

# USAID

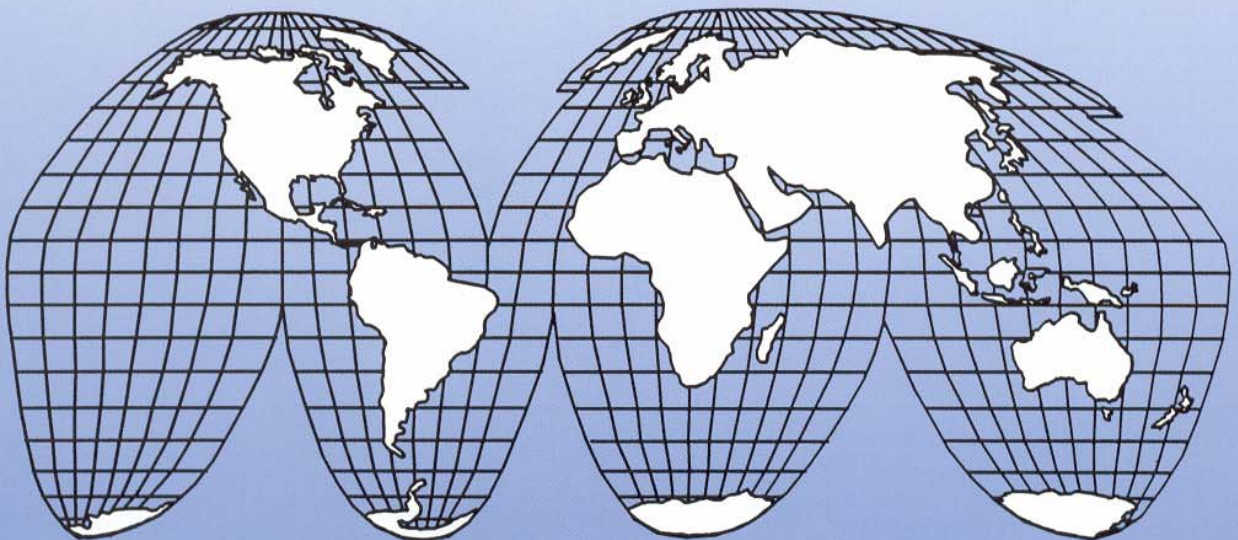
## OFFICE OF INSPECTOR GENERAL

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### **Audit of USAID/Peru's Management of U.S. Personal Services Contractors**

**Audit Report No. 1-527-04-004-P**

**January 14, 2004**



**San Salvador, El Salvador**





January 14, 2004

**MEMORANDUM**

**FOR:** USAID/Peru Mission Director, Patricia K. Buckles

**FROM:** Regional Inspector General/San Salvador, Steven H. Bernstein

**SUBJECT:** Audit of USAID/Peru's Management of U.S. Personal Services Contractors (Report No. 1-527-04-004-P)

This memorandum is our report on the subject audit. In finalizing this report, we considered your comments on our draft report and have included your response in Appendix II.

This report contains one recommendation for your action. Based on your comments, a management decision has been reached for this recommendation. A determination of final action will be made by the Bureau for Management's Office of Management Planning and Innovation (M/MPI/MIC).

As a result of implementing the recommendation, we estimated, and you concurred, savings to be \$2,800.

Once again, thank you for the cooperation and courtesy extended to my staff throughout the audit.

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## **Summary of Results**

The Regional Inspector General/San Salvador conducted an audit to assess whether (1) USAID/Peru determined its requirements for U.S. personal services contractors (USPSCs) in accordance with USAID policies and procedures, and (2) if USAID/Peru awarded U.S. personal services contracts in accordance with selected USAID policies and procedures (page 6).

USAID/Peru determined its requirements for U.S. personal services contractors in accordance with USAID policies and procedures (page 6).

USAID/Peru awarded U.S. personal services contracts in accordance with selected USAID policies and procedures, except in one case where a USPSC's salary exceeded the market value of the USPSC's position (page 9).

We made one recommendation to address the item discussed in this report. We recommended that USAID/Peru renegotiate the contract amount to conform to the new salary table that will be issued in January 2004 (page 12).

USAID/Peru agreed with the recommendation in this report and will take final action when the new salary table is issued in January 2004 (page 12).

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## **Background**

USAID designs and implements humanitarian and economic assistance programs overseas. To accomplish this work, it obtains the services of U.S. citizens and foreign nationals under a variety of mechanisms.

USAID's core workforce includes employees from four categories:

- U.S. Direct Hires (USDHs) - U.S. Foreign Service and U.S. Civil Service
- U.S. Personal Service Contractors (USPSCs)
- Foreign Service Nationals (FSNs)
- Third Country Nationals (TCNs)

As of December 31, 2002, USAID had 7,912 employees, of which 2,156 were USDHs, 587 were USPSCs, 4,816 were FSNs or TCNs, and the remaining 353 employees fell into other categories.

USPSCs are one of the primary sources of specialized assistance available to managers in designing and implementing development assistance programs and in providing administrative support. A personal services contractor is defined as a contractor that, by its express terms or as administered, make the contractor appear in effect, a government employee. Depending on the nature of duties and responsibilities assigned USPSCs, these employment contracts may be funded from either program or operating expense accounts and may be either long term (over one year in duration) or short term (less than one year in duration).

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There are two types of USPSCs: Locally Recruited and Internationally Recruited.

*Locally Recruited*

USPSCs recruited locally offer skills and experience that are not available in the local labor force or that would be expensive to import. Locally recruited USPSCs often provide services that are short term in nature, such as administrative management, secretarial functions, and project management. These individuals receive limited benefits and allowances.

*Internationally Recruited*

USPSCs recruited internationally often possess specialized technical skills. These individuals are often recruited under long term contracts and receive benefits and allowances that are similar to those of a USDH.

Each year, USAID/Washington's Office of Budget establishes a target workforce ceiling for USAID/Peru and controls and monitors the Mission's overall allocations and on-board staffing levels. Within these target workforce ceilings, USAID/Peru's program managers can prepare workforce requests which reflect the needs of each of their offices in order to carry out USAID's program objectives.

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**Audit Objectives**

As part of its fiscal year 2004 audit plan, and in connection with the Office of Inspector General worldwide audit on the topic, the Regional Inspector General/San Salvador performed this audit to answer the following questions:

1. Did USAID/Peru determine its requirements for U.S. personal services contractors in accordance with USAID policies and procedures?
2. Did USAID/Peru award U.S. personal services contracts in accordance with selected USAID policies and procedures?

Appendix I describes the audit's scope and methodology.

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**Audit Findings** **Did USAID/Peru determine its requirements for U.S. personal services contractors in accordance with USAID policies and procedures?**

USAID/Peru determined its requirements for U.S. personal services contractors in accordance with USAID policies and procedures.



According to the Automated Directives System (ADS) Series 400, Interim Update No. 2, “Appropriate Use and Funding of USAID’s Non-Direct Hire Workforce,” the different types of employee categories at USAID can be used by managers in determining the appropriate treatment of differing staff resources. Specifically, establishing a contract position for a U.S. citizen should only be considered when the staffing requirement is clearly temporary in nature, when the duties and responsibilities of the position make the local recruitment of U.S. citizens uniquely suitable, or when all alternatives for utilizing direct hires have been exhausted.

For the fiscal years 2002 through 2006, USAID/Peru had a target workforce ceiling of 148 individuals. USAID/Peru management made adjustments within employee categories to ensure that the technical skills of Mission staff match programmatic requirements to establish more effective and efficient organizational structures. Table 1 below shows a breakdown of USAID/Peru’s target workforce ceiling and workforce level as of October 2003 by employee category.

Table 1 – USAID/Peru Workforce

<b>Employee Category</b>	<b>Target Workforce Ceiling</b>	<b>Workforce Level (October 2003)</b>
U.S. Direct Hire (USDH)	18	19
U.S. Personal Services Contractor (USPSC)	6	6 <sup>1</sup>
Foreign Service National/ Third Country National (FSN/TCN)	124	114
<b>Totals</b>	<b>148</b>	<b>139</b>

As part of the Mission’s process for determining its staffing needs, it considered the following factors:

- Type of staff needed (USDH/USPSC/FSN/TCN)
- Suitability of U.S. citizen for position being recruited
- Use of U.S. direct hires, unless all alternatives for such use have been exhausted

<sup>1</sup> All seven active USPSCs from USAID/Peru were reviewed. One of these active USPSCs was hired on a part-time basis and, therefore, was not counted against the staffing ceiling.

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- Use of reemployed annuitants<sup>2</sup>
  - Clearly temporary nature of the position
  - Functional type needed (e.g., Controllers, Contracting Officers, Project Development Officers)
  - Experience and knowledge of current workforce
  - Existing skill gaps
  - Experience and knowledge needed
  - Classification of position (local or international recruit)
  - Political priority/strategic interest
  - Size and diversity of program
  - Budget limitations
  - Staffing ceilings

Mission managers were responsible for assessing program staffing needs to carry out program objectives. Factors such as political priority and strategic interest have caused them to examine the need for some functional changes both on the strategic side and the management side. Mission managers performed a thorough assessment of the program objectives to identify specific roles and activities needed to achieve program objectives. This assessment entailed identifying the knowledge and skills needed to address the program objectives, the knowledge and skills of the current workforce, and how best to achieve the program objectives within the Mission's budget and staffing limitations.

Specifically, in establishing the USPSC positions, mission managers considered that the staffing requirement was clearly temporary in nature, and that the duties and responsibilities of the position made the recruitment of a U.S. citizen uniquely suitable. The mission managers considered the use of U.S. direct hires prior to establishing a USPSC position, however due to staffing and budget limitations, USPSCs were used. Also, according to the Mission, reemployed annuitants

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<sup>2</sup> A reemployed annuitant is a former Federal employee/appointee who is separated from the Federal service under an Optional, Discontinued Service (Involuntary), or Disability Retirement; receives a retirement annuity from the Federal government as a result of their prior service; and, is reappointed to the roles of the Federal government.

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would be difficult to recruit because an individual would not likely consider going back overseas, when he or she could do the same thing as a USPSC and still draw full retirement at the same time. For this reason, reemployed annuitants were not used.

Through these assessments, mission managers appropriately determined their need for USPSCs to carry out the Mission's program objectives.

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

USAID/Peru awarded U.S. personal services contracts in accordance with USAID policies and procedures related to full and open competition, establishing fringe benefits and establishing salaries, except in one case where a USPSC's salary exceeded the market value of the USPSC's position.

According to the Federal Acquisition Regulation (FAR), Subpart 6.1-Full and Open Competition, contracting officers shall promote and provide for full and open competition in soliciting offers and awarding Government contracts. Contracting Officers shall provide for this full and open competition through the use of the competitive procedures such as sealed bids and competitive proposals that are best suited to the circumstances of the contract action and consistent with the need to fulfill the Government's requirements efficiently.

However, Contract Information Bulletin 97-16 states that full and open competition need not be obtained when it would impair or otherwise have an adverse effect on programs conducted for the purposes of foreign aid, relief, and rehabilitation. A justification for other than full and open competition is authorized for personal services contracts with U.S. citizens contracted locally, and with Cooperating Country Nationals<sup>3</sup> and Third Country Nationals subject to the local compensation plan, and for overseas contracts of \$250,000 or less. A justification can be authorized as long as two conditions are met: (1) offers are requested from as many potential sources as is practicable under the circumstances, and (2) justification supporting less than full and open competition is prepared.

The contract files of the ten USPSCs selected for testing revealed the following:

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<sup>3</sup> An individual who is a permanent resident in the country in which the employing USAID mission is located.

Table 2 – Contracts Awarded

<b>Contracts Awarded Under Full and Open Competition</b>	<b>Contracts Awarded Under Other Than Full and Open Competition</b>	<b>Total Contracts</b>
4	6	10

U.S. personal services contracts were awarded in accordance with the policies and procedures as they relate to full and open competition. For example, prior to awarding the contract, the personal services contractor availability list was reviewed, the position was advertised on the USAID external internet, the scoring and ranking of each proposal was made, and the methodology for the selection of the candidate was documented in the files. For the six contracts awarded under other than full and open competition, the contract files indicated that offers were requested from as many potential sources as was practicable under the circumstances, and authorization for other than full and open competition for personal services contracts with U.S. citizens contracted locally of \$250,000 or less was documented.

Establishing fringe benefits is another element of awarding contracts. According to the USAID Acquisition Regulation (AIDAR) Appendix D, USPSCs are not eligible to participate in any programs based on laws administered by the Federal Office of Personnel Management, such as incentive awards, life insurance, health insurance and retirement. However, internationally recruited USPSCs are entitled to certain fringe benefits, such as:

- Employer’s contribution to USPSC’s individual health, retirement and life insurance plan
- Home leave
- Rest and Recuperation Travel
- Post differential
- Living quarters allowance
- Temporary lodging allowance
- Post allowance
- Supplemental post allowance
- Payments during evacuation

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- Education allowance
  - Separate maintenance allowance
  - Education travel
  - Travel and transportation

Locally recruited USPSCs are not eligible to receive any of the benefits listed above except employer contributions to the USPSC's individual Federal Insurance Contributions Act (FICA), health and life insurance plan unless the USPSC can demonstrate that he or she has received similar benefits and allowances from his or her previous, local employer.

Of the ten USPSCs reviewed, three were locally recruited while seven were internationally recruited. Based on interviews with the USPSCs and review of contract files and payroll records, all the USPSCs received only those benefits allowed to them in accordance with the stated USAID policy and procedure.

Establishing salaries is another element in awarding USPSC contracts. According to AIDAR Appendix D, salaries for U.S. personal services contractors should be established based on the market value in the United States of the position being recruited. The Contracting Officer, in coordination with the Cognizant Technical Officer, should determine the correct market value (a salary range) of the position to be filled. The market value of the position, along with the applicant's certified salary history, will serve as the basis for salary negotiations. However, the final determination regarding the reasonableness of a salary level rests with the Contracting Officer.

Also, according to Contract Information Bulletin (CIB) 98-16, USPSCs can receive a three percent salary increase each year for satisfactory performance in addition to the pay comparability adjustments<sup>4</sup> if funds are available. USPSCs can continue to receive the three percent annual salary increase for satisfactory performance unless that increase would raise an individual's salary beyond the maximum limit of the salary range. An individual's salary can not exceed the upper limit of a position's market value. However, this does not affect the pay comparability adjustments.

For all ten contracts reviewed, the Mission established a reasonable market value for the position being recruited and the contract files contained documentation

<sup>4</sup> As part of the annual locality pay adjustment process, a comparison of pay rates under the General Schedule for non-Federal workers for the same levels of work within each locality pay is performed, and based on surveys conducted by the Bureau of Labor Statistics each locality in which a pay disparity exists, the size of each pay disparity is identified and appropriate comparability payments are recommended.

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supporting the salary determination. Moreover, for nine of the ten contracts, the Mission correctly authorized salary and pay comparability increases in accordance with the stated USAID policy and procedure. However, in one case, a USPSC's salary exceeded the market value of the USPSC's position.

### **Salary Exceeded Market Value of Position**

In 1996, at the start of the contract, a USPSC was hired at the General Schedule (GS) - 09 Step 10 equivalent (market value of position). In September 1998, contrary to CIB 98-16 stated above, the USPSC received the three percent annual increase, causing earnings to exceed the market value of the position. Currently, the salary for the USPSC is \$48,942, which is approximately \$2,800 above the maximum value of the position.

The Mission disallowed the three percent annual salary increase in January 1999, and only allowed the pay comparability increases. However, because the Mission had not considered the maximum salary authorized for the position, the past years' increases were given in error. As a result, the cumulative earnings above the market value or unnecessary costs to the U.S. Government totaled approximately \$14,800.

**Recommendation No. 1: We recommend that USAID/Peru renegotiate the contract amount to conform to the new salary table that will be issued in January 2004 by the Office of Personnel Management.**

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### **Management Comments and Our Evaluation**

In responding to our draft report, USAID/Peru agreed with the report, including the recommendation, and has already informed the USPSC of the adjustments that will be necessary. Once the new salary table is available, the Contracting Officer will adjust the USPSC's compensation appropriately. Accordingly, a management decision was made for the recommendation. The Mission's comments are included in their entirety in Appendix II.

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

We audited the management of U.S. personal services contractors (USPSCs) at USAID/Peru in accordance with generally accepted government auditing standards from November 3, 2003 to November 13, 2003.

The audit focused on 1) whether USAID/Peru determined its requirements for U.S. personal services contractors in accordance with USAID policies and procedures and 2) whether USAID/Peru awarded U.S. personal services contracts in accordance with selected USAID policies and procedures related to full and open competition, establishing fringe benefits and establishing salaries.

In conducting our audit, we assessed the effectiveness of USAID/Peru's management controls with respect to determining its requirements for U.S. personal services contractors, and awarding those contracts as they relate to full and open competition, establishing fringe benefits and establishing salaries for USPSCs.

Our audit scope included all active USPSCs as of November 3, 2003 (the date of fieldwork) and one<sup>5</sup> judgmentally selected expired U.S. personal services contract. Because USAID/Peru has responsibility for recruiting USPSCs on behalf of USAID/Ecuador, our scope for audit objective two included seven active USPSCs at USAID/Peru, one expired U.S. personal services contract at USAID/Peru, and two USPSCs at USAID/Ecuador for a total of ten USPSCs. However, since overall workforce and staffing decisions for USAID/Ecuador are made by USAID/Ecuador, our scope for audit objective one was limited to USAID/Peru.

**Methodology**

To answer audit objective one, we interviewed the Mission Director, Contracting Officer, Program Officer, Controller and Team Leaders of each of the programs that employed an active USPSC as of November 3, 2003. The programs were Alternative Development, Education and Economic Growth.

We also reviewed pertinent documentation such as USAID/Peru's Strategic Plan for fiscal years 2002 through 2006, the Annual Report for fiscal year 2003, and activities approval documents for the Alternative Development, Education and Economic Growth programs for fiscal year 2003.

In addition, we reviewed how USAID/Peru determined its staffing needs, whether it considered the appropriate employee category (particularly the use of USPSCs), and whether it considered the factors mentioned on page 7 in making its determinations.

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<sup>5</sup> There were a total of seven active USPSCs on October 1, 2002, whose contracts had expired by November 3, 2003.

Further, we judged whether the Mission's basis for any such determination was reasonable.

If the results of our audit procedures indicated that the criteria had been met, we would issue an unqualified (positive) opinion. If the results of our audit procedures indicated that the criteria had not been met, we would issue a negative opinion.

To answer audit objective two, we interviewed all the active USPSCs including those at USAID/Ecuador and the Contracting Officer. We also reviewed pertinent documentation such as contract files and payroll records for all the USPSCs selected.

The second audit objective addressed whether USAID/Peru awarded its U.S personal services contracts in accordance with USAID policies and procedures. To answer this objective, we set the following criteria that USAID/Peru had to meet:

1. U.S. personal services contracts were awarded under full and open competition. If other than full and open competition was used, two conditions were met: (a) offers were requested from as many potential sources as is practicable under the circumstances, and (b) justification supporting less than full and open competition was prepared.
2. Internationally recruited and locally recruited USPSCs only received the fringe benefits that were authorized to them in accordance with USAID policies and procedures as stated on page 10.
3. Salaries established for the USPSCs were reasonable, and documentation supporting such determinations was available. Also, salary increases and pay comparability were given in accordance with USAID policies and procedures.

If the results of our audit procedures indicated that all ten of the USPSCs met all the criteria defined above, we would issue an unqualified opinion. If nine of the USPSCs met all the criteria defined above, we would issue a qualified opinion. If less than nine of the USPSCs met all the criteria above, we would issue a negative opinion.

The audit was not designed to assess the overall economy and efficiency of the personal services contracting process.



**Management  
Comments****MEMORANDUM**

From: Patricia K. Buckles  
Mission Director – USAID/Peru

To: Steven Bernstein  
Inspector General – USAID/El Salvador

Subject: Audit of USAID/Peru’s Management of U.S. Personal Services Contractors  
(Report No. 1-527-04-00X-P)  
Mission Response

Date: December 30, 2003

This memorandum responds to your December 18, 2003 draft report and request for Mission comments. As requested, we are commenting on the finding and outlining relevant action planned.

In general, we concur with the finding set forth under **Salary Exceeded Market Value of Position** on page 11 of the report. As a clarification, we would like to point out that the wording could be interpreted as though both three percent annual plus pay comparability increases took place repeatedly. What was determined during the audit was that in June 1998 the USAID/W Office of Procurement clarified via CIB 98-16 that USPSC salaries should be capped by the maximum limit of their salary range. Shortly thereafter, but only once - in September 1998 – were both the three percent annual and pay comparability increases given. Thereafter, the Mission followed the CIB and only pay comparability increases were provided, but of course the employee’s salary continued to exceed the top of the range due to the earlier action. As for the recommendation:

**Recommendation No. 1: We recommend that USAID/Peru renegotiate the contract amount to conform to the new salary table that will be issued in January 2004 by the Office of Personnel Management.**

We concur. The employee concerned has been alerted to the fact that some adjustment will be necessary. Once we have the new salary table information, the Mission Contracting Officer will adjust the USPSC’s compensation in an appropriate manner.

This completes our comments on the draft report. We also appreciated the opportunity to review USAID/Peru’s management of USPSC’s with your visiting team, and will look forward to receiving the final report.