GAO

United States General Accounting Office

Report to the Honorable
John Warner, U. S. Senate

October 1989

FOOD AID

AID's Management of Two Emergency Food Shipments

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GAO

United States
General Accounting Office
Washington, D.C. 20548

National Security and
International Affairs Division

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October 12, 1989

The Honorable John Warner
United States Senate

Dear Senator Warner:

On November 28, 1988, you asked us to provide information on how the Agency for International Development (AID) handled the procurement of transportation services for two 1988 emergency food shipments—a 10,000 metric ton rice shipment to Mali and a 15,000 metric ton sorghum shipment to Niger. This report provides information concerning whether

- AID selected the lowest price responsive offer for the Mali shipment;
- modifications that AID made to the Mali shipping contract to extend coverage to inland destinations voided the June 15, 1988, delivery date and penalty provisions originally established in the request for transportation services;
- the June 15, 1988, delivery date for the Mali shipment was met at the five inland destinations; and
- the decision by AID and the government of Niger to change ports for off-loading the Niger shipment resulted in additional costs to the U.S. government and affected cargo delivery schedules to inland destinations.

Results in Brief

Based on our review of AID's records, we found that AID selected the lowest price offer for transporting the food shipment to Mali that was responsive to the stated requirement for delivery by June 15, 1988. Modifications to the standard ocean transportation contract to extend coverage to inland destinations did not void delivery date and penalty provisions of the contract. Delivery was on time at three of the five final destinations. Delivery was late at one destination because of a pre-existing dispute between the shipper and a local subcontractor, and AID assessed an $85,000 penalty on the shipping contractor for the delay. Delivery to the fifth destination was delayed because of unexpected weather conditions, and no penalty was assessed because a contract provision excuses contractor liability for delays caused by certain circumstances beyond the contractor's control.

Initially, the intent was for the Niger food shipment to be off-loaded at Lagos, Nigeria. Because of concern over safety and potential diversion of commodities transshipped through Lagos, AID decided to shift half of the shipment to Lome, Togo. This change, according to an AID official, resulted in $760,000 additional cost to the U.S. government. Shippers, freight forwarders, brokers, and representatives from private voluntary organizations such as the Cooperative for American Relief Everywhere (CARE) who are also involved in similar activities believed that the risk of cargo loss and delays outweighed the additional costs of the alternate route.

Additional details on these matters are provided in appendix I. Our objectives, scope, and methodology are described in appendix II.

As you requested, we did not obtain formal agency comments on this report. However, we discussed it with the responsible agency officials and incorporated their comments where appropriate.

We are sending copies of this report to the Acting Administrator, Agency for International Development; the Secretary of Agriculture; and other interested parties upon request.

GAO staff members who made major contributions to this review are listed in appendix III. If you have questions or need additional information, please call me on 275-5790.

Sincerely yours,

Nancy R. Kingsbury

Nancy R. Kingsbury
Director, Foreign Economic
Assistance Issues

Contents

Abbreviations

AID	Agency for International Development
WFP	World Food Program
CARE	Cooperative for American Relief Everywhere

Agency for International Development's Management of Two Emergency Food Shipments

The United States provides food assistance to foreign countries to combat hunger and malnutrition, encourage economic development, expand export markets for U.S. agricultural commodities, and promote U. S. foreign policy goals. This assistance is provided primarily under the Agricultural Trade Development and Assistance Act of 1954, commonly referred to as Public Law 480. Title II of the act, 7 U.S.C. section 1721 et.seq., as amended, authorizes the donation of agriculture commodities to assist malnourished people in poorer countries through a variety of programs. The legislation authorizes private voluntary organizations, friendly governments, and organizations such as the World Food Program (WFP) to distribute the commodities. In addition to the title II program, section 416 (b) of the Agricultural Act of 1949, 7 U.S.C. section 1431, as amended, authorizes the U.S. Department of Agriculture's Commodity Credit Corporation to donate excess agricultural commodities to needy countries. Eligible agricultural commodities may be donated through foreign governments, public and nonprofit private humanitarian organizations, cooperatives, and international organizations. Both title II and section 416 are administered by the Agency for International Development (AID). During fiscal year 1988, the United States donated about 2.0 million metric tons of food valued at $715 million under the title II program and 2.4 million metric tons valued at $412 million under the section 416 program.

We obtained information on AID's handling of two 1988 government-to-government emergency shipments.[1] The first was a title II shipment to Mali of 10,000 metric tons of rice. The total cost of the Mali shipment was $5.1 million, of which $2.1 million was for transportation and $3 million was for the rice. Specifically, we examined whether (1) AID selected the lowest price responsive transportation offer, (2) the delivery schedule was met for the five inland destinations, and (3) changes AID made to the shipping contract voided the delivery date and penalty provision established in the original tender.

The second was a section 416 shipment to Niger of 15,000 metric tons of sorghum with a total cost of $3.8 million, of which $2.5 million was for transportation and the remaining $1.3 million was for the sorghum. Specifically, we examined whether the decision by AID and the government of Niger to change the off-loading port increased costs to the U.S. government and affected delivery schedules to inland destinations.

[1] Government-to-government emergency shipments refer to direct agreements between the U.S. government and the recipient government.

Transportation Services

For title II and section 416 programs, AID is responsible for managing and overseeing the procurement of ocean freight and inland transportation for government-to-government cargo. According to AID officials, for landlocked countries like Mali and Niger, commodity transportation entails two steps: (1) transporting a food shipment by ocean freight from a U.S. port to a foreign port of entry and (2) transporting the shipment overland to mutually agreed upon points of entry.

According to AID officials, the U.S. government always pays the transportation costs for all title II shipments. However, under section 416, it varies. In some cases the U.S. government pays all the costs, while in other cases, only the ocean freight cost. In the two cases we reviewed, however, the U.S. government paid all costs associated with the movement of the cargo.

AID's role in managing shipping contracts varies depending on whether commodities are provided under title II or under section 416. In both cases, AID generally negotiates a commodity agreement with the recipient government followed by a negotiated shipping contract. For title II government-to-government shipments, the shipping contracts are negotiated between AID's freight forwarder and the ship owner's agent. Accordingly, AID has direct control of and responsibility for the transportation arrangements. Conversely, section 416 shipping contracts are negotiated between the recipient government's agent or freight forwarder and the ship owner's agent and AID has only indirect control and responsibility for the transportation arrangements. According to AID officials, although the recipient government has the final say in making transportation decisions, AID may influence decisions that entail additional costs to the U.S. government.

Shipping contracts under section 416 and title II generally outline specific terms and conditions governing the movement of the cargo, including specification of ports of entry, designation of intermediate points, and the associated transportation costs. According to AID officials, in some cases, contracts will contain a specific delivery date requested by the recipient government and a penalty clause if the delivery is not made by the specified date.

Title II Rice Shipment to Mali

In March 1988, the AID mission in Mali requested that 10,000 metric tons of rice be delivered on an emergency basis on or before June 15, 1988, to five destinations in Mali—Mopti, Gao, Kayes, Bamako, and Timbuktu (see fig. I.1). According to AID officials, AID had direct responsibility for the transportation arrangements for this shipment. As part of AID's normal procurement transportation process, it sent out a transportation request on March 25 for offers on a through-bill of lading basis, soliciting both foreign and U.S. shipping offers to transport the rice to the five destinations by the June 15 delivery date. Of the six carriers responding to the request, AID selected Armada Lines, Ltd., the lowest price responsive offer. A lower offer by Belgian Overseas Chartering and Shipping was rejected because it proposed a delivery date of June 30, 1988, and was therefore not responsive to the request for offers.

According to AID transportation officials, AID does not normally include specific delivery dates in transportation requests because they are usually too difficult to enforce, considering the uncertainties that may arise during the movement of the cargo. However, in this instance, they said the June 15 delivery was critical to avoid the rainy season which would complicate the inland food distribution.

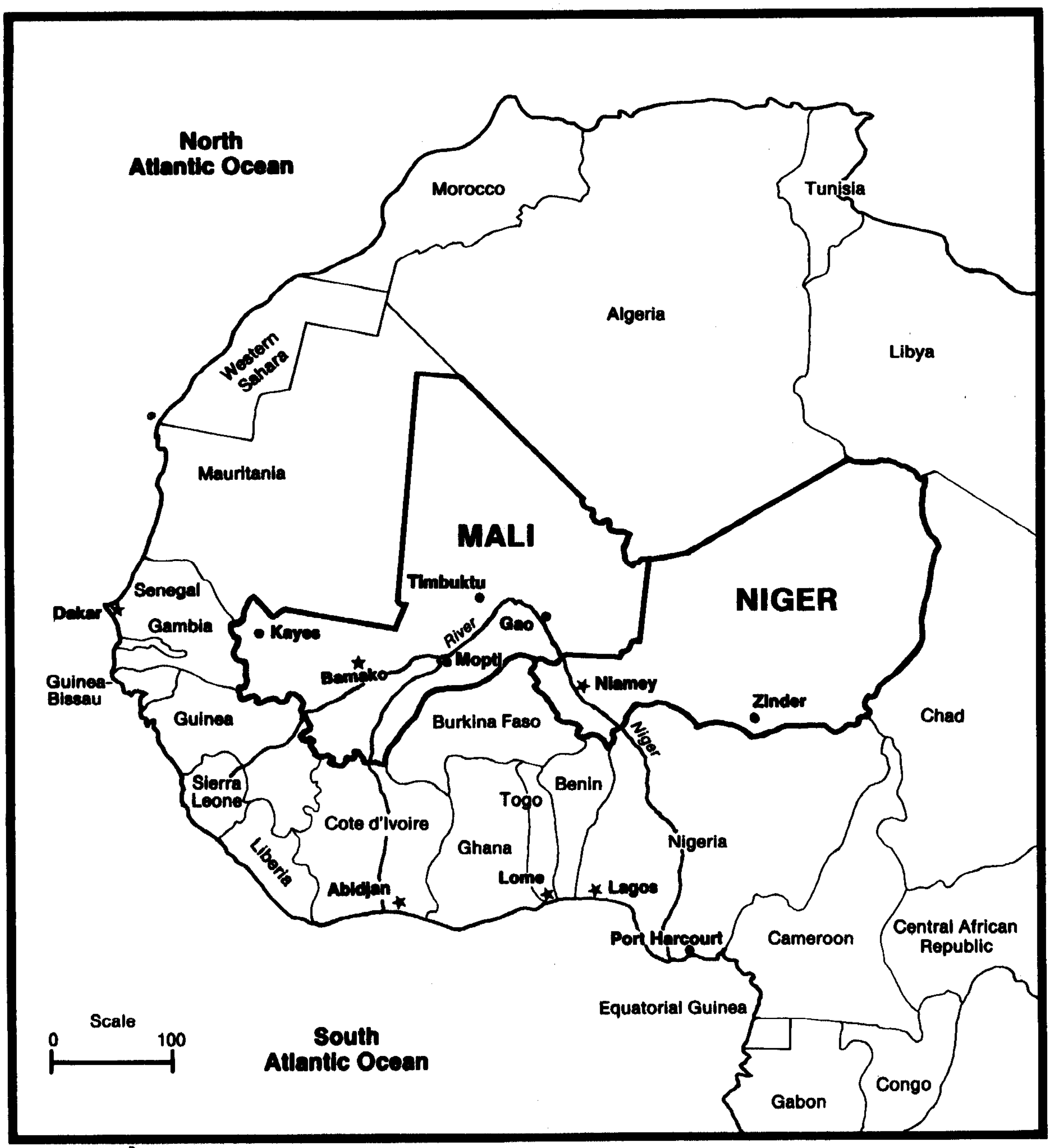
According to AID officials, after Armada's shipping offer was accepted, the terms and conditions were finalized in a modified AID ocean freight shipping contract. The officials told us that because the contract was a standard ocean freight contract form, AID had to modify it to include the overland transportation requirement. Specifically, AID inserted in the contract the phrase "inland destinations" in appropriate places to provide for delivery to Gao, Bamako, Mopti, Kayes, and Timbuktu. The modifications AID made did not alter the June 15, 1988, delivery date, and penalty provisions were maintained throughout the contract and penalties were assessed for the Kayes cargo which arrived 17 days late.

Some Delivery Problems in Mali

AID officials told us that the rice was delivered by June 15 for three of the five inland destinations—Mopti, Bamako, and Gao. According to AID transportation officials, Armada and Somicoa, the subcontractor for the Kayes cargo, were involved in a payment dispute over the Kayes cargo and an earlier shipment that Somicoa had handled for Armada. Consequently, Somicoa refused to deliver the Kayes cargo until the dispute was resolved.

According to documentation from an AID transportation official, Armada relied on the force majeure provision of the contract by stating that it made every effort to deliver the Kayes cargo on time and that the situation with the Somicoa was beyond its control. The "force majeure" refers to a provision contained within the shipping contract that excuses

Figure I.1: Map of West Africa



the contractor from obligations of loading or delivery to final destinations by reason of civil commotions, strikes, or lock-out of any class of workmen essential to the loading or delivery to final destination of the cargo, or by reasons of obstruction or stoppage beyond the control of the charters and/or owners of the ship, such as inclement weather conditions.

AID informed Armada that although it applauded Armada's efforts in trying to resolve the issue with Somicoa in a timely manner, the situation did not constitute a force majeure. AID enforced the penalty provision in the transportation request as well as the shipping contract and assessed Armada \$5,000 a day, totaling \$85,000 in damages for the 17 days.

Delivery to Timbuktu was late because rain came earlier than expected and washed out the roads to Timbuktu. With AID approval, on June 9, 1988, the cargo was stored in Mopti warehouses and delivery to Timbuktu was completed by the government of Mali after the weather conditions improved. With AID concurrence, Armada declared force majeure on the delivery because the event that occurred was an act of God. However, Armada with AID's concurrence reduced the freight rate by \$60 per metric ton to compensate the U.S. government, which in turn provided funds to the government of Mali for completing the delivery of the cargo.

Section 416 Sorghum Shipment to Niger

On March 15, 1988, Niger government officials and AID signed a section 416 agreement for 15,000 metric tons of sorghum valued at \$1.3 million to be delivered in early June 1988 to two locations in Niger: Zinder and Niamey. The cargo was to be delivered through Lome, Togo, and/or Port Harcourt, Nigeria, and/or Lagos, Nigeria, at the carriers' option. (See fig. I.1.) The agreement gave the government of Niger direct responsibility for transportation arrangements, including the selection of the port for off-loading the cargo. On April 25, 1988, the carrier selected by the government of Niger—Diversified Marine International, Inc.—designated the port of Lagos for off-loading the cargo.

AID officials told us that after the port of Lagos was selected, a series of cables and discussions took place among AID mission and embassy officials in Lagos, embassy officials in Niger, and the government of Niger. The discussions surfaced concerns over transshipping through Nigeria, specifically, the civil unrest and port strikes in Lagos which could imperil the shipment of sorghum to Niger. It was reported that these conditions had impeded the unloading of two shipments of rice in Lagos in April. AID program and transportation officials told us that there was good reason to believe these problems existed. Nigeria has historically had problems with pilferage, civil unrest, port strikes, and border problems with Niger ranging from closing the border to holding up passage of commodities due to inadequate paperwork.

According to AID officials, at the time of the Niger shipment, a cereal shortage was reported in Nigeria. Subsequently, because of the information received from AID field personnel and the government of Niger, AID supported the government of Niger's decision to have the sorghum off-loaded at the port of Lome, Togo, even though it involved additional costs to the U.S. government. AID support was based on the danger and potential risk of the cargo being stolen, banned, and/or confiscated if off-loaded at the port of Lagos.

According to AID officials, on May 5, 1988, AID requested the U.S. embassy in Niamey, Niger, to recommend to the government of Niger that the entire 15,000 metric tons of sorghum be off-loaded at the port of Lome. On May 25, Aeromaritime Nigeria, Ltd., the subcontractor for inland transportation for the port of Lagos, Nigeria, protested the port change and said the diversion would cost the U.S. government more than $1 million plus an additional $90,000 expense to the subcontractor. Aeromaritime also said that it could off-load the sorghum at the port of Lagos and safely transport it through Nigeria at less cost to the U.S. government. An AID official told us that AID researched Aeromaritime's concerns regarding the cost and safety issues and found that the additional cost to the U.S. government was substantial—an estimated $1.2 million to $1.8 million. In addition, on May 26, 1988, the U.S. embassy in Lagos notified AID that the industry labor unrest in Lagos had abated.

On June 7, 1988, AID notified the government of Niger of the information on additional costs and declining risk and proposed that it reconsider using the port of Lagos to off-load the sorghum. However, the government of Niger continued to resist off-loading at the port of Lagos, still citing fears of delays in clearing border customs and pilferage. In addition, the government of Niger believed that the additional costs should not outweigh the safety of the cargo in view of the acute food shortage Niger was facing.

An AID program official told us that because Aeromaritime contended that it could transport the cargo through Nigeria at less cost to the U.S. government with guaranteed safety, and claimed to have already lost money on the decision to divert the cargo, AID recommended that half the cargo be off-loaded at each of the two ports. On June 17, 1988, AID contacted the U.S. ambassador to Niger and formally requested that 7,500 metric tons of the sorghum be off-loaded at the port of Lome and 7,500 metric tons at the port of Lagos. After some deliberations and discussions with AID, the government of Niger accepted the 50-50 split. According to an AID program official, this action reduced the risk of losing the entire shipment while enabling Aeromaritime to demonstrate its ability to safely transit the cargo through Nigeria. By splitting the cargo, the additional cost to the U.S. government was $760,000, which included diversion costs from Lagos to Lome, and additional inland transportation costs.

Program and transportation officials from CARE, Catholic Relief Services, WFP, commercial shippers, agents/freight forwarders, and brokers said that AID handled the transportation services in an appropriate manner. Further, some officials stated that off-loading and transporting cargo at some of the Nigerian ports is risky and many agreed with the decision AID made in changing ports.

Delivery of Sorghum Was Late

AID documentation shows that the cargo destined for Lome arrived on June 24, 1988, and was off-loaded by July 2. The sorghum destined for Lagos arrived by July 3, 1988, and off-loading was not completed until July 21 because of port congestion, lack of equipment, and required paperwork.

Before the cargo was off-loaded at the port of Lome, AID contracted with Saga Shipping to do the bagging and inland transportation. Aeromaritime did the inland transportation for the cargo off-loaded at the port of Lagos. AID documentation shows that both portions of the cargo reached their final destinations of Niamey and Zinder by August 22, 1988. In this instance, there were no penalty provisions included in the contract and therefore no charges were assessed the carriers for the delayed deliveries. In addition, an AID transportation official stated that the decisions made between AID and the carrier on the port changes and debate about additional costs to be incurred contributed to the delayed deliveries to both Niamey and Zinder.

Objectives, Scope, and Methodology

To assist us in understanding the process that AID used to procure the ocean freight and inland transportation services for the emergency food shipments to Mali and Niger, we examined individual countries' emergency food shipment files at the AID Transportation Office in Rosslyn, Virginia. We also interviewed AID and Department of Agriculture program and transportation officials to obtain their views on the management of transportation arrangements for title II and section 416 food shipments and the problems they encountered.

We interviewed program and transportation officials from CARE, Catholic Relief Services, and WFP to discuss their management of and experiences with food relief shipments in Africa. In addition, we obtained the views of commercial shippers in Houston, Texas, New York City, Tampa, Florida, and Washington, D.C., on AID's handling of the Mali and Niger shipments and discussed their experiences with transporting other food shipments to African countries.

Our work was conducted from December 1988 through June 1989 in accordance with generally accepted government auditing standards.

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