

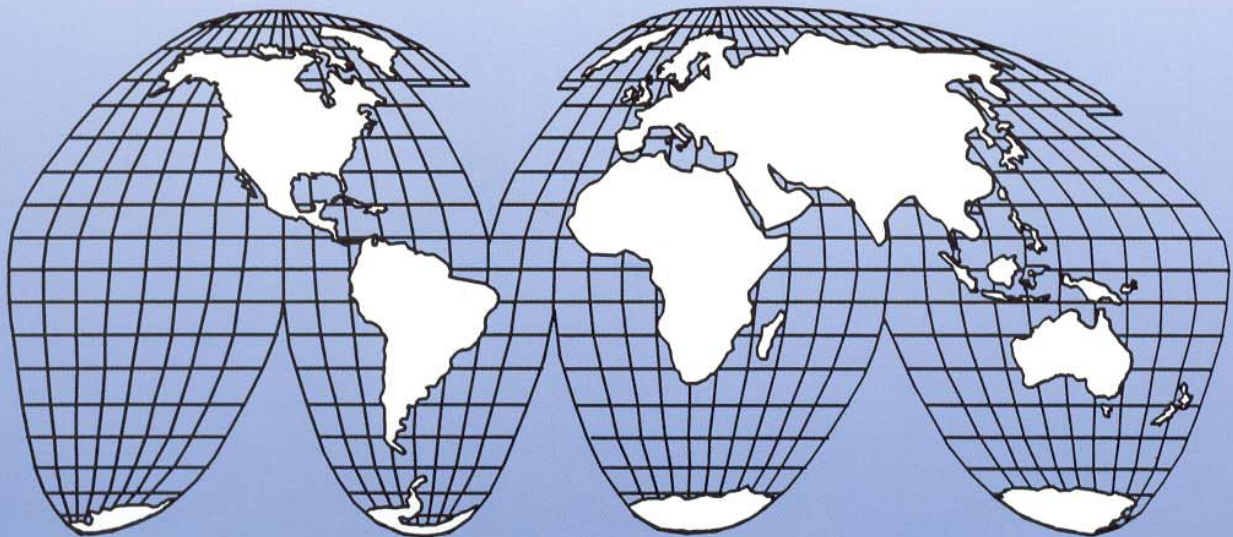
USAID

OFFICE OF INSPECTOR GENERAL

Audit of USAID/REDSO/ESA's Management of U.S. Personal Services Contractors

Audit Report No. 4-623-04-005-P

March 15, 2004



PRETORIA, SOUTH AFRICA



March 15, 2004

MEMORANDUM

FOR: USAID/REDSO/ESA Regional Director, Andrew Sisson

FROM: Regional Inspector General/Pretoria, Jay Rollins /s/

SUBJECT: Audit of USAID/REDSO/ESA's Management of Personal Services Contractors (Report No. 4-623-04-005-P)

This memorandum is our report on the subject audit. It finalizing this report, we considered management comments on the draft report and have included those comments, in their entirety, as Appendix II in this report.

This report has one recommendation. In response to the draft report, USAID Regional Economic Development Services Office for East and Southern Africa (USAID/REDSO/ESA) concurred with the recommendation and approved and implemented a corrective action plan to address our concerns. Therefore, we consider that final action has been taken on the recommendation.

I appreciate the cooperation and courtesy extended to my staff throughout the audit.

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Summary of Results

The Regional Inspector General/Pretoria conducted this audit to determine whether USAID's Regional Economic Development Services Office for East and Southern Africa (USAID/REDSO/ESA) (1) determined its requirement for U.S. personal services contractors in accordance with USAID policies and procedures, and (2) awarded U.S. personal services contracts in accordance with selected USAID policies and procedures. (See pages 6-7.)

The audit found that the Mission has determined its requirements for U.S. personal services contractors (USPSCs) in accordance with USAID policies and procedures. USAID/REDSO/ESA has used USPSCs as an integral part of its workforce to supplement its limited number of U.S. direct hires, as well as to meet the Mission's increased responsibilities. USPSCs have been used to fill positions that require technical skills along with experience. When possible, the Mission tries to use locally hired USPSCs because the cost is less than using internationally recruited USPSCs. However, Americans in the local USPSC labor pool often lack training in highly technical areas and thus internationally recruited USPSCs are hired. (See pages 7-8.)

The audit also found that USAID/REDSO/ESA awarded its contracts for USPSCs in accordance with selected USAID policies and procedures for ensuring full and open competition and for establishing salaries and fringe benefits. However, the Mission had not taken action to ensure that the required grade-level reviews were performed for all USPSC positions and that the results of the reviews were included in the USPSC contract files. (See pages 9-11.)

This report contains one recommendation to help USAID/REDSO/ESA improve its management of USPSCs. (See page 11).

In response to the draft report, USAID/REDSO/ESA concurred with the recommendation. The Mission has modified the USPSC procurement checklist and now requires documentation for a grade level-review or position classification to be kept in the USPSC contract files. A separate tab has also been included in each USPSC file to attach documentation. Finally, the Mission recently approved and implemented a process to grade, classify, and set the market value of personal services contractor positions. Therefore, we consider that a management decision has been reached and that final action has been taken. (See page 12).

Background

The USAID Regional Economic Development Services Office for East and Southern Africa (USAID/REDSO/ESA) is co-located with USAID/Kenya in Nairobi, Kenya. USAID/REDSO/ESA has three mandates:

- Enhancing east and southern Africa's institutional capacity to achieve food security, better contain and prevent conflict, and improve health systems.

-
- Providing technical and support services to other USAID bilateral and Non-Presence Country (NPC) programs in the region.
 - Managing NPC programs in Somalia, Burundi, and Djibouti.

In order to accomplish its mandates, USAID/REDSO/ESA uses several workforce categories. As of September 30, 2003, USAID/REDSO/ESA reported that its staffing of 128 individuals included the following workforce categories:

- 82 foreign service national personal services contractors.
- 20 U.S. personal services contractors (USPSCs)—this included 18 USPSCs hired internationally and 2 USPSC hired locally.¹
- 18 U.S. direct hires.
- 8 staff working under miscellaneous categories—this included individuals working as Fellows, Participating Agency Service Agreements staff, a Third Country National, and Technical Advisors in AIDS, Child Survival, and Population.²

The risk associated with being located in Nairobi, Kenya has been a challenge for USAID/REDSO/ESA. On May 16, 2003, the United States Department of State (DOS) issued a travel warning because of increased security concerns in Kenya based on indications of terrorist threats in the region aimed at American and western interests. DOS authorized the voluntary departure of family members and non-emergency personnel at the U.S. Embassy in Kenya. USAID/REDSO/ESA staff and their families were part of this authorized departure. On September 25, 2003, a DOS travel warning noted that the authorized departure of non-emergency employees and family members was rescinded, but the warning also said that terrorist threats continue against Americans. Concerns of terrorist actions against American interests in Kenya are not new. On August 7, 1998, the United States Embassy in Nairobi was destroyed by terrorists resulting in a large number of human casualties.

This audit includes 19 USPSCs with active contracts for the audit period of October 1, 2002 to November 25, 2003.

¹During this audit USAID/Sudan became a Mission; this number includes staff from that Mission which were excluded from the audit. The audit also reviewed USAID/REDSO/ESA files for staff assigned to Burundi and Djibouti which were not included in the September 2003 report.

²AIDS refers to Acquired Immune Deficiency Syndrome.

Audit Objectives

This audit was conducted at USAID’s Regional Economic Development Services Office for East and Southern Africa (USAID/REDSO/ESA) as part of a worldwide effort to review USAID’s management of U.S. personal services contractors. The audit was designed to answer the following questions relating to the management of USPSCs:

- Did USAID/REDSO/ESA determine its requirement for U.S. personal services contractors in accordance with USAID policies and procedures?
- Did USAID/REDSO/ESA award U.S. personal services contracts in accordance with selected USAID policies and procedures?

Appendix I contains a discussion of the audit's scope and methodology.

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

The audit found that USAID’s Regional Economic Development Services Office for East and Southern Africa (USAID/REDSO/ESA) determined its requirements for U.S. personal services contractors (USPSCs) in accordance with USAID policies and procedures.

These policies and procedures are contained in USAID’s Automative Directives System (ADS) Series 400 Interim Update #2, which provides USAID managers guidance on the appropriate roles and responsibilities of USPSCs and other employment mechanisms.³ This guidance states that when it is determined that a position must be filled by a U.S. citizen, the first option for filling it should be through the assignment of a direct hire employee. The responsibility for managing the core business areas and basic work of the Agency lies with U.S. direct hire (USDH) employees. The guidance recognizes that to augment and facilitate the efforts of the USDH workforce in meeting the objectives of the Agency, duties and responsibilities need to be assigned and authorities delegated to other types of employees and non-direct hire staff. The guidance provides for using USPSCs when USDHs or re-employed annuitants are not available to fulfill a permanent staffing requirement.⁴

USAID/REDSO/ESA is allocated a set number of USDH positions by USAID/Washington. Mission management has used these USDHs to staff important positions in the Mission, such as Regional Mission Director, Deputy Regional Director, Comptroller, Legal Officers, Contracting Officers, and Development Officer. Lacking its own Executive Officer, the Mission utilizes the

³This is entitled “Appropriate Use and Funding of USAID’s Non-Direct Hire Workforce,” effective September 18, 1995.

⁴Re-employed annuitants are Agency retirees who have limited direct hire appointments.

services of the Executive Officer from USAID/Kenya. By similar arrangement, USAID/REDSO/ESA provides contracting services for internationally recruited USPSC positions for USAID/Kenya.

Mission officials noted that the Mission's USDH staffing levels had decreased over the last ten years (from 26 to 18), while the Mission's responsibilities had increased in managing non-presence countries and regional programs. Faced with this limited number of USDHs, the Mission has been using USPSCs to supplement its staffing.⁵ A senior management official noted that some positions have inherent risks and that a USDH will be used for such positions. However, when a USDH is not available to staff such positions, a USPSC will be used. For instance, if a USDH is not available to manage non-presence country programs, a USPSC will be used.⁶ When possible, the Mission will try to use locally hired USPSCs because they cost less than internationally recruited USPSCs. The local USPSC labor pool has U.S. citizens who are educated and trained, but this labor pool does not have many individuals with highly technical backgrounds. Therefore, when technical skills and experience are needed to fill a position, an internationally recruited USPSC will be used.

Below are two examples of important positions at USAID/REDO/ESA that are being filled by USPSCs.

- A USPSC who had the requisite conflict management skills was selected to lead the Regional Conflict Management and Governance group when no USDHs with the necessary skills were available. The USPSC also had USAID experience, having previously retired from USAID.
- A coordinator with highly developed skills to work in the Population and Health group was needed to work on important issues related to orphans, Acquired Immune Deficiency Syndrome, and victims of torture. A USPSC with prior USAID experience was wanted for this position. The USPSC selected had a Ph.D. in counseling and experience in conflict areas, along with a USAID field perspective.

A senior Mission official said that the concerns over possible terrorist actions in Kenya are constraining the Mission's ability to staff positions with U.S. citizens. According to this official, the U.S. Ambassador to Kenya does not want to increase the number of Americans working for the Mission, whether they be USDHs or USPSCs. Furthermore, concerns about terrorism are having a negative

⁵Foreign service nationals have also been used for this purpose.

⁶USAID's Acquisition Regulation, Appendix D, section 4.b.3, states that USPSCs may not (1) supervise USDH employees of USAID or other U.S. government agencies, (2) be designated as contracting officers or delegated authority to sign obligating or sub-obligating documents, (3) communicate a final policy, planning or budget decision of the Agency unless that communication has been cleared by a USDH, and (4) be delegated the authority to make a final decision on personnel selections.

impact on recruiting Americans for positions at USAID/REDSO/ESA and on staff morale.

The audit found that USAID/REDSO/ESA determined its requirements for USPSCs in accordance with USAID policies and procedures. However, the Mission's ability to continue using USPSCs to supplement its USDH workforce in the future is in question. The Mission is experiencing the affects of working in a country where terrorism continues to be a major concern. USAID/REDSO/ESA may find itself in the difficult position of trying to fulfill its increasing responsibilities with fewer U.S. direct hires and USPSCs.

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

USAID/REDSO/ESA awarded its U.S. personal services contracts in accordance with selected USAID policies and procedures such as those for full and open competition and for establishing salaries and fringe benefits. However, the audit also found that documentation for the required grade-level reviews was not contained in the personnel files for all USPSC positions.

USAID/REDSO/ESA followed USAID policies and procedures for establishing full and open competition, salaries, and fringe benefits. A review of the documentation in the contract files indicated that all USPSCs were hired under full and open competition. The USPSC contract files contained documentation of several applications received for each position, and identified the number of qualified candidates. From this group, a minimum number of three candidates were interviewed (if possible). The audit also found that the USPSC position salaries were established in accordance with USAID policy, and the files contained historical salary information on the USPSCs. There was one exception where a USPSC was contracted without full and open competition. According to a senior Mission official, the exception was hiring a USPSC for a six-month contract as the Senior Program Manager for the Djibouti office. This official said that USAID's Administrator requested that USAID/REDSO/ESA establish a USAID presence in Djibouti. Because filling this position with a USDH could take one year, the USPSC was hired under a six-month contract in order to begin working as soon as possible. This provided the Mission with the necessary time to try to bring in a USDH to fill the position. Finally, the audit found that the USPSCs received the correct benefits to which they were entitled.⁷

In spite of adhering to proper contracting practices for USPSCs, USAID/REDSO/ESA still needs to take corrective action to strengthen its contracting of USPSCs. The Mission's actions did not ensure that all USPSC contracts were supported with evidence that the required grade-level reviews were

⁷USPSC local hires receive limited benefits. USPSC international hires receive benefits similar to USDHs.

conducted. We are making a recommendation that will address this problem in the following section.

All USPSC Files Need to Contain Evidence of Grade-level Reviews

USAID's Acquisition Regulation (AIDAR) and its Contract Information Bulletin (CIB) 96-8 require that correct market values be established for USPSC positions that are to be filled through market analyses or grade-level reviews. This action is further defined by the CIB to require that all contract files be documented to indicate that a grade-level review was performed. The audit found that 21 percent of the USPSC contract files reviewed for USAID/REDSO/ESA lacked documentation that grade-level reviews had been conducted. USAID/REDSO/ESA has a process to conduct the reviews and to document this action in its files. Nevertheless, USAID/REDSO/ESA did not ensure that the required grade-level reviews were performed for all of its USPSC positions and that the results of reviews were in the contract files. In addition, USAID/REDSO/ESA officials could not explain why some of the files lacked documentation, since the contracting officers who worked on the contracts in question are no longer working at the Mission. Without documentation in the contract files, there exists a risk that USPSC positions are being established at unrealistic and unreasonable market values.

The Federal Acquisition Regulation and AIDAR govern all direct procurement performed by USAID. AIDAR, Appendix D, Section 4 (e) (i) states that salaries for USPSCs shall be based on the market value of the position in the United States. This requires the Contracting Officer, in coordination with the Technical Officer, to determine the correct market value (a salary range) for the position being filled. The market value of the position then becomes the basis, along with the applicant's certified salary history, for salary negotiations by the Contracting Officer. Any position which is determined to be above the General Schedule (GS)-13 equivalent and which exceeds six months in duration must be classified by USAID's Department of Human Resources/Personnel Operations Division (M/HR/POD). The intent of this requirement is to establish a realistic and reasonable market value for the position. The final determination regarding the reasonableness of a salary level rests with the Contracting Officer. Paying salaries using this method avoids "rank in person" salaries which are in excess of the value of the position contracted. CIB 96-8 states that "The GS grade represents the market value of the work to be performed, and the GS salary range represents agreement within the U.S. Government as to approximately what USAID should be paying to have that work accomplished. All contract files must be documented to indicate that a grade-level review was performed, and the results of that review."

The audit found that 4 of 19 USPSC contract files (21 percent of the population), which were active during the scope of the audit, lacked documentation that grade-

level reviews were performed. Three of the four USPSC contracts were for GS-13 and below grades. The other USPSC contract was a GS-14 position that would have required an M/HR/POD position classification review.

USAID/REDSO/ESA contracting staff had not taken action to ensure that the required grade-level reviews or position classifications were performed for all USPSC positions and that the results of such reviews were included in the USPSC contract files. According to the USAID/REDSO/ESA contracting officials they have a process, which is not written, to obtain grade-level reviews or position classifications for all USPSCs and to document this action in the files. However, they could not explain why some of the files lacked documentation, since the contracting officers who worked on the contracts in question are no longer working at the Mission. When the audit team requested the missing documentation for the four USPSC contracts, the Mission was unable to provide the documents or produce evidence that, in those cases, it had obtained a grade level review or a position classification from M/HR/POD. The audit found that USAID/REDSO/ESA contract files contained a checklist of many important documents that need to be kept in the contracting files, but it did not require documentation for a grade-level review or position classification.

Without documentation that position grade-level reviews have been conducted for all USPSC positions, there exists a risk that USPSC positions are being established at unrealistic and unreasonable market values. The intent of AIDAR Appendix D is to avoid paying “rank in person salaries” which would be in excess of the value of the job being contracted.

Although USAID/REDSO/ESA has a process in place to ensure that contracts for its USPSCs are in compliance with Federal and USAID contracting requirements, this one area needs improvement. The grade-level review is important because it establishes the basis for USPSC salaries. Therefore, we are making the following recommendation.

Recommendation No. 1: We recommend that USAID/REDSO/ESA develop and implement a system to ensure that its contracting officers execute U.S. personal services contracts only after a grade-level review has been conducted and documented in the contract file. As part of the system, we suggest that the current checklist used in the U.S. personal services contract files be modified to help achieve this purpose.

**Management
Comments
and our
Evaluation**

In response to our draft report, USAID/REDSO/ESA management concurred with Recommendation No. 1. The Mission also approved and implemented a corrective action plan to address the recommendation. Therefore, we consider that a management decision has been reached and that final action has been taken.

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

The Regional Inspector General/Pretoria conducted this audit in accordance with generally accepted government auditing standards. This audit is part of a worldwide audit led by the Office of Inspector General's Performance Audits Division in Washington, D.C. The audit was designed to answer the following questions:

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

The audit period included U.S. personal services contracts (USPSC) that were active from October 1, 2002 through November 25, 2003. In planning and performing the audit, we tested and assessed significant management controls related to the Mission's awarding of USPSC contracts. In this effort, we tested for full and open competition for all 19 USPSC contracts that had been awarded. Further, we assessed the management controls used to establish salaries and benefits. Finally, we determined whether subsequent annual salary increases were in accordance with the contracts. The contracting officer is the significant management control in overseeing these three areas.

The types of evidence examined during the audit included—but were not limited to—the Mission's Annual Report, Strategic Plan, staffing pattern, and relevant documents contained in the USPSC contract files. We did not review USPSC contract files from USAID/Sudan as it was outside the scope of the audit. We also reviewed the USPSC contract files for Burundi, Djibouti, and Somalia which were the responsibility of USAID/REDSO/ESA. In addition, we interviewed Mission officials from USAID/REDSO/ESA.

The audit was conducted at USAID/REDSO/ESA in Nairobi, Kenya from November 13, 2003 to November 25, 2003.

Methodology

In order to answer the first objective, we reviewed USAID/REDSO/ESA's Strategic Plan for Fiscal Years 2001-2005. We also reviewed the Mission's Fiscal Year 2003 Annual Report. In addition, we analyzed the Mission's staffing pattern as of September 30, 2003. Finally, interviews were conducted with USAID/REDSO/ESA officials to determine how staffing decisions were made for USPSCs and the basis for using this workforce category.

To answer the second objective, we reviewed the USPSC contracting files to determine if they included sufficient documentation to indicate compliance with USAID policies and procedures. The files included negotiation memos, contracts, solicitations, and the Technical Evaluation Memorandums, which showed full and open competition in awarding the contracts, salary histories, benefits, and the basis for establishing salaries. In reviewing annual salary increases, we established a materiality threshold of 1 percent (+ or -) for variances that occurred between the General Schedule Salary Table and the USPSCs' pay increases. When variances occurred, we met with an official from the Controller's office to identify why the variances occurred. Finally, when important documents could not be found in the USPSC contract files, we notified USAID/REDSO/ESA staff and requested that they locate the missing documentation and provide it to us.

**Management
Comments**



MEMORANDUM

Date: March 8, 2004

From: Gerald Cashion, Acting Regional Director, /s/
USAID/REDSO/ESA

To: Jay Rollins, Regional Inspector General/Pretoria

Subject: Response to Audit of USAID/REDO/ESA's Management of Personal Service
Contracts Audit Draft Audit Report No. 4-623-04-xxx-P,

Please find below USAID/REDSO/ESA's response to Recommendation No. 1.

Recommendation No. 1

We recommend that USAID/REDSO/ESA develop and implement a system to ensure that it's contracting officers execute U.S. personal services contracts only after a grade-level review has been conducted and documented in the contract file. As part of the system, we suggest that the current checklist used in the U.S. personal services contract files be modified to help achieve this purpose.

USAID/REDSO/ESA agrees with RIG/Pretoria findings and the recommendation made. The USPSC procurement checklist has now been modified and requires documentation for a grade level-review or position classification among many important documents that need to be kept in the USPSC contract file. A separate tab has also been included in each USPSC file to which the documentation shall be attached. In addition, the USAID/REDSO/ESA process currently in place to ensure grade-level reviews or position classification has now been documented in an action memo, dated February 13, 2004. A copy of this memo is attached for your information. These actions will bring USAID/REDO/ESA in full compliance with Federal and USAID contracting requirements in ensuring that USPSC positions are being established at realistic and reasonable market values.

Based on the above described final actions taken by USAID/REDSO/ESA, we request that Recommendation No.1 of the subject draft audit report be closed upon issuance of final report.

Thank you for your cooperation.

MEMORANDUM
ACTION MEMORANDUM FOR THE "HEAD OF THE CONTRACTING ACTIVITY"

From: Gary Juste, Director, Regional Acquisition and Assistance Office, USAID/REDSO/ESA
/s/

Subject: Grade Review and Position Classification process for all Personal Services Contracts

Date: February 13, 2004

Action: Approval of the process to ensure the required grade level reviews or position classifications are performed for all Personal Services Contract positions and are included in the contract files.

Discussion: The process shall include the establishment of clear procedures for grading, classifying and setting the market value of PSC positions.

1. Once an office determines a need for a PSC position, it will prepare a position description/statement of work (SOW) and make a recommendation for a grade based on the duties of the incumbent.
2. The position description/SOW will be provided to the Human Resources Section/ Executive Office for classification and final determination of the appropriate grade. The grade will provide the salary range which then constitutes the position's market value.
3. The determination will be attached to the MAARD and submitted to Acquisition and Assistance office to be contracted.
4. Upon selection of a candidate, the Contracting Officer will negotiate a salary based on salary history within the range of the grade of the classified position.
5. The documentation for the above process will be included in all PSC contract files.

Recommendation

It is recommended that you approve this process

Approved: Gerald Cashion, Acting Regional Director /s/
Date: March 8, 2004

Clearances:
Executive Officer, Tom Ray /s/
Controller, Rashmi Amin /s/