

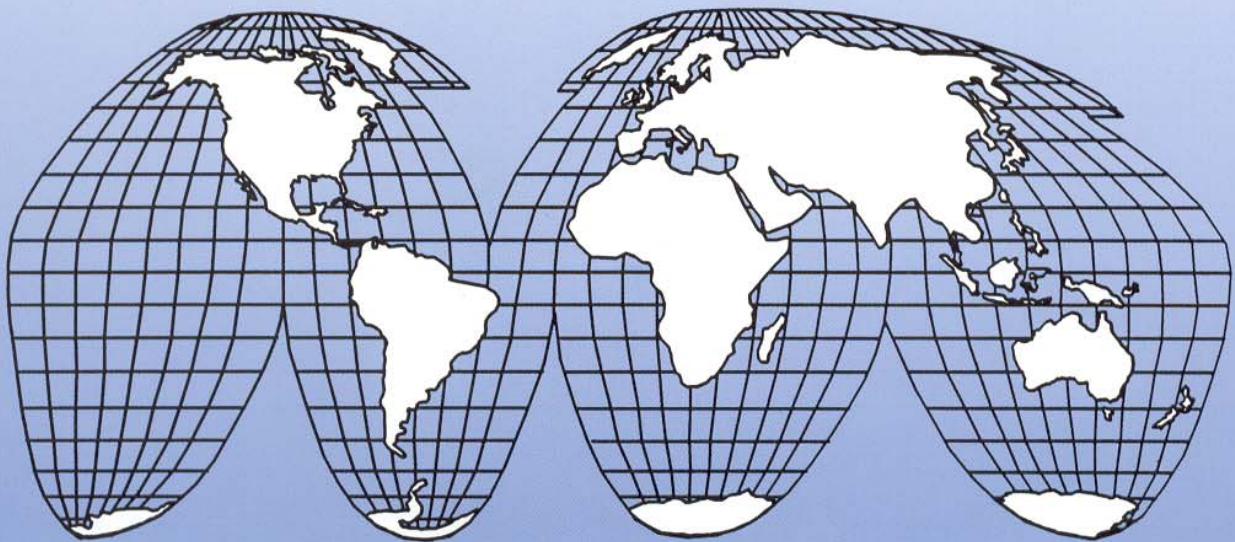
USAID

OFFICE OF INSPECTOR GENERAL

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

Audit Report Number 9-517-04-001-P

January 23, 2004



Washington, D.C.

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January 23, 2004

To: USAID/Dominican Republic Director, Elena Brineman
From: IG/A/PA Director, Nathan S. Lokos /s/
Subject: Audit of USAID/Dominican Republic's Management of U.S. Personal Services Contractors (Report No. 9-517-04-001-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 response as Appendix II.

This report includes three recommendations to strengthen USAID/Dominican Republic'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 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, which was performed by the Office of Inspector General's Performance Audits Division, is the pilot in a series of worldwide audits and was conducted to determine (1) how USAID/Dominican Republic established its staffing requirements for U.S. personal services contractors (USPSCs) and (2) whether it awarded U.S. personal services contracts in accordance with selected USAID policies and procedures. The audit concluded that the Mission had determined its USPSC staffing requirements in accordance with USAID policies and procedures (see page 6) and had awarded its U.S. personal services contracts in accordance with selected USAID policies and procedures (see page 7).

Nevertheless, we did note that the Mission had filled one USPSC position with an individual initially ranked in fourth place rather than with higher-ranked applicants and that the pertinent file did not adequately document why this decision had been made (see page 8). Moreover, we found that one USPSC was graded according to the Foreign Service pay schedule and needed to be converted to the applicable General Schedule grade (see page 9). We made three recommendations to address these issues (see pages 9 and 10).

USAID/Dominican Republic management concurred with all three audit recommendations and described actions taken to implement the recommendations (see page 10).

Background

USAID's complex personnel system encompasses several categories of employees. The primary workforce includes four distinct groups: (1) U.S. foreign service, (2) U.S. civil service, (3) U.S. personal service contractors (USPSCs), and (4) foreign service national and third country national¹ direct hire and non-U.S. personal service contractors. This audit focused on USPSC employees. The Foreign Assistance Act authorizes USAID to award personal services contracts—which are contracts for employment—and, for most purposes, USPSCs are considered employees of the U.S. Government.

Overseas the mix of direct hire employees, contractors, and other non-direct hire staff varies from country to country. The need for USPSCs is affected by a number of factors, such as limitations on operating expense funds, availability of educated/experienced local job applicants, and the nature of mission development activities, all of which contribute to the unique “personnel profile” of each USAID field unit.

¹ Foreign service nationals are hired in their country of citizenship through the local USAID mission. Third country nationals are hired from a third country.

USAID/Dominican Republic projected a need for six USPSCs in its Mission strategic plan. At the time of the audit, the Mission had four of its six USPSC positions filled (senior economic policy advisor, senior democracy policy advisor, democracy initiatives specialist, and general services officer) and two of the USPSC positions vacant (senior technical advisor for the health strategic objective and an untitled position for a cross-border activity).

Audit Objectives

The Office of Inspector General's Performance Audits Division conducted this audit as part of its annual audit plan to answer the following audit objectives:

Did USAID/Dominican Republic determine its requirement for U.S. personal services contractors in accordance with USAID policies and procedures?

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

Appendix I contains a complete discussion of the scope and methodology for the audit.

Audit Findings

Did USAID/Dominican Republic determine its requirement for U.S. personal services contractors in accordance with USAID policies and procedures?

USAID/Dominican Republic 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) in the form of a USAID General Notice addressing the "Appropriate Use and Funding of USAID's Non-Direct Hire Workforce."² This notice provides USAID managers with information and guidance on the appropriate roles, responsibilities, and employment mechanisms for the various types of personnel working with USAID. For example, among other things, the notice states that:

- Direct hire U.S. citizens shall perform the basic work of USAID.
- The first option for filling a position that must be filled by a U.S. citizen is the assignment of a direct hire employee.

² ADS 400 Series Updates, Part I, 1995 #2

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- 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.

According to Mission officials, USAID/Dominican Republic—like other USAID overseas missions—is allocated a set number of U.S. direct hire (USDH) positions based on a variety of factors, including, but not limited to, the complexity of the program, the level of funding, and whether the Mission provides regional services. USAID/Dominican Republic has used these limited direct hire positions to staff the basic functions of the Mission, such as those performed by the director, the controller, and the regional contracting officer. This limited availability of USDHs necessarily impacts how the Mission is able to fill other positions requiring U.S. citizens. When Mission management is not successful in petitioning USAID/Washington for additional USDHs, it looks to other mechanisms to fill positions that do not absolutely require direct hire authorities.³

This was the case with the deputy team leader positions for both the Mission’s economic growth and democracy teams. For a variety of reasons, such as the need for broad international expertise and the greater credibility given to Americans by host country counterparts when discussing government policy, Mission officials felt it was important to fill the positions with U.S. citizens. Given the lack of available USDH positions, the Mission filled these jobs with USPSCs. Similarly, when USAID/Dominican Republic’s executive officer and program officer positions were temporarily vacant, the Mission filled the positions with USPSCs. Both of these positions were ultimately filled by USDHs. In our opinion, USAID/Dominican Republic determined its requirement for the above-mentioned positions, as well as its other USPSCs, in accordance with USAID policies and procedures.

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

USAID/Dominican Republic awarded its U.S. personal services contracts in accordance with selected USAID policies and procedures, including those for full

³ USAID Acquisition Regulation Appendix D, Section 4.b.3, indicates that personal services contractors cannot (1) supervise USDH or other U.S. government employees, (2) be designated as contracting officers or delegated authority to sign obligating or sub-obligating documents, (3) communicate a final USAID policy, planning or budget decision unless that communication has been cleared by a USDH, and (4) make a final decision on personnel selection. The Assistant Administrator for Management must approve exceptions to these limitations.

and open competition⁴, establishing salaries, and fringe benefits. However, we did note two issues concerning the documentation of a key decision and classification of a USPSC that Mission management should address. These issues are discussed in detail later in this report.

USAID/Dominican Republic followed key USAID policies and procedures for full and open competition, establishing salaries, and fringe benefits in awarding U.S. personal services contracts. For example, two USPSCs—the senior democracy policy advisor and the senior economic policy advisor—were internationally recruited and hired under full and open competition. Moreover, while two locally hired USPSCs (the general services officer and democratic initiatives specialist) were hired without full and open competition, the Mission’s contracting files contained the necessary justifications for these exceptions. Similarly, we found that with the exception of the democratic initiatives specialist (discussed in detail later in this report), the salaries of the active USPSC positions were established in accordance with USAID policy. Finally, we determined that all four active USPSCs received the correct benefits to which they were entitled.

Mission Guidance to Selection Panels Should Be Revised

The Federal Acquisition Regulation (FAR) and the USAID Acquisition Regulation (AIDAR) govern all direct procurement done by USAID. AIDAR Chapter 7, Appendix D, Section 7(e), requires that the selection of a personal services contractor be documented and justified. Moreover, the Standards for Internal Control in the Federal Government issued by the General Accounting Office in November 1999 states that significant events need to be clearly documented and that the documentation should be readily available for examination.

During the audit, we determined that the Mission had not adequately documented the basis for selecting one of its USPSCs—a senior economic policy advisor. Although this individual had initially been ranked fourth out of ten candidates by the Technical Selection Panel reviewing applications, he was ultimately awarded the contract. Further inquiries revealed that this occurred because two of the top three candidates removed themselves from the competition (for either personal or professional reasons) and the responses from the remaining candidate’s references made him less competitive. Consequently, the applicants were re-scored, and the one who was originally fourth became the highest-ranked candidate. Unfortunately, the explanation as to how this individual rose from

⁴ Full and open competition means all responsible sources are permitted to compete for a contract under specifically prescribed procedures, such as sealed bids and competitive proposals.

being the fourth to the top candidate—and was ultimately awarded the contract—was not adequately documented in the Mission’s files.

This occurred because the necessary documentation explaining the changes was never finalized. The Chairman of the Technical Selection Panel (TSP) did send the Mission executive officer and the regional contracting officer an email requesting that contract negotiations be initiated. However, this email did not provide a sufficient explanation as to why that particular candidate had been selected. In fact, in his response to that email, the regional contracting officer requested that the Chairman of the TSP prepare a “stronger” memorandum detailing that the candidates had been reviewed and re-ranked after conducting reference checks. The regional contracting officer also noted that the memorandum needed to provide the reason why the lower ranked candidate had moved to the top. Nevertheless, despite the guidance provided by the regional contracting officer, the Chairman of the TSP did not finalize that “stronger” memorandum, reportedly due to other, competing priorities. Consequently, the basis for a key procurement decision was not adequately explained and documented, as required by the AIDAR and the Standards for Internal Control in the Federal Government.

To address this oversight and to help prevent a future omission, we are making the following recommendations.

Recommendation No. 1: We recommend USAID/Dominican Republic include a memorandum in the contracting file to explain the selection of the lower-ranked candidate in filling the senior economic policy advisor position.

Recommendation No. 2: We recommend USAID/Dominican Republic revise its written instructions currently provided to selection panels to include procedures on how to document any changes in the rank ordering of candidates due to interviews, reference checks, etc., after the initial ranking of individuals.

Mission Should Convert USPSC Position From Foreign Service to General Schedule

Contract Information Bulletin (CIB) 96-8, dated February 23, 1996, states that USAID uses the General Schedule scale as a basis for salary negotiation for USPSC positions. Contrary to this guidance, the Mission’s USPSC democratic initiatives specialist was classified under the Foreign Service pay schedule. This occurred because the position was advertised and filled at the Foreign Service 03 level in 1992—well before the issuance of CIB 96-8 (which states that positions

held by USPSCs are considered “rank-in-position”⁵ and not “rank-in-person”). According to USAID/Dominican Republic officials, similar USPSC positions at USAID/Haiti, which receives contracting services from USAID/Dominican Republic, had been converted from the Foreign Service to the General Schedule once the positions were vacated. Consequently, USAID/Dominican Republic’s Foreign Service grading of its USPSC position is inconsistent with similar positions and does not comply with CIB 96-8.

To address this situation, we believe a review of USAID/Dominican Republic’s democratic initiatives specialist position and scope of work should be done to determine the appropriate General Schedule grade. The democratic initiatives specialist position should then be converted from the Foreign Service to the General Schedule when the incumbent vacates the position. Accordingly, we are making the following recommendation.

Recommendation No. 3: We recommend USAID/Dominican Republic agree to convert its democratic initiatives specialist position from a Foreign Service to a General Schedule position upon the departure of the incumbent.

Management Comments and Our Evaluation

In its response to our draft report, USAID/Dominican Republic concurred with our recommendations and described actions taken to address them. We believe the actions taken by the Mission should significantly strengthen the Mission’s management of U.S. personal services contracts.

To address Recommendation No. 1, the Chairman of the Technical Selection Panel prepared a memorandum that explained the process and justification for selecting the lower ranked candidate in filling the senior economic policy advisor position. Copies of the memorandum were provided to the regional contracting officer and executive officer.

To address Recommendation No. 2, USAID/Dominican Republic prepared a memorandum that provides written guidance on establishing criteria for determining the most qualified candidate and identifying the relative importance of each criterion. This memorandum requires that the technical selection panel prepare a selection memorandum describing the methodology used in the review, scoring, and ranking of the individual applications and documenting the opinions considered from the interviews. Moreover, in the event that reference checks or other information changes the rank order of candidates, such changes must be fully documented in the selection memorandum. Finally, the selection

⁵ Rank-in-position means that the grade of a position is established based on the work to be performed, rather on the personal grade of the person filling the position.

memorandum will be signed by the selecting official and signed and cleared by the other panel members.

To address Recommendation No. 3, USAID/Dominican Republic agreed to reclassify its democratic initiatives specialist position from a Foreign Service to a General Schedule position upon the departure of the incumbent.

Based on the actions the Mission has taken to address each recommendation, we concluded that final action has been taken on all recommendations.

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

The Office of Inspector General's (OIG's) Performance Audits Division conducted an audit of USAID/Dominican Republic's management of U.S. personal services contractors. The audit was conducted in accordance with generally accepted government auditing standards.

This audit was the first in a series that will comprise the OIG's worldwide audit of USAID's management of U.S. personal services contractors. Audit fieldwork was performed at USAID/Dominican Republic from September 9 through September 26, 2003. The scope of the audit of USAID/Dominican Republic included review of the four personal services contracts that were active as of August 31, 2003. The estimated value of these contracts was \$849,988.

This audit included an examination of management controls, including those associated with determining Mission staffing needs and the Mission's competitive procurement of, setting of salaries for, and awarding of fringe benefits to U.S. personal services contractors (USPSCs). These controls included the Mission's strategic plan, which is reviewed and approved by the Bureau for Latin America and Caribbean (LAC). In addition, the Mission's annual report and activities-approval documents for its strategic objectives address the allocation of foreign service nationals, U.S. direct hires (USDHs), and USPSCs. Management controls over USPSCs include guidance contained in the USAID Acquisition Regulation (AIDAR) Chapter 7, Appendix D, various contract information bulletins, and acquisition and assistance policy directives. In planning the audit, we considered prior relevant audit findings.

Methodology

In performing the audit, we examined pertinent documentation and discussed audit-related issues with responsible officials in USAID's Office of Human Resources, the Bureau for LAC, the Office of Procurement in Washington, D.C. and at USAID/Dominican Republic. The audit work in USAID/Washington focused on guidance provided to USAID/Dominican Republic on manpower requirements and policies and procedures on competition, setting salaries, and benefits provided to USPSCs. The audit work at USAID/Dominican Republic focused on efforts to determine manpower requirements; the "mix" of labor (e.g., USPSCs, USDHs, foreign service nationals); and the implementation of competition, salary setting, and benefits aspects of U.S. personal services contracting. Our audit included a review and analysis of (1) information included in the Mission's active USPSC personnel files, (2) the Mission's five-year strategic plan, (3) the Mission annual report for 2003 to the LAC Bureau,

and (4) activities-approval documents. This audit did not assess the overall economy and efficiency of the USAID/Dominican Republic personal services contracting process.

**Management
Comments**

**UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT
Santo Domingo, Dominican Republic**

**UNITED STATES GOVERNMENT
MEMORANDUM**

Date: December 22, 2003
To: Nathan S. Lokos, IG/A/PA Director
From: David A. Delgado, Acting Director/ USAID/DR /s/
Subject: Audit of USAID/Dominican Republic's Management of U.S.
Personal Services Contractors (Report No. 9-517-04-00X-P)

Below are the Mission's responses to each audit recommendation.

Recommendation No. 1: We recommend USAID/Dominican Republic include a memorandum in the contracting file to explain the selection for the lower ranked candidate in filling the senior economic policy advisor position.

Mission concurs with the recommendation. Attached is a copy of the memorandum written by Donnie Harrington, Chairman of the Technical Selection panel for the senior Economic Policy Advisor position. The Mission believes this satisfies the recommendation and requests closure.

Recommendation No. 2: We recommend USAID/Dominican Republic revise its written instructions currently provided to selection panels to include procedures on how to document any changes in the rank ordering of candidates due to interviews, reference checks, etc., after the initial ranking of individuals.

Mission concurs with this recommendation. Attached is a copy of the new written guidance provided to selection panels. The Mission believes this satisfies the recommendation and requests closure.

Recommendation No. 3: We recommend USAID/Dominican Republic convert its democratic initiatives specialist position from Foreign Service to the General Service in terms of classification and determine the appropriate General Service schedule level.

The Mission concurs with the intent of this recommendation and will convert the position to a General Schedule position classification upon the departure of the incumbent. The incumbent was hired more than 10 years ago when the position was correctly classified under the Foreign Service classification system. To re-classify the position while the incumbent is in the position unfairly disadvantages the incumbent. The Mission consulted with Tom Henson of M/OP for a determination of the proper course of action. Mr. Henson stated that because the incumbent was properly hired when the position was classified under the Foreign Service system and a change to the classification would unfairly penalize the incumbent that the incumbent could be “grandfathered”. In accordance with the M/OP policy interpretation, the position will be converted to a General Schedule classification upon the departure of the incumbent. The Mission believes this satisfies the recommendation and requests closure.