

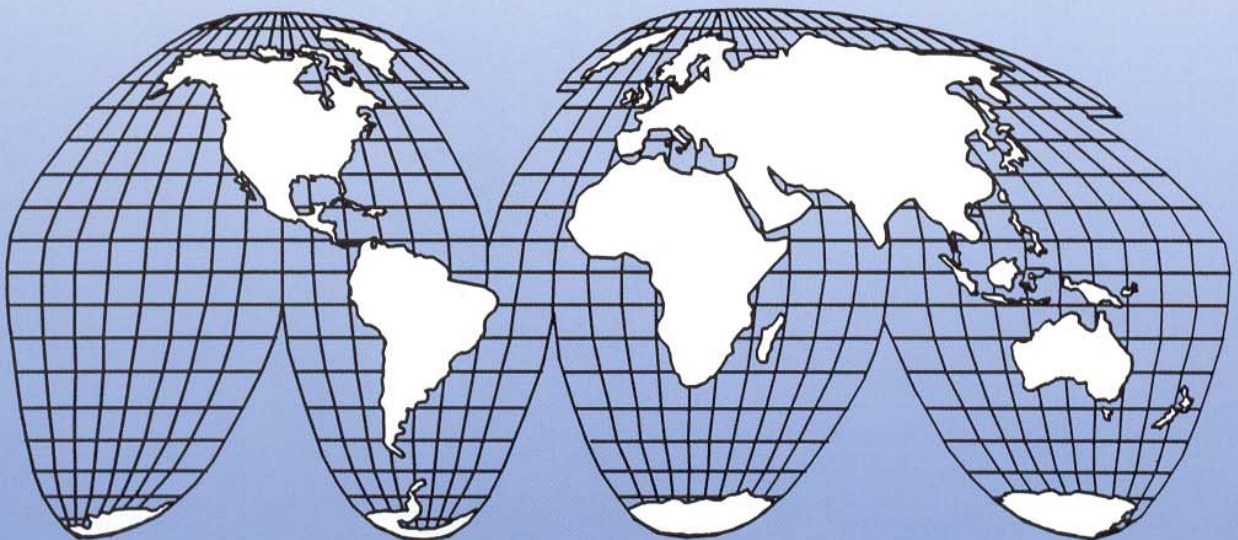
USAID

OFFICE OF INSPECTOR GENERAL

Audit of USAID Nicaragua's Participant Training Activities

Audit Report Number 9-524-03-012-P

September 30, 2003



Washington, D.C.



September 30, 2003

MEMORANDUM

FOR: USAID/Nicaragua, James E. Vermillion

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

SUBJECT: Report on Audit of USAID/Nicaragua's Participant Training Activities (Report No. 9-524-03-012-P)

This memorandum transmits our report on the subject audit. It includes five recommendations to improve controls and strengthen USAID/Nicaragua's participant training activities.

We considered USAID/Nicaragua's comments on the draft report, included as Appendix II, and its actions on the recommendations. For Recommendation Nos. 1 and 3, final actions have been taken. For Recommendation Nos. 2 and 4 management decisions have been reached but final action is pending. No management decision has yet been reached on Recommendation No. 5. Accordingly, please provide written notice within 30 days of any actions planned or taken to implement that recommendation. USAID/Nicaragua should coordinate final action on Recommendation Nos. 2, 4 and 5 with USAID's Office of Management Planning and Innovation.

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

The Immigration and Naturalization Service (INS - now the Bureau of Citizenship and Immigration Services) recently issued regulations requiring that sponsors of foreign students to the United States use its newly implemented Student Exchange and Visitor Information System (SEVIS) database to apply for and obtain the required J-visas to attend training in the United States. This new federally mandated foreign student database is intended to account for the status of all foreign students in the United States. The new INS regulations will also require USAID/Nicaragua (and all USAID missions) to more actively manage its participant trainees selected for training in the United States. The audit disclosed several areas where the Mission can improve the effectiveness of its program including:

- Ensuring that participants use the required J-visas - some participant trainees were sent to the United States on B-visas (intended for tourism and business) instead of the required J-visas (intended for participant trainees and exchange visitors) (see page 8).
- Updating Mission guidance – existing guidance does not reflect current participant training requirements (see page 11).
- Developing guidance for identifying and addressing non-returnees (see page 13).

Although new regulations and USAID guidance that impact the issuance of J-visas were not effective until after the completion of audit fieldwork, Mission officials supported this effort to improve accountability of participant trainees in the United States. However, they expressed concern that the regulations could be too onerous for participant training programs at the mission level where staff resources are limited (see page 17). USAID/Nicaragua initiated its own policy for having name checks performed by the Embassy on all prospective United States-bound participant trainees. The establishment of this practice is important during this time of heightened security precautions and sets an example that merits consideration throughout USAID.

To help USAID/Nicaragua strengthen its participant training program, we are recommending that the Mission: (1) develop guidelines to assure that only the required J-visas are used for sending participant trainees to the United States (see page 11), (2) revise or consolidate the Mission's guidance on participant training and require that all grants, cooperative agreements and contracts include a clause referencing USAID's participant training requirements (see page 12), (3) develop checklists to account for required documents for each participant trainee (see page 12), (4) develop procedures in coordination with USAID's Bureau for Economic

Growth, Agriculture and Trade (EGAT) and affected grantee/recipient/contractors to locate and track non-returnees (see page 16), and (5) develop procedures for issuing bills of collection to non-returnees (see page 16).

The Mission stated that it agreed with the first four recommendations and has reservations about the fifth recommendation, although it plans a schedule of consultations with responsible USAID offices about the issuance of bills of collection to non-returnees. It has taken actions on its procedures for participant training, most notable of which was the Mission's revised guidance issued on August 11, 2003. For Recommendation Nos. 1 and 3, final actions have been taken. For Recommendation Nos. 2 and 4, management decisions have been reached but final action is pending. Finally, the Mission indicated that it planned to decide on a course of action to address Recommendation No. 5 by October 31, 2003. Therefore, we are awaiting the Mission's final decision on that recommendation (see page 18).

Background

As a result of homeland security concerns and the recent attacks on the United States, increased attention is now being given to all visitors to the United States including those coming for participant training activities. Each year USAID's participant training programs send approximately 6,000 people to the United States.¹ According to USAID, "participants" may be host country residents or foreign nationals taking part in a structured learning activity. Participant training is defined as either short-term or long-term (nine months or more) training which may include a range of learning activities such as study tours, conferences, and academic training. U.S.-based training activities expose foreign participants to American expertise and ideas that can be exported back to their home countries for developmental purposes. Participant training sponsoring units (USAID and its missions) have the choice of managing training directly or arranging for training to be managed by another party, such as a grantee, recipient, contractor, host country non-governmental organization, or private voluntary organization. USAID's participant trainee data is collected and reported through its Training Results and Information Network (TraiNet) database. This database was developed, maintained, and managed by a Washington-based contractor. According to this contractor, USAID/Nicaragua sponsored over 250 participants in fiscal year 2001 and almost 200 in fiscal year 2002 who went to the U.S., primarily for short-term training activities.²

New regulations issued by the Immigration and Naturalization Service (INS) and Department of State have changed and established more specific procedures for

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

²As discussed later in this report, this number could not be reconciled with USAID/Nicaragua records.

issuing J-visas, monitoring participant trainees, and recording various events such as address changes, academic course changes, etc. Also, the INS developed its own database known as the Student and Exchange Visitor Information System (SEVIS) into which sponsors are required to input requests for J-visa applications and print the applications. With timely input and accurate data, INS's SEVIS is designed to track the status and location of all foreign students in the United States on three different types of visas, including the J-visa that USAID will use for all of its U.S.-based participants. The INS has further determined that "all" students in the United States as of August 1, 2003 will be included in SEVIS, including those who were in the United States before the initial implementation of SEVIS on February 15, 2003.

USAID/Nicaragua's participant training program uses grantees, recipients and contractors to manage training. In addition to sponsoring its own participant training activities that focused primarily on short-term training activities, USAID/Nicaragua also provided administrative support to a centrally-funded USAID participant training program administered by Georgetown University's Cooperative Association of States for Scholarships (CASS) Program.

Audit Objectives

This audit was conducted at USAID/Nicaragua as part of the World-wide Audit of USAID's Participant Training Activities pursuant to the Office of Inspector General's fiscal year 2003 audit plan.

This audit was designed to answer the following objectives relating to participant training activities:

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

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

Audit Findings**Has USAID/Nicaragua complied with selected requirements for administering participant training conducted in the United States?**

USAID/Nicaragua generally complied with selected USAID requirements for participant training activities in the United States. However, the Mission needs to strengthen controls in two areas of its participant training program for a fully compliant, more effective program.

The Mission generally followed selected USAID requirements such as the use of the TraiNet as the official database, medical certification of long-term participants based on medical examinations, and the use of health and accident insurance coverage. In addition, the Mission had a process in place for several years to have the U.S. Embassy perform name checks of long-term participants.³ This security aspect of their participant training program procedures was extended by instituting a process in September 2002 to have name checks performed by the U.S. Embassy for all U.S.-bound participant trainees. The Mission accomplished these actions through its Office of Human Investment, where the office chief was also the Mission's Training Officer and a local national staff member was the Mission's Training Coordinator (one of her several duties). The Training Coordinator was also the Mission's direct link to provide support services to a centrally-funded USAID program,⁴ which was the only program in Nicaragua to provide training in the U.S. of long durations, specifically, six months, one year, and two years.

Other Mission staff acted as Cognizant Technical Officers for various Mission projects, which involved participants who visited the U.S. for short duration training, usually less than 30 days. For some of these participants, the Mission did not always follow selected USAID requirements for participant training. The two major areas of noncompliance were: (1) the issuance of B-visas by the United States Embassy/Managua for participant trainees when J-visas should have been used, and (2) Mission guidance that did not comply with several requirements found in USAID's Automated Directives System (ADS) 253 related to participant training.

Inconsistent Use of J-Visas for Participant Trainees Traveling to the United States

³ The Georgetown University's Cooperative Association for States for Scholarships (CASS) program required background checks for its participant trainees prior to this date.

⁴ This was the CASS program, mentioned in Footnote 3 above.

Although ADS 253 requires the use of J-visas for participant training purposes,⁵ in some cases USAID-funded participant trainees traveled on B-visas—which are intended for tourism and business. For example, there were at least 19 participant trainees sponsored by USAID/Nicaragua that used B-visas in fiscal year 2000. The Mission stated that one probable reason for using B-visas was because some participant trainees already had a B-visa that would permit travel to the United States without applying for another type of visa. The exact universe of USAID/Nicaragua participants for the audit period could not be determined due to previous problems with TraiNet reporting by both the responsible Washington contractor and the Mission. (This will be corrected by new accountability controls required by recent INS regulations.) As a result, those participant trainees sent to the U.S. for training purposes on B-visas did not follow the required formalities and also avoided the need to adhere to the J-visa’s two-year foreign residency requirement.

According to ADS 253.5.6, “U.S. Government regulations require any foreign national attending a training activity in the U.S., who is sponsored fully or in part with U.S. Government funds, to enter the U.S. on a J-visa. This regulation applies to programs of any length. Accordingly, all USAID participants traveling to the United States must use the J-visa exclusively.” Furthermore, the ADS requires that all U.S.-based participant trainees using J-visas must abide by a two-year foreign residency requirement. Under the two-year residency requirement, J-visa holders must reside for a total of 24 months in their respective host country (in this case Nicaragua) before being eligible to apply for a non-immigrant visa or for legal permanent residence in the United States. The intent of the two-year residency requirement is for participant trainees to return to their host country upon completion of training and apply what they have learned to benefit the host country.

Most of the Mission participant trainees who were destined for the United States traveled on J-visas, but some exceptions occurred because:

- Some participant trainees held existing B-visas prior to training, according to a Mission official. In these cases, short-term training activities such as a one-week workshop were believed by the Embassy Consular Officer to be permissible because they were for business and there was an existing B-visa which could be used for either tourism or business purposes. In the Consular Officer’s opinion, a visa for entry into the United States was already held and thus a new visa would not be needed. Some B-visas were issued as valid for up to ten years.
- According to USAID/Nicaragua, a B-visa might be obtained from the United States Consular Officer in a single day, whereas a J-visa could take a couple of weeks. Some grantee, recipients and/or contractors sought B-visas

⁵ The J-visa is a non-immigrant visa for formally sponsored students and participants.

because of the limited time available to process and obtain a visa prior to the start of the planned training activity. The additional time needed for the J-visa was attributed to requirements such as in-person interviews conducted by the Consulate staff. However, according to Consulate officials, the processing time for a B-visa was similar and could also include an interview but they noted that processing time for J-visas could take longer if the Consulate was processing a group of J-visas.

- J-visa requirements are stricter and this means complying with the two-year foreign residency requirement after returning from training. This requirement is sometimes a disincentive for a B-visa holder to participate in short-term training. For instance, a one-day training program in the United States under a J-visa technically would result in a two-year commitment to remain in the home country of residence after returning, supposedly to use and apply the skills acquired during training in the United States. Although such commitment may be more appropriate for longer-term training, ADS 253 requires the use of a J-visa for all training irrespective of length of training in the United States.

USAID/Nicaragua believes that the visa policy relating to participant training needs to be reconsidered since the Mission does not believe that all participant training activities, particularly shorter-term activities should be restricted to the use of J-visas. USAID/Nicaragua feels that the requirements that accompany the usage of a J-visa could be too onerous for a small Mission. However, USAID's Bureau for Economic Growth, Agriculture and Trade (EGAT) wants full accountability and tracking of all participant trainees coming to the United States. This can best be accomplished through using the INS's Student Exchange Visitor Information System (SEVIS), which currently does not accept B-visa data.

The use of B-visas resulted in inconsistent treatment of participants and was one factor, among others, that made determining an accurate accounting for Mission participants difficult. For example, one contractor had entered 19 USAID/Nicaragua-sponsored trainees using B-visas into the TraiNet system, although according to the Mission training coordinator, she had entered only J-visa data as required since assuming her responsibilities in 1999. TraiNet is USAID's official database that collects participant trainee data and related J-visa information entered by USAID/Washington, overseas missions, and their grantees, recipients and contractors. Under the new system of controls required by the INS and USAID to be implemented at USAID/Nicaragua, the use of B-visas for participant training should be eliminated since a Mission U.S. direct hire will be required to approve all visa applications—including those initiated by grantees, recipients and contractors. The following recommendation is being made to assist in ensuring that USAID/Nicaragua complies with the regulations governing participant training.

Recommendation No. 1: We recommend that USAID/Nicaragua develop Mission-specific guidelines to ensure that only J-visas are used for participants sent to the United States for training.

Mission Guidance on Participant Training Should be Revised

USAID/Nicaragua’s Mission guidance on participant training should be updated to improve compliance with ADS 253. Some items in the Mission’s guidance were either outdated or inaccurate. This occurred because the Mission—in its effort to comply with USAID’s participant training guidance—had developed new guidance to supplement its existing guidance, but did not ensure that both its old and new guidance was up to date and accurate. The guidance in its current form could result in the inconsistent application of the training requirements, and inaccurate data entry and reporting of participant training information into USAID’s TraiNet database.

In November 2002, USAID/Nicaragua issued Directive Number 525 “Requirements for Short-term USAID Sponsored Training.” This Directive supplements USAID/Nicaragua’s Mission order for long-term participants, Order Number 520, “Participant Training (USAID/Nicaragua).” Directive Number 525 had several weaknesses including:

- The Directive incorrectly referenced ADS 545 rather than ADS 253, which addresses participant training.
- The Directive defined short-term training as being less than 120 days (or less than four months). However, ADS 253 defines long-term training as nine months or longer. Therefore, short-term training would be training lasting less than nine months.
- The Directive did not address agreements between the Mission and its grantees, recipients and contractors. A review of agreements between the Mission and selected grantees, recipients and contractors identified that six of ten agreements did not reference the appropriate standard clause on participant training. This is significant because the standard clauses for contracts, grants and cooperative agreements require that participant training comply with ADS 253. Without such a clause, it could be difficult to hold grantees, recipients and contractors responsible for those ADS requirements—such as the need to obtain J-visas for U.S.-bound participants. When agreements or contracts between USAID/Nicaragua and its partners reference the appropriate standard clauses on participant training, both parties are more likely to be aware of and comply with the requirements. For instance, one grantee did not believe that individuals sent to the United States for a few days to participate in a

conference (which included a training workshop) were to be considered as participant trainees by the ADS.

- The Directive did not identify that cognizant technical officers (CTO) were responsible for ensuring that participant trainees only use J-visas. During the audit, discussions with CTOs showed that in some instances, CTOs were not requiring prospective participant trainees to obtain J-visas, but were instead supporting the use of B-visas.
- The Directive did not identify the specific documents that should be maintained in an individual training file as required by ADS 253, such as the J-visa application form, Health and Accident Coverage (HAC) insurance, English proficiency, etc. The audit also noted that these documents were not always located in the Mission's training files. A directive addressing required training documents could help to alleviate incomplete files.

In addition, Mission Order Number 520, dated January 9, 1995, "Participant Training (USAID/Nicaragua)" (which was supplemented by Directive Number 525 discussed above) contained several outdated references, including:

- A reference to Handbook 10 as providing the statutory authority, detailed policies, regulations, procedures and guidance for USAID participant training. Handbook 10 was replaced by ADS 253, which was last revised in May 2000.
- The Participant Training Information System (PTIS) was described as the central database for maintaining information on all USAID participants. PTIS is no longer used by USAID, and was replaced by TraiNet.

The above issues arose because, while the Mission did develop new participant training guidance, it did not ensure that both the new and the old Mission order (which was still effective) were both current and accurate. Well-defined Mission guidance on participant training helps to assure consistency in the application of applicable USAID policy and regulations. A revised single Mission order or directive could effectively incorporate all policy and regulatory aspects of both short and long-term training. This should include the use of a checklist of all documents or processes involved in participant trainee selection.

Recommendation No. 2: We recommend that USAID/Nicaragua revise or consolidate the Mission's guidance on participant training to be consistent with Automated Directives System (ADS) 253, and to incorporate a requirement that agreements with grantees, recipients and contractors include the appropriate standard clause referencing the applicability of ADS 253.

Recommendation No. 3: We recommend that USAID/Nicaragua develop and maintain in each participant trainee's file, a checklist

of required documents for each participant to assure that all requirements are met.

What have been the non-returnee rates from USAID's Nicaraguan participants who were trained in the United States and did USAID/Nicaragua take appropriate actions when participants failed to return to their home countries?

For the last three-year period (October 1999-September 2002), there were no known Nicaraguan non-returnees who went to the United States as participant trainees under USAID/Nicaragua-sponsored programs, according to Mission and contractor officials. However, there were two Nicaraguan non-returnees who came to the U.S. under a centrally-funded USAID program and who did not return as scheduled during the period of fiscal years 2000 to 2002. In these two non-returnee cases, USAID/Washington took proper action by contacting the United States Immigration and Naturalization Service (INS).

Nevertheless, we believe that USAID/Nicaragua would benefit from having guidance concerning the recovery of training funds that are lost due to participants not returning to their home countries (for whatever reason) as required by their agreement. In order to accomplish this, the Mission will also have to follow-up on the status of non-returnees.

USAID/Nicaragua Should Develop Guidance on Recovering Training Costs from Non-Returnees

Funding participant training is one way that USAID furthers its development objectives in a host country. However, when USAID-funded trainees either do not return to their home countries after the completion of their training or only stay in their home countries for a minimal amount of time after returning, it is unlikely that the full benefit of USAID's investment in the training will be realized. This is acknowledged in USAID's requirement that participant trainees return to their home countries and work in their field for two years after completing USAID-funded training. We believe that training funds invested in participants that either do not return or do not stay the requisite two years should be recovered.

After initially reporting two non-returnees to INS, neither USAID/Washington nor USAID/Nicaragua attempted to either locate and account for the non-returnees or take action to collect the expended USAID funds. This occurred for two reasons. First, there were no processes for the Mission and/or its grantees, recipients and contractors to locate non-returnees in the United States, account for the non-returnees in a database, or issue bills of collection to the non-returnees. Second, there was no ADS requirement to recover training-related funds from non-returnees. Training-related costs to send individuals to the United States are

significant, and procedures should be established to pursue recovery of such costs to help prevent loss to USAID programs resulting from non-returnees.

Grantee, recipient and contractor representatives and USAID/Nicaragua CTOs said that all participants under their sponsored programs had returned after completion of their training. However, the Cooperative Association of States for Scholarships (CASS) program reported two non-returnees for the audited period. CASS is a USAID centrally-funded program implemented by Georgetown University with a participant training program in Nicaragua (but is not sponsored by USAID/Nicaragua).⁶ The CASS coordinator for the Nicaragua office in Managua provided information on the two non-returnees during the previous three fiscal years (2000 to 2002.)⁷

According to USAID's ADS 253.5.2(c), sponsoring units or their monitors must report all non-returnees to USAID's Global Bureau (Economic Growth, Agriculture and Trade (EGAT) Bureau is the successor to Global Bureau). For the two non-returnee cases identified during fiscal years 2000-2002, the CASS program in Washington contacted the USAID/Global Bureau which, in turn, contacted the INS as required.⁸ Circumstances from the two Nicaraguan non-returnee cases were as follows:

- A participant trainee completed a two-year agricultural business program at a community college in Cedar Rapids, Iowa. This individual disappeared in July 2000, prior to her training group's scheduled return to Nicaragua. The training costs for this individual were \$33,038.
- A participant trainee completed a one-year rural health program at a community college in Clearwater, Florida. This individual disappeared after attending her training group's graduate banquet in July 2000. The training costs for this individual were \$17,797.

During the audit, the United States Embassy in Managua was requested to determine if these two recent non-returnees had returned to Nicaragua. The Embassy contacted the immigration office of the host country and determined that as of December 2002, the two above individuals had not returned. According to

⁶The CASS program operates in many Latin American and Caribbean countries. This program selects participants, arranges their training in the United States, monitors the training, makes return arrangements for trainees, and provides post-training activities.

⁷The CASS program also provided a list of all non-returnees from its program. This list showed 15 non-returnees from Nicaragua since the start of this program in 1989. The non-returnee rate was about 4 percent of the 355 participants who came to the United States as of March 2003.

⁸For both of the above cases, the CASS program took other actions immediately after the disappearance. These included additional efforts to locate the non-returnees as well as "applying pressure" on the non-returnee's family and others for the return of the non-returnees.

an OIG investigator, a rigorous search of available law enforcement databases could possibly identify the current non-returnees' United States address.

In August 2002, USAID/Nicaragua performed a self-assessment of its controls. The Mission identified a need to implement a system to track and report participants' timely return to Nicaragua, which as a control was rated at moderate risk. As of December 2002, USAID/EGAT and USAID/Nicaragua did not have any follow-up procedures directed toward non-returnees.

ADS E253.5.2(c) requires sponsoring units to (1) track participants for timely return to their workplace or professional setting in their home countries, and (2) track participants' post-training whereabouts and to report to G/HCD (Bureau for Global Programs, Field Support, and Research, Human Capacity Development Center; now EGAT Bureau) if a non-returnee is back in the country. During the audit, EGAT (which is responsible for reporting non-returnees to the INS) did not have a USAID-wide list of non-returnees nor did USAID/Nicaragua have a comprehensive listing of non-returnees from Nicaragua. The Latin America and Caribbean Bureau (which is responsible for the CASS program),⁹ and USAID/Nicaragua did not maintain a list of Nicaraguan non-returnees and did not have a tracking system such as a database to maintain non-returnee information.

EGAT Bureau records did not contain any responses from the INS stating that any non-returnees had been located or left the United States; although one former EGAT official said that, according to INS, the two non-returnee students mentioned above were found and were legally in the United States. Further, actions were not taken to identify the non-returnees' current addresses and to recover the USAID funds expended on them. According to a USAID Regional Inspector General, other USAID missions have recently taken action to issue bills of collection on non-returnees' training costs.

A non-returnee's obligation to repay the USAID funds expended for training costs is implicit in the USAID form AID 1381, called Conditions of Training, and its requirement of a two-year residency in the home country immediately following the training program. Further, this form states that the participant understands that one must return to one's country without delay after training and endeavor to utilize the training to benefit that country. When the trained participant does not return to his home country, USAID funds and training are not used to benefit the country and, thus, do not further USAID's development objectives. Accordingly, we believe that non-returnees should repay the USAID funds. In such cases, USAID should issue a bill of collection to the non-returnee for repayment. In the instances of non-returnees from the Georgetown University's CASS program, these participants signed a Georgetown University form that stated the two-year residency requirement and dollar amount to be repaid if the participant did not

⁹Bureau officials said that beginning 2003, responsibility for the CASS program would be shared with EGAT and that the grantee was responsible for maintaining lists and tracking students.

fulfill the two-year residency period. We are making the following recommendations to address non-returnees.

Recommendation No. 4: We recommend that USAID/Nicaragua develop procedures in coordination with the Bureau for Economic Growth, Agriculture and Trade as well as appropriate grantees, recipients and contractors to locate and track participant training program non-returnees.

Recommendation No. 5: We recommend that USAID/Nicaragua develop procedures for issuing bills of collection to non-returnees in order to attempt to recoup costs incurred by the U.S. Government on non-returnees trained in the United States.

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

To comply with new selection, monitoring and reporting requirements, USAID/Nicaragua will need to alter its visa application process. Needed changes include (1) processing all visa applications through the TraiNet and Visa Compliance System (VCS) electronic data systems,¹⁰ (2) designating an approving official for all visa applications and status changes, (3) entering changes into the data system on a “real-time” basis, and (4) obtaining approved visa application forms from USAID/Washington. In addition, under the new requirements USAID/Nicaragua will be responsible for providing a background check or name check (for security purposes) for all applicants and their dependents (the Mission has already implemented name checks). These new requirements can be addressed in USAID/Nicaragua’s revised participant training guidance.

In December 2002, the Department of State and the Immigration and Naturalization Service (INS, now Bureau of Citizenship and Immigration Services) issued new regulations regarding J-visas. These regulations, effective February 15, 2003, required USAID and all other J-visa sponsors to electronically input visa application data into INS’s Student and Exchange Visitor Information System (SEVIS). SEVIS then verifies the data and allows sponsors to print J-visa applications. The regulations also require that sponsors update data regarding the participant’s status and location on a “real-time” basis (within 21 days of being notified of the change by the participant) throughout the training period. Our audit work and discussions with USAID/Nicaragua officials took into consideration these regulatory changes.

¹⁰ TraiNet is primarily a database. VCS is primarily intended to be a secured web-based interface program between TraiNet and INS’ SEVIS.

To implement these changes, USAID/EGAT developed and issued *The Complete Guide USAID Visa Compliance* for use by all USAID missions. In addition, USAID/EGAT has drafted new ADS guidance to reflect these requirements. This guidance changes USAID's decentralized process of administering participant training activities to one of more centralized control. Under the new process, each applicant's sponsor (either a contractor or USAID) enters the J-visa information into TraiNet; this data is then transferred to the VCS, a secure data system. The visa application data must be reviewed by a designated U.S. direct hire employee at the local USAID mission and, if approved, is forwarded to USAID/EGAT for submission to INS's SEVIS.¹¹

To comply with these new requirements, USAID/Nicaragua will have to alter its current J-visa application process. Visa application forms, which had been readily available at both missions and contractors, can now be obtained only from USAID/EGAT; missions have been advised to allow additional time to obtain necessary approvals. Since visa application and update data can only be approved within the VCS system by a U.S. direct hire employee, USAID/Nicaragua must ensure that a specific individual(s) is designated with this responsibility. The official must also approve any updates to the trainees' records for transmittal to INS's SEVIS. These new procedures will require greater coordination between the Mission, contractors and USAID/EGAT to ensure that visa applications are processed on time and that updated information is submitted and processed when required.

In order to meet the new requirements for processing a J-visa in INS's SEVIS, USAID/Nicaragua needs to enter and/or approve of updates to participant trainee data on a real-time basis. Information such as the trainees' arrival status and address changes must be entered into TraiNet and approved by a Mission official for transmission to SEVIS. Previously, there had been no requirement to update data in TraiNet on a current basis, and data entry would on a periodic basis either late in the fiscal year or early in the following fiscal year.

Although USAID/Nicaragua officials recognized the importance of the new regulations and processes, they were concerned that the additional requirements would be too onerous for the available resources and eventually lead to curtailing participant training activities. For example, the Mission's Participant Training Coordinator was expected to devote a smaller portion of her time to participant training activities due to other assigned responsibilities. The Mission was already facing the prospect of possibly having to reduce staff levels as part of USAID's reorganization efforts and the new regulations would require a greater time commitment by staff involved with the participant training program.

¹¹Data that does not pass the VCS approval is corrected in TraiNet. SEVIS is an Immigration and Naturalization Service system.

**Management
Comments and
Our Evaluation**

In response to our draft audit report, USAID/Nicaragua provided written comments that are included in their entirety as Appendix II. The Mission stated that it agreed with the first four recommendations and has reservations about the fifth recommendation.

In addressing Recommendation No. 1, the Mission has altered the visa application process to ensure that only J-visas are used for participants sent to the United States for training. The changes include processing all visa applications through the TraiNet and Visa Compliance System electronic data systems and training on these systems conducted at the Mission in March 2003 by the contractor that developed and maintains these data systems.

To address Recommendation No. 2, the Mission issued revised guidance on participant training on August 11, 2003. Moreover, by October 31, 2003, the Mission plans to reflect in that guidance the Contracting Officer/Agreement Officer responsibility for incorporating a clause referencing ADS 253 into agreements with grantees, recipients and contractors.

For Recommendation No. 3, the Mission's revised guidance indicates that its Office of Human Investments is responsible for maintaining documentation on file for U.S. and third country training programs. This guidance also lists the specific documents that must be maintained.

In addressing Recommendation No. 4, the Mission said that new procedures to track non-returnees were developed in coordination with Bureau of Economic Growth, Agriculture and Trade (EGAT) and appropriate grantees and contractors. For example, the Mission's revised guidance specifies that contractors and grantees must track participants for timely return to their workplace or professional setting. Additionally, the Mission's comments indicated that it would then forward non-returnee information to EGAT, as required. However, the Mission did not address its role after reporting non-returnees to EGAT, such as maintaining a list of all Nicaraguan non-returnees, periodic inquiries about returns home, and further coordination with EGAT.

For Recommendation No. 5, the Mission expressed some reservations on developing procedures for issuing bills to non-returnees, but planned to consult with other USAID authorities in order to address this recommendation by October 31, 2003.

Based on information provided by USAID/Nicaragua, we consider that the Mission has reached management decisions and taken final action on

Recommendation Nos. 1 and 3. Moreover, USAID/Nicaragua concurred with Recommendation Nos. 2 and 4. Accordingly, we consider that management decisions have been reached on those recommendations. Finally, the Mission indicated that it planned to decide on a course of action to address Recommendation No. 5 by October 31, 2003. Consequently, we are awaiting the Mission's management decision on that recommendation.

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

The Performance Audits Division of the Office of Inspector General conducted this audit in accordance with generally accepted government auditing standards. The audit covered the period from fiscal year 2000 through 2003 during which approximately \$3 million was spent on training in the U.S. for participants from Nicaragua. Audit fieldwork was performed between November 2002 and March 2003 in Managua, Nicaragua, and in Washington, D.C. The audit reviewed management controls relevant to the audit objectives, such as mission guidance, the Mission's fiscal year 2002 self-assessment of its management controls and the Mission's monitoring practices. Types of evidence examined included—but were not limited to—relevant files of Mission training staff, relevant office files on participants and testimony from USAID staff and external parties. This audit did not include examination of cost sharing contributions.

Methodology

In order to answer the first objective we reviewed USAID/Nicaragua's participant training files for fiscal years 2000 through 2003. We also reviewed USAID/Nicaragua's directives and guidance that were pertinent to the program. In addition, we interviewed officials from USAID/Nicaragua who were involved in participant training activities and officials from the United States Embassy in Managua who represented the Consulate and Security Offices. Finally, we interviewed officials from four organizations who carry out participant training activities in Nicaragua. We also reviewed reports generated from USAID/Nicaragua's TraiNet database, observed difficulties that were encountered with the system and attempted to reconcile the number of participant trainees reported by USAID's TraiNet contractor with the Mission's records.

In answering the second objective, we reviewed all of the historical files relating to non-returnees that were maintained in USAID/Nicaragua, USAID/EGAT, and Georgetown University. We also interviewed officials from these organizations; grantees, recipients and contractors; and staff from the United States Embassy in Managua, Nicaragua about their actions related to non-returnees. In this respect, we relied on USAID/EGAT explanations on INS responses and actions.

To answer the third objective, we held discussions with officials responsible for USAID/Nicaragua's participant training program and met with USAID/EGAT staff and their contractors who were responsible for assisting USAID to comply with the new requirements. Sampling was not used in the audit, rather, all of the pertinent participant trainee files that were maintained by the Mission were reviewed if they fell within the scope of the audit.

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**Management
Comments:**

MEMORANDUM

September 23, 2003

FOR: IG/A/PA, Director, Nathan S. Lokos

FROM: USAID/Nicaragua, Acting Mission Director Susan K. Brems /s/

SUBJECT: Mission Response to Draft Report on Audit of USAID/Nicaragua's Participant Training Activities (Report No. 9-524-03-00X-P)

Thank you for the transmittal of the draft report on the IG audit of USAID/Nicaragua's procedures and policies for participant training. The audit late last year and the subsequent report proved to be extremely helpful to Mission senior management in the identification and resolution of possible vulnerabilities in our participant training activities. In fact, the audit foreshadowed the introduction of a new visa compliance program coordinated between USAID and the Department of Homeland Security, which provided an additional impetus to the resolution of potential problems. Thank you once again for the assistance provided by the OIG team in this area.

Please note that, in general terms, the audit findings have been addressed within the new Mission Directive 525 (MD 525), dated August 11, 2003, establishing requirements for all USAID-sponsored training. This new Mission Directive supersedes an earlier version from November 2002. We believe that this new Mission Directive improves controls, strengthens USAID/Nicaragua's participant training activities and alleviates vulnerabilities that may have existed in the past. I will offer specific comments to that effect for each of the draft report recommendations.

The audit disclosed several areas where the Mission can improve the effectiveness of its program including:

- Ensuring that participants use the required J-visas. Some participant trainees were sent to the United States on B-visas (intended for tourism and business), instead of the required J-visas (intended for participant trainees and exchange visitors).

Under the new MD 525, we have clarified the requirement that all USAID-sponsored participant trainees, whether for short or long-term training, must follow the required procedures and seek a J-visa.

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- Updating Mission guidance. Existing guidance does not reflect current participant training requirements.

The Mission guidance has been fully updated to reflect changes and correct references to ADS 253 and to all current participant-training requirements.

- Developing guidance for identifying and addressing non-returnees.

The Mission established new procedures for non-returnees in January 2003, following the OIG audit.

Recommendation No. 1: We recommend that USAID/Nicaragua develop Mission-specific guidelines to ensure that only J-visas are used for participants sent to the United States for training.

We agree with the finding. USAID/Nicaragua's Mission guidance on participant training has been completely updated through the new Mission Directive 525, dated August 11, 2003, establishing requirements for all USAID-sponsored training, including the mandatory use of J-visas, as per page 525-5 of the MD 525. A copy of the MD 525 is attached to this memo.

To comply with new selection, monitoring and reporting requirements, USAID/Nicaragua has altered the visa application process to ensure that only J-visas are used for participants sent to the United States for training. These changes include: (1) processing all visa applications through the TraiNet and Visa Compliance System (VCS) electronic data systems; (2) designating an approving official for all visa applications and status changes; (3) entering changes into the data system on a "real-time" basis; and (4) obtaining approved visa application forms from USAID/Washington. The regional security officer of Embassy Managua conducts a background check or name check (for security purposes) for all applicants and their dependents. These new requirements are addressed in USAID/Nicaragua's revised participant training guidance.

The Mission has put into place USAID/EGAT guidance on Visa compliance, and conducted training for USAID Nicaragua personnel on the use of TraiNet and the Visa Compliance System. Training was conducted in March 2003 in coordination with the DEVIS contractor for TraiNet, and the head of the education team in EGAT/HCD, Mr. James Nindel.

Visa application data is revised for approval by a designated U.S. direct hire employee at the local USAID mission and, if approved, are forwarded to USAID/Washington, for submission to VCS. Mr. Alonzo Wind, Chief of the Office of Human Investments, has been designated the primary approver officer as of May 2003; Mr. Steve Olive, Chief of the Office of Trade and Agribusiness, has been designated the alternate approver. Several dozen applications have already been managed under these new procedures.

Given these actions, the Mission requests closure on this recommendation.

Recommendation No. 2: We recommend that USAID/Nicaragua revise or consolidate the Mission’s guidance on participant training to be consistent with ADS 253, and to incorporate a requirement that agreements with grantees, recipients and contractors include the appropriate standard clause referencing the applicability of Automated Directives System 253.

We agree with the finding. Page 525-2 of the updated MD 525 cites specific references and authorities in ADS 253, and ensures full compliance with ADS 253. The definitions of short-term and long-term training have been clarified. Page 525-10 of MD 525 establishes the responsibilities for Cognizant Technical Officers (CTOs) with regard to clearly informing contractors/grantees of the Agency requirements for training. As per page 525-11, Contractors/Grantees, in coordination with the SO team, are responsible for providing TraiNet data, pre-training preparation, monitoring and evaluating results of the training, and post training follow up. Contractors/Grantees are responsible for advising every participant of the conditions and responsibilities that accompany his/her acceptance of USAID sponsorship and agree to conform to these requirements. USAID/Nicaragua Contractors/Grantees must discuss the conditions of training with participants and secure their agreement to comply with these requirements by signing the training agreement form.

The role and responsibilities for the USAID contract/agreement officer (CO/AO) are not explicitly referenced on page 525-10 or 525-11. The OIG has noted that several past agreements between USAID Nicaragua and its grantees and contractors did not correctly reference the participant training clauses of ADS 253.

Our regional contract/agreement officer (RCO/AO) has received the MD 525, and all new agreements will correctly reference ADS 253. As agreements are incrementally amended, the RCO/AO will correct the participant-training clauses and reference the new MD 525 and references to ADS 253. Moreover, we propose to add a subsection to section IV.D of MD 525 that will specifically cite this as a responsibility of the CO/AO. This will be completed in draft by October 14, 2003, and will be circulated for approval by October 31, 2003.

Given these actions, the Mission requests closure on this recommendation.

Recommendation No. 3: We recommend that USAID/Nicaragua develop and maintain, in each participant trainee’s file, a checklist of required documents for each participant, to assure that all requirements are met.

We agree with the finding. All SO Team Leaders and CTOs have received the new MD 525. CTO responsibilities and documentation requirements for individual training files have been addressed on page 525-10 of MD 525. Furthermore, MD 525 specifies on page 525-1 that it supersedes previous guidance and applies to all project-funded training sponsored and implemented by the Mission and its contractors/grantees.

Given these actions, the Mission requests closure on this recommendation.

Recommendation No. 4: We recommend that USAID/Nicaragua develop procedures in coordination with the Bureau for Economic Growth, Agriculture and Trade, as well as appropriate grantees, recipients and contractors, to locate and track non-returnees.

We agree with the finding. New procedures to track non-returnees have been developed in coordination with Bureau of Economic Growth, Agriculture and Trade, as well as appropriate grantees and contractors. USAID Nicaragua addressed these requirements during the March 2003 TDY of the head of the education team from EGAT/HCD, Mr. James Nindel. Section D.8 on page 525-12 specifies that Contractors/Grantees must track participants for timely return to their workplace or professional setting and must provide USAID's Office of Human Investments with a report on all returnees/non-returnees within three days of the scheduled return of the participant. USAID will then forward that information as required to EGAT/HCD.

USAID Nicaragua believes that the specific responsibility to locate and track non-returnees should remain with the Contractors/Grantees that sponsor trainees. ADS 253.5.2c specify that the USAID Mission 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 on the planning, design, participant selection, and progress monitoring, as well as on tracking participants' post-training whereabouts and reporting to EGAT/HCD if a non-returnee is back in the country. USAID Missions or their monitors must report all non-returnees to EGAT/HCD in writing. EGAT/HCD then reports the participant to the Immigration and Naturalization (INS) office having jurisdiction over the non-returnee's training.

We have also discussed the need for new procedures with the Georgetown University CASS program. Approximately 70 percent of the Mission's long-term participant training in the U.S. falls under this agreement. As the greatest potential vulnerability for non-returnees exists in participant training carried out under the Georgetown University CASS program, we have agreed on changes to past practices. Previously, the CASS program used a letter of commitment for all trainees that had been deemed legally unenforceable under Nicaraguan law. This has been changed under the new cycle of training, and CASS has adopted the use of notarized signed letters of commitment from trainees that provide a legal basis to the penalty of bills for collection from CASS.

Moreover, there is far closer follow up and tracking of trainees under the new VCS and TraiNet system. As part of this system, the Mission has designated visa data-entry clerks and visa application verifiers, and has designated two US direct hires as visa application approvers.

Given these actions, the Mission requests closure on this recommendation.

Recommendation No. 5: We recommend that USAID/Nicaragua develop procedures for issuing bills of collection to non-returnees in order to attempt to recoup costs incurred by the U.S. Government on non-returnees trained in the United States.

USAID Nicaragua has already established procedures for issuing bills of collection. These are described in Mission Order 720, dated December 22, 2001. The Mission has a few reservations about developing new procedures for issuing bills to non-returnees, particularly given the extremely low

number in recent years. We believe that the responsibility for individual bills of collection and enforcement may best lie with Contractors/Grantees.

As constructive steps to address this recommendation, we will consult in coming weeks with the Controller, the regional CO/AO in Tegucigalpa and the Regional Legal Advisor, in order to determine the best way to identify who should be responsible for initiating a process of collection and the means for follow up. We need to iron out the implications of this action and to determine if individual bills of collection to non-returnees are preferred management actions, or if language regarding the issuing of bills of collection to non-returnees can be included in amendments of current contracts and agreements as well as future contracts and agreements.

We propose to reach a determination on management action to address this recommendation by October 31. Potential actions may include modifications to the current MD 525 to accommodate new procedures, or a plan for amending the contracts and agreements of Contractors/Grantees that sponsor participant training.