included with the June 15, 2004 issuance of ADS253) has added new language to the section on the Two-Year Home Residency Requirement Conditions of Training form which states "I understand that I must repay all training costs plus possible penalty charges, administrative costs and interest in case of late payment if I fail to return home at the end of my program, and that repayment of these costs does not in any way eliminate or waive the two-year home residency requirement. USAID will bill me for these costs at the last known address on record they have for me. I hereby waive any rights to protest against service of process of any legal documents if I do not keep USAID informed of my current address."

The revised ADS253 section on non-returnees noted above also institutes a new procedure that requires Sponsoring Units to send a participant an AID Form 253-1, Demand for Training Costs Repayment Letter ("Demand Letter") to the non-returnee within 10 business days of the determination that the participant is a non-returnee. The Demand Letter is a legally binding document containing all information necessary for due process requirements in order to constitute a formal bill of collection as required in the Fair Debt Collection Practices Act, as amended, of 1996. The Sponsoring Unit must also send a copy of the Demand Letter (copy attached) to the relevant accounting office (overseas, the Mission Controller, or in Washington, the Accounting Branch of the Office of Financial Management) to establish the Accounts Receivable in accordance with ADS625.3.6.1. Once the accounting office has recorded the Accounts Receivable, it returns a copy of the Demand Letter to the Sponsoring Unit, with a completed Accounts Receivable reference, as an acknowledgement of recording the Accounts Receivable. The Sponsoring Unit can then use the Accounts Receivable reference for follow-up and determination of the current status of the Receivable. If the Receivable becomes delinquent, then the relevant accounting office will process it under normal debt collection procedures in accordance with ADS625.

EGAT/ED believes that the new ADS253 policy and procedures constitute a legally binding requirement for repayment of training costs by non-returnees.

We, therefore, request that this recommendation be closed upon issuance of the final audit report.

Recommendation No. 3: We recommend that the Director, Office of Education, Bureau for Economic Growth, Agriculture and Trade, revise USAID participant training policy and procedures to require that bills of collection be issued to non-returnees.

The revised policy and procedures contained in ADS253.3.7 described above requires that bills of collection be issued to non-returnees. In this case, the AID Form 253-1, Demand for Training Costs Repayment Letter, (the “Demand Letter”) is a legally binding document containing all information necessary for due process requirements in order to constitute a formal bill of collection as required in the Fair Debt Collection Practices Act, as amended, of 1996, and is used in lieu of a bill of collection. According to the Office of Financial Management and GC, the Demand Letter has the same effect and force as the bill of collection. Therefore, given the issuance of the revised ADS253, the requirement to issue bills of collection to non-returnees is now in effect. Therefore, EGAT/ED requests that this recommendation be closed upon issuance of the final audit report.

Recommendation No. 4: We recommend that the Director, Office of Education, Bureau for Economic Growth, Agriculture and Trade, revise ADS 253 to include background checks of persons selected for participant training in the U.S.

The revised ADS253 issued June 15, 2004, contains a new section entitled Participant and Dependent Security Risk Inquiry (ADS253.3.1.2). This revision requires Sponsoring Units to establish a process for conducting a security risk inquiry to help identify any potential security threats that potential participants or their accompanying dependents may pose to the United States. The process for conducting the security risk inquiry must be documented in a Mission Order for Participant Training or a Directive for Participant Training. The security risk inquiry process must address how the security risk inquiry will be conducted, who will conduct the inquiry, and the point at which the inquiry will occur in the participant selection and pre-departure process.

Since security concerns vary among different Missions worldwide, no single appropriate formula or prescribed process is mandated to cover all situations. However, the revised ADS253 provides guidance on possible procedures a Mission may consider, including formal background checks, police reports, letters of recommendation, previous personal knowledge of the participant’s conduct, information based on interviews, and any other evidence determined to be appropriate such as working with and making inquiries to Regional

Security Officers (RSOs), Homeland Security Officials, consular officers, etc. Sponsoring Units must keep the documentation on each security risk inquiry in its files and must include a checklist or form to ensure that the Sponsoring Unit has a consistent approach and procedure.

The revised policy and procedures for security risk inquiries take into account the fact that Sponsoring Units do not have security specialists and cannot make determinations as to whether a participant candidate or one of his or her dependents could represent a security threat. Nevertheless, through establishing the security risk inquiry process, Missions and USAID/Washington Bureaus will be in a position to discover information that will help to determine whether it is appropriate to send a potential participant or dependent to the U.S. for participant training. Therefore, EGAT/ED believes that the new policy and procedures for security risk inquiries contained in the revised ADS253 constitute an adequate process for background checking and requests that this recommendation be closed upon issuance of the final audit report.

Attachments: A/S

Clearances:

GC: Karen d'Aboville: (Cleared in Draft) Date: 8/2/04