



**Testimony of the Honorable Everett L. Mosley, Inspector General
U.S. Agency for International Development**

**Submitted to the Committee on International Relations
U.S. House of Representatives**

**Government Accountability:
Efforts to Identify and Eliminate Waste and Mismanagement**

September 4, 2003

Mr. Chairman, other committee members, and committee staff, thank you for the opportunity to provide my testimony on efforts to identify and eliminate waste, fraud, abuse, and mismanagement with respect to the U.S. Agency for International Development (USAID) programs and operations. Based on input provided by your staff, I will focus on opportunities for USAID to improve its operations and other items that your staff indicated would be of interest to the committee. I know that the primary interest for this hearing is mandatory versus discretionary programs. There are two mandatory spending programs at USAID: (1) the Foreign Service retirement and disability fund and (2) any upward re-estimate of the credit subsidy under USAID's development credit authority. The Foreign Service retirement and disability fund is managed by the Department of State and audited by the State Department Office of Inspector General. Reviews of USAID's credit subsidy under USAID's development credit authority are included within USAID's annual GMRA audit, and no issues have been reported regarding the subsidy.

With regards to the discretionary programs operated by USAID, my office conducts several reviews that can potentially identify opportunities for savings. I will list these reviews and then describe their results that may be of interest to the committee.

- First, my office conducts an annual audit of USAID's consolidated financial statements in accordance with the Government Management and Reform Act and other laws and regulations.
- Second, we perform or oversee financial audits of USAID contractors and grantees.
- Third, we conduct performance audits of USAID's programs. These audits examine the extent to which USAID's programs have achieved planned results or the degree to which USAID is following sound management practices.
- Fourth, the OIG also conducts investigations into alleged violations of laws and rules or regulations by recipients of USAID funds or by employees.

I will now briefly discuss the results of these reviews, placing emphasis on areas of possible savings or areas that your staff has indicated could be of interest to the committee.

Audit of USAID's Financial Statements

Based on our audit of USAID's financial statements as of September 30, 2002, we expressed unqualified opinions on USAID's balance sheet, statement of changes in net financial position, statement of budgetary resources, and statement of financing. We expressed a qualified opinion on USAID's statement of net costs. Based on discussions with your staff, the following findings from this audit may be of interest to the committee:

As of September 30, 2002, USAID had \$153 million of unliquidated obligations that had no payment activity for at least one year. The lack of payment activity for these obligations indicated that the obligations may no longer be needed and may be available for deobligation. At the same time, it is important to recognize that some unliquidated obligations are in fact still needed. This can be illustrated by the experience of a working group established by USAID's Business Transformation Executive Committee (also known as BTEC) to review all contracts and grants with expiration dates of September 30, 2000 or earlier and unliquidated balances of at least \$100,000. The working group found that about one-third of the unliquidated amounts for these awards could be deobligated while the other two-thirds were needed to pay expenses under the awards.

As of September 30, 2001, the amount of unliquidated obligations that had no payment activity for at least one year was \$186 million. As of September 30, 2002, one year later, USAID reduced that amount by \$33 million to \$153 million. USAID has begun a process of estimating quarterly accruals. While this practice does not necessarily result in USAID deobligating funds, it does require managers to review the status of program funds. Funds that are deobligated through this practice may be reused for other similar activities or are returned to the U.S. Treasury.

Financial Audits of USAID Contractors and Grantees

Under the Improper Payments Information Act of 2002, agencies are required to institute a systematic method of reviewing all programs and identifying those it believes are susceptible to significant erroneous payments. An erroneous payment is defined as any payment that should not have been made or that was made in an incorrect amount under statutory, contractual, administrative, or other legally applicable requirement. Significant erroneous payments are defined as annual erroneous payments in the program exceeding both 2.5 percent of program payments and \$10 million. We are currently working with USAID managers to assist them in determining whether USAID will meet those thresholds.

We also assist USAID in meeting their audit requirements under Federal regulations and our own policies. Audits are conducted of U.S.-based contractors, grantees, and enterprise funds, and of foreign-based contractors and grantees. The Defense Contract Audit Agency and private CPA firms conduct these audits, and we provide oversight of their work. Financial audits of USAID contractors and grantees may identify questioned costs that, if sustained by the contract or agreement officer, must be reimbursed to USAID. Questioned costs include (1) costs that are ineligible under the terms of the underlying contract, grant, or agreement, as well as (2) unsupported costs that lack sufficient supporting documentation to permit the auditor to make an informed judgment on the eligibility of the cost or that lack required approvals.

From October 1, 2001 through March 31, 2003, USAID reached management decisions on audit recommendations that questioned \$28.0 million in contractor and grantee costs. This amount included \$8.3 million in costs that were unsupported. Of the \$28.0 million in questioned costs, USAID did not allow \$10.5 million, of which \$8.2 million was not allowed because the costs were not eligible and \$2.3 million was disallowed because the contractor could not support the costs claimed when the audit was performed. The \$10.5 million was deobligated by USAID and, as I indicated previously, funds that are

deobligated may be reused for other similar activities or are returned to the U.S. Treasury.

Performance Audits

My testimony for the record, dated July 9, 2003, to the House Committee on Budget talked about a cargo preference audit we performed. When providing food assistance to nations overseas, both USAID and the U.S. Department of Agriculture (USDA) are required by law to ship a certain percentage of tonnage on privately owned U.S.-flag commercial vessels. This cargo preference helps ensure that the United States maintains an adequate and viable merchant marine. In 1985, Congress increased this requirement from 50 to 75 percent for commodities shipped under certain U.S. Food Assistance Programs. At the same time, Congress directed that the U.S. Department of Transportation (DOT) finance any increases in food assistance shipping costs due to the application of this new requirement. Under a Memorandum of Understanding, USDA agreed to apply for all cargo preference reimbursements from DOT. After receiving funds from DOT, USDA would then apportion to USAID's P.L. 480 Title II and Title III food shipments.

In March 2001, we conducted an audit of cargo preference reimbursements under section 901d of the Merchant Marine Act of 1936. We found that, in accordance with established laws, policies, and procedures governing the administration of cargo preference reimbursements, USDA could be entitled to as much as \$289 million in additional reimbursements. Of that amount, up to \$175 million could be made available to the two programs administered by USAID. Our recommendations included seeking that \$175 million in unclaimed reimbursements for excess ocean freight costs dating back to 1994. USAID management concurred with the audit findings. U.S. Department of Agriculture and USAID managers have been working to resolve this issue and have taken their case to OMB.

Investigations

OIG investigations can result in fines, cost recoveries, or savings, to either USAID or to the U.S. Treasury. For example, a major investigation by the OIG of bid rigging and fraud in USAID-funded construction contracts in Egypt resulted in fines, savings and restitution of over \$260 million in fiscal years 2000 to 2002. While most of this money went to the general fund of the U.S. Treasury, approximately \$10 million in restitution was returned to the USAID program in April of 2001.

Thank you for this opportunity to present testimony concerning efforts to identify and eliminate waste, fraud, abuse, and mismanagement with respect to USAID. I will be happy to respond to any questions you may have.

Answers to Questions for the Record Following the September 4, 2003 Hearings Entitled “Government Accountability: Efforts to Identify and Eliminate Waste and Mismanagement”

1. Under the Improper Payments Information Act of 2002, agencies are required to institute a method of reviewing all programs and identifying those it believes are susceptible to significant erroneous payments. Which programs are most susceptible within USAID? How much money in total erroneous payments has been made over the past ten years? If an erroneous payment exceeds \$10 million, yet does not satisfy the other prong of the threshold requirement of 2.5 percent, does it get reviewed?

Answer. USAID, with assistance from my office, is in the process of determining whether any of its programs are susceptible to significant erroneous payments. As

defined in OMB Memorandum M-03-13, significant erroneous payments are defined as annual erroneous payments exceeding both 2.5 percent of program payments and \$10 million.

For those programs, if any, that are determined to be susceptible to significant erroneous payments, USAID will then develop a statistically valid estimate of the level of erroneous payments, devise a plan to reduce erroneous payments, and report in its Performance and Accountability Report on the level of erroneous payments and progress in reducing them.

Over the past ten years, OIG audit and investigations work has resulted in sustained recoveries to the U.S. Treasury of \$305 million and other savings of \$866 million. However, there is no ongoing tracking of erroneous payments per se. Please see the attached schedule that shows the results of OIG audits and investigations since April 1, 1993.

All erroneous payments that are discovered by USAID through OIG audits or investigations or other means are reviewed to see whether a claim can be established against the recipient of the payment.

2. Mr. Mosley, you testified as to the performance audit for a cargo preference audit that the OIG performed. You indicated that USAID and USDA have been working to resolve the \$175 million dispute with the OMB. What is the status of this negotiation? Are there other agencies that owe USAID money?

Answer. USAID is still at an impasse with the Maritime Administration. USAID has requested GAO to look at this issue and provide a ruling. GAO is considering this request.

As of September 30, 2002, USAID's financial statements indicated that USAID was owed approximately \$496 million by other Federal agencies.

3. What is the total amount of money that the OIG has determined through investigations that has been taken from USAID over the past ten years due to alleged violations of laws, rules, or regulations by recipients of USAID funds or by employees? Total recoveries? How does USAID seek restitution from violators?

Answer. The OIG tracks court ordered restitution and fines, civil judgments, and administrative recoveries by USAID. Not all attempted recoveries are successful, as collection efforts are not always successful. On the other hand, in some cases, criminal or civil judgments result in double or triple damages and/or fines in excess of the actual loss.

Over the past ten years, OIG investigations resulted in recoveries and fines totaling about \$187 million and other savings of about \$137 million. Please see the attached schedule that shows the results of OIG investigations since April 1, 1993.

4. How are USAID employees held accountable for waste or abuse of program funds?

Answer. When the OIG finds that agency employees are in part responsible for the loss of program funds, either through failure to exercise their responsibilities or other negligence, the facts are reported to agency officials for appropriate disciplinary action based on USAID's table of offenses. If an OIG investigation finds that agency employees have deliberately misused program funds, the case is referred to the Department of Justice for prosecution.

5. One way to root out waste and abuse within the government is to provide strong whistle-blower protection. Most Federal Government employee whistle-blowers (with some exceptions in national security and intelligence) have had the protection of the Whistle-blower Protection Act. Therefore, please describe for the Committee how USAID briefs all employees on their rights and responsibilities concerning disclosure of facts that they reasonably believe constitute gross waste, gross mismanagement, violations of law, abuse of authority or serious risks to public health and safety – including policies as to reporting to Congress. Please provide the Committee with a list of all whistle-blower complaints against USAID for the past two years, in addition to copies of the materials provided to any USAID employee or contractor concerning rights and responsibilities on whistle-blowing issues during their training at USAID.

Answer. USAID has an active program to encourage employees to report fraud, waste, and abuse to the OIG, including advising employees of the protections afforded under the Whistleblower Protection Act. Employees receive a series of briefings when first entering on duty, including a briefing from the OIG. We encourage employees to report incidents of fraud, waste, and abuse to our office and advise them of the OIG's policy towards whistleblowers. The USAID Office of General Counsel provides annual ethics briefings to all USAID employees and reminds their audiences of the provisions of the Whistleblower Protection Act.

The OIG maintains a hotline that allows employees and others to make complaints anonymously if they choose. The OIG web page describing the hotline makes it clear that complainants may request confidentiality. The hotline is also publicized through fraud awareness briefings, posters, and the OIG's semiannual reports to the Congress.

The OIG provides fraud awareness briefings to USAID employees, contractors, and other partners in which we emphasize that whistleblowers will have their identities protected, insofar as allowed under the law. Since October 1, 2000, the OIG has provided fraud awareness training to approximately 4,650 USAID employees, contractors, and other partners in 42 countries. At these briefings, the OIG staff has emphasized the whistleblower protections available under the act. In addition to the briefings the OIG has provided a videotape version of the briefing to all USAID missions overseas that emphasizes whistleblower protection.

The OIG does not track complaints filed by those who formally describe themselves as whistleblowers separately from other complaints, because the OIG as a matter of policy allows all those who file a complaint to request that their identities not be disclosed. The OIG protects the identities of those complainants unless it becomes necessary to disclose their identity in a legal proceeding. The OIG separately identifies cases where a complainant asserts that he or she was retaliated against as result of making an allegation to OIG. Such allegations are treated very seriously but, in the past two years, there have been no such allegations. The OIG is not aware of any complaints filed with the Office of Special Counsel in the past two years that were based upon retaliation for a complaint made to OIG.

6. Mr. Mosley, over the past decade, USAID has seen a steady decline in its direct-hire staff levels. As a result, USAID has changed from an agency that directly implements foreign assistance projects to one that plans and monitors them. Mission directors have also become reliant on other types of employees, such as personal service contractors, to manage mission projects implemented by third parties, such as contractors and NGOs. In your Semiannual Report to Congress (Oct. 31, 2001), your office indicated that the steady decline in the number of foreign service and civil service employees with specialized technical expertise resulted in an insufficient number of personnel with needed skills and experience. You also stated

in this report that less experienced personnel are managing increasingly complex overseas programs, which is drastically affecting USAID's ability to effectively carry out its foreign assistance programs. What is being done to address this issue and how is your office monitoring this disturbing trend?

Answer. USAID is working toward bringing aboard new direct hire staff. Currently, USAID is recruiting experienced civil service employees through the civil service hiring process and using two other programs designed to bring talented new professionals into Federal service. Those programs are the New Entry Professional (NEP) Program, and Presidential Management Intern (PMI) Program.

The NEP Program is USAID's program for bringing well-qualified applicants into the Agency's Foreign Service. USAID's Foreign Service provides successful applicants with a career-long system of rotational assignments in Washington, D.C. and overseas. Promotion is based upon merit with selections being made for promotion at various established points in an employee's career. USAID recruits NEPs in the following skill areas: Democracy and Governance, Environment/Natural Resources/Energy, Financial Management, Population/Health/Nutrition, Program/Project Development, Contract Management, Administrative Management, Education, Private Enterprise, Agriculture/Rural Development, Food for Peace, and Economics. USAID managers reported that since fiscal year 1999, USAID has hired about 260 NEPs, including 53 NEPs in fiscal year 2003.

USAID also participates in the Presidential Management Intern (PMI) Program, which is administered by the Office of Personnel Management. This program is USAID's vehicle for hiring qualified civil service employees at the GS-9 level. The program is designed to attract graduates of master's degree programs with a commitment to public administration. This fiscal year, USAID managers expect to hire 20 to 22 PMIs.

Currently, USAID has a recruitment plan for Foreign Service staffing and is working on a civil service recruitment plan. In March 2004, USAID will begin using the International Development Intern program designed to hire entry-level Foreign Service employees from a variety of disciplines.

However, even with the above hiring efforts, it is likely that USAID will still be reliant on other categories of non-direct hires to supplement its workforce. As we stated in our report Audit of USAID's Human Capital Data (9-000-03-002-P), at the end of fiscal year 2001, most of USAID's workforce was composed of non-direct hires. At that time, USAID's workforce consisted of 7,000 individuals. Of the 7,000, USAID employed 1,951 U.S. citizens working as direct hires in USAID/Washington and overseas. The workforce included more than 5,000 individuals in its non-direct hire workforce. The bulk of these non-direct hires were Foreign Service nationals and third country nationals who worked overseas as personal service contractors. In addition, USAID's direct hire workforce is aging. At the end of fiscal year 2001, the average age of U.S. direct hires was 48 years old. By fiscal year 2006, an estimated one-quarter of USAID's civil service workforce, and more than one-half of the Foreign Service workforce will be eligible for retirement.

The OIG will continue its audit efforts in the human capital area. Currently we are working on the Audit of the Use of Non-direct Hire Workforce to Help Carry out the Agency's Missions, and we have several audits planned in the human capital area over the next several years.

7. Mr. Mosley, your office recently did a risk assessment on USAID programs in Afghanistan, specifically focusing on the risk exposure of the Infrastructure Rehabilitation Program and the Economic Governance Program. The report stated

that the overall risk exposure for the Infrastructure project is high and medium for the Economic Governance Program. Given the security situation in Afghanistan, what are your suggestions for ensuring the success of the USAID mission in Afghanistan? What areas in the USAID mission/programs are in need of improvement?

Answer. Thus far we have performed a general risk assessment of Mission operations. We have also begun our first in a series of concurrent financial audits of the Infrastructure Rehabilitation Program. These audits are being done by a CPA firm under the oversight of our RIG/Manila office. RIG/Manila staff are also reviewing on an on going basis whether the road reconstruction and rehabilitation under the Rehabilitation of Economic Facilities and Services (REFS) Program is on schedule to complete the Kabul to Kandahar highway by December 31, 2003.

The OIG's *Risk Assessment of Major Activities Managed by USAID/Afghanistan* (Report No. 5-306-03-001-S, dated March 11, 2003) noted three material weaknesses identified by the Mission related to Afghanistan's difficult security situation. These are:

Unsuitable working and living conditions,
Inability to readily travel to project sites, and
Retention of personnel and delays in the assignment of personnel.

The OIG agrees that each of these weaknesses presents a challenge for the achievement of program objectives.

The OIG's *Risk Assessment of Major Activities Managed by USAID/Afghanistan* included individual activity risk assessments for the two major subprograms under the Mission's portfolio.

Among the risks noted for the Rehabilitation of Economic Facilities and Services (REFS) Program, the major program directed toward rehabilitating infrastructure, were:

The high risk that subcontractors may not be reliable, may be entirely new to Afghanistan, and/or that required heavy equipment may not be readily available.
The risk that subcontractor procurement irregularities could occur.
The risks associated with making in-country transactions in cash, since Afghanistan is a total cash economy.

The inherent risks of construction activities which are inherently vulnerable to such things as fraud, theft of assets and construction materials, and/or nonperformance or poor performance.

The major security risks that the road reconstruction project faces the highway traverses mine fields, areas of ongoing military operations, and banditry.
The risks of construction delays as a result of partner organizations not performing their roles as relying on organizations

The risks for the Sustainable Economic Policy and Institutional Reform Support (SEPIRS) Program, the program to implement policy and institutional reforms to improve economic management, were basically two:

Activities are inherently risky because of the challenge of trying to influence host government policies while having little real authority to do so.
The risk that the security situation may deteriorate to the point where the prime contractor cannot fulfill the terms of the contract.

The above risks are issues that the Mission must deal with as best it can to implement the program. The ability to monitor the situation on the ground and make timely decisions to address the issues certainly would increase the likelihood that the programs will be successfully implemented while minimizing fraud, waste and abuse.

The OIG for its part will continue its oversight of the financial audit program whereby regional CPA firms conduct concurrent audits of USAID program resources. Additionally, the OIG's RIG/Manila staff will continue to conduct performance audits of the USAID/Afghanistan program and investigate any allegations of fraud and abuse.