

STATEMENT OF EVERETT L. MOSLEY

INSPECTOR GENERAL  
U.S. AGENCY FOR INTERNATIONAL DEVELOPMENT

SUBMITTED TO THE SUBCOMMITTEE ON INTERNATIONAL  
ECONOMIC POLICY, EXPORT AND TRADE PROMOTION OF THE  
SENATE FOREIGN RELATIONS COMMITTEE

REGARDING U.S. AGENCY FOR INTERNATIONAL DEVELOPMENT  
CONTRACTING PRACTICES

FEBRUARY 25, 2004

MR. CHAIRMAN, OTHER COMMITTEE MEMBERS, AND COMMITTEE STAFF,  
THANK YOU FOR THE OPPORTUNITY TO PROVIDE TESTIMONY ON THE U.S.  
AGENCY FOR INTERNATIONAL DEVELOPMENT'S (USAID'S) CONTRACTING  
PRACTICES. AS YOU HAVE REQUESTED, MY TESTIMONY WILL FOCUS ON  
USAID'S CONTRACTING PROCESSES, WITH EMPHASIS ON PROGRAMS IN  
AFGHANISTAN AND IRAQ.

MY OFFICE HAS A CONTINUING PROGRAM TO REVIEW USAID'S PROCUREMENT  
OPERATIONS. THESE REVIEWS CONSIST OF PRE-AWARD AUDITS, INCURRED  
COST AUDITS, AND CONTRACT CLOSE-OUT AUDITS THAT ARE PERFORMED BY  
MY STAFF, BY CONTRACTED PUBLIC ACCOUNTING FIRMS, AND BY THE  
DEFENSE CONTRACT AUDIT AGENCY THROUGH A REIMBURSABLE AGREEMENT  
WITH MY OFFICE. IN ADDITION, WE HAVE CONDUCTED A SERIES OF  
AUDITS TO EXAMINE WHETHER USAID'S COGNIZANT TECHNICAL OFFICERS  
ARE PROPERLY TRAINED AND ACCOUNTABLE FOR PERFORMING THEIR  
DUTIES. COGNIZANT TECHNICAL OFFICERS PLAY A CRUCIAL ROLE IN  
HELPING ENSURE THAT CONTRACTORS DELIVER THE GOODS AND SERVICES  
CONTRACTED FOR.

COGNIZANT TECHNICAL OFFICERS

TO DATE, WE HAVE COMPLETED WORK IN THREE USAID BUREAUS IN  
WASHINGTON AND SIX USAID MISSIONS OVERSEAS. WHILE WE HAVE NOT  
YET REACHED OVERALL CONCLUSIONS, AUDIT WORK TO DATE INDICATES  
THAT MANY COGNIZANT TECHNICAL OFFICERS ARE NOT ADEQUATELY  
TRAINED TO PERFORM COGNIZANT TECHNICAL OFFICER DUTIES. WE ARE  
IN THE PROCESS OF FINALIZING OUR SUMMARY AUDIT REPORT TO USAID  
WHICH INCLUDES RECOMMENDATIONS TO ENSURE THAT (1) CTOS RECEIVE  
SPECIFIC TRAINING ON A TIMELY BASIS TO BECOME ELIGIBLE FOR  
CERTIFICATION, AND (2) CTO ACCOUNTABILITY IS IMPROVED BY  
INCLUDING THEIR RESPONSIBILITIES IN THEIR WORK OBJECTIVES.

## AFGHANISTAN

IN RESPONSE TO A REQUEST FOR ASSISTANCE FROM USAID'S ADMINISTRATOR, MY OFFICE HAS PROVIDED ADVICE ON ACCOUNTABILITY AND AUDIT ISSUES FOR THE AFGHANISTAN ASSISTANCE PROGRAM. FOR EXAMPLE, OIG REPRESENTATIVES SERVED AS OBSERVERS AT MEETINGS OF THE CENTRAL ASIAN TASK FORCE ESTABLISHED PRIOR TO THE OPENING OF THE USAID MISSION IN AFGHANISTAN TO PLAN ASSISTANCE ACTIVITIES. ADDITIONALLY, PRIOR TO THE AWARDING OF THE MAJOR CONTRACT FOR THE REHABILITATION OF ECONOMIC FACILITIES AND SERVICES PROGRAM IN AFGHANISTAN, USAID'S BUREAU FOR ASIA AND THE NEAR EAST REQUESTED THE OIG'S COOPERATION IN IDENTIFYING APPROPRIATE AUDIT COVERAGE OF THE CONTRACT. SHORTLY AFTER THE CONTRACT WAS AWARDED, MY STAFF VISITED KABUL TO PERFORM A PRELIMINARY RISK ASSESSMENT OF THE USAID PROGRAM AND DEVELOP AN AUDIT STRATEGY.

THE AUDIT STRATEGY INCLUDES A CONCURRENT FINANCIAL AUDIT PROGRAM AS WELL AS PERFORMANCE AUDITS. A SERIES OF CONCURRENT FINANCIAL AUDITS ARE PLANNED OF COSTS INCURRED UNDER THE USAID/AFGHANISTAN REHABILITATION OF ECONOMIC FACILITIES AND SERVICES PROGRAM. THESE CONCURRENT FINANCIAL AUDITS ARE DESIGNED TO DISCLOSE ACCOUNTABILITY ISSUES AT AN EARLY STAGE, BEFORE LARGER SUMS OF MONEY ARE PUT AT RISK. THESE AUDITS ARE CONDUCTED BY A PUBLIC ACCOUNTING FIRMS AND THE DEFENSE CONTRACT AUDIT AGENCY. THE AUDITS IN AFGHANISTAN ARE SUPERVISED CLOSELY BY MY OFFICE TO ENSURE AUDIT QUALITY. THE FIRST OF THESE FINANCIAL AUDITS, ISSUED ON JANUARY 23, 2004, COVERED ABOUT \$1.2 MILLION IN LOCAL COSTS PAID IN AFGHANISTAN OF WHICH ABOUT \$29,000 WAS QUESTIONED BY THE AUDITORS.

MY OFFICE HAS ALSO ISSUED A REPORT ON THE PROGRESS OF THE KABUL-KANDAHAR HIGHWAY REHABILITATION. THE REPORT DESCRIBED BOTH SUCCESSES AND CHALLENGES THAT HAD CAUSED PROJECT DELAYS. AS OF NOVEMBER 1, 2003, LOUIS BERGER PROGRESS REPORTS SHOWED THAT 222 KILOMETERS OF THE 389 KILOMETER ROAD PROJECT HAD BEEN PAVED AND USAID OFFICIALS STATED THAT THEY PLANNED TO HAVE THE ENTIRE 389 KILOMETERS OF ROAD COMPLETED WITH AN ACCEPTABLE INTERIM PAVED SURFACE BY THE END OF DECEMBER 2003. USAID SUBSEQUENTLY REPORTED THAT THIS WAS ACHIEVED. OUR REPORT ALSO NOTED THAT LOUIS BERGER HAD NOT UPDATED ITS IMPLEMENTATION PLAN REQUIRED UNDER THE CONTRACT TO REFLECT CHANGES MADE TO THE ROAD RECONSTRUCTION SCHEDULE. THEREFORE, WE RECOMMENDED THAT USAID REQUIRE LOUIS BERGER TO MAINTAIN AN UPDATED IMPLEMENTATION PLAN FOR ITS ACTIVITIES UNDER THE CONTRACT.

## IRAQ

OUR WORK ON CONTRACTING IN SUPPORT OF THE IRAQ PROGRAM IS BEING CONDUCTED IN THREE PHASES: (1) EXAMINING THE DECISION TO USE LESS THAN FULL AND OPEN COMPETITION FOR NINE CONTRACTS, (2) EXAMINING COMPLIANCE WITH THE FEDERAL ACQUISITION REGULATIONS IN AWARDING CONTRACTS, AND (3) CONDUCTING CONCURRENT FINANCIAL AUDITS AND PERFORMANCE AUDITS OF THE PROGRAM.

USAID HAS USED LESS THAN FULL AND OPEN COMPETITION IN AWARDING NINE OF ELEVEN CONTRACTS AWARDED TO DATE. SUBPART 6.3 OF THE FEDERAL ACQUISITION REGULATIONS AND SECTION 706.302 OF THE USAID ACQUISITION REGULATIONS ALLOW USE OF LESS THAN FULL AND OPEN COMPETITION WHEN THE USAID ADMINISTRATOR MAKES A WRITTEN DETERMINATION THAT USE OF FULL AND OPEN COMPETITION WOULD BE INCONSISTENT WITH THE FULFILLMENT OF THE FOREIGN ASSISTANCE PROGRAM. THE OFFICE OF THE USAID ADMINISTRATOR MADE THIS DETERMINATION IN WRITING ON JANUARY 16, 2003. THE OIG ADVISED THE RANKING MEMBER OF THE SENATE COMMITTEE ON GOVERNMENTAL AFFAIRS OF THIS DETERMINATION IN A LETTER DATED APRIL 14, 2003.

TO DATE, USAID HAS AWARDED ELEVEN RECONSTRUCTION CONTRACTS TOTALING \$3.3 BILLION. THESE CONTRACTS RELATE TO ECONOMIC GOVERNANCE, EDUCATION, INFRASTRUCTURE RECONSTRUCTION, PERSONNEL SUPPORT, SEAPORT ADMINISTRATION, LOCAL GOVERNANCE, MONITORING AND EVALUATION, HEALTH, AIRPORT ADMINISTRATION AND AGRICULTURE.

TO DATE, MY OFFICE HAS REVIEWED TEN OF THESE CONTRACTS WITH A VALUE OF \$1.5 BILLION. WE HAVE ISSUED NINE FINAL MEMORANDUMS ON THESE REVIEWS AND A TENTH MEMORANDUM IS IN DRAFT AT THIS TIME. WE PLAN TO REVIEW ADDITIONAL CONTRACTS AS THEY ARE AWARDED DURING THE REMAINDER OF FY 2004.

THESE REVIEWS INDICATE THAT USAID HAS DONE A GOOD JOB OF PROCESSING THESE AWARDS UNDER TIGHT TIMEFRAMES TO SUPPORT THE RECONSTRUCTION PROGRAM IN IRAQ. BASED ON THE REVIEWS COMPLETED TO DATE, MY OFFICE CONCLUDED THAT USAID COMPLIED WITH THE ACQUISITION REGULATIONS APPLICABLE TO THESE CONTRACTS WITH THE FOLLOWING EXCEPTIONS:

- FOR THREE CONTRACTS, THE AUDITORS NOTED WEAKNESSES IN USAID'S DOCUMENTATION OF ITS MARKET RESEARCH EFFORTS TO IDENTIFY PROSPECTIVE CONTRACTORS.
- FOR ONE CONTRACT, USAID STAFF SHOULD HAVE CONSULTED WITH ITS OFFICE OF GENERAL COUNSEL ON A POTENTIAL CONFLICT OF INTEREST ISSUE.

- FOR ONE CONTRACT, USAID DID NOT PROVIDE ONE OFFEROR WITH TIMELY NOTIFICATION THAT AN AWARD HAD BEEN MADE AND DID NOT PROVIDE TIMELY DEBRIEFINGS TO THREE UNSUCCESSFUL OFFERORS.

IN ADDITION TO THESE INSTANCES OF NON-COMPLIANCE WITH ACQUISITION REGULATIONS, MY OFFICE IDENTIFIED SOME OTHER AREAS WHERE CONTRACTING PRACTICES MIGHT BE IMPROVED:

- FOR TWO CONTRACTS, WE CONCLUDED THAT USAID SHOULD FULLY DOCUMENT WHAT IS DISCUSSED IN PRE-SOLICITATION MEETINGS WITH POTENTIAL OFFERORS.
- FOR TWO CONTRACTS, THE LEVEL OF EFFORT INITIALLY ESTIMATED BY USAID VARIED SIGNIFICANTLY FROM ACTUAL NEEDS.
- FOR TWO CONTRACTS, USAID INITIALLY DETERMINED THAT CONTRACTORS WOULD NEED A FACILITIES CLEARANCE AND ACCORDINGLY INCLUDED THIS REQUIREMENT IN THE REQUEST FOR PROPOSALS. AFTER IT FOUND THAT THE SELECTED CONTRACTORS DID NOT HAVE THE REQUISITE FACILITIES CLEARANCES, USAID DELETED THE REQUIREMENT.
- FOR ONE CONTRACT, WHERE A REQUEST FOR PROPOSAL DID NOT REQUIRE THAT OFFERORS PROVIDE EVIDENCE OF THEIR LEGAL STATUS, THE SELECTED OFFEROR'S STATUS AS A CORPORATION HAD LAPSED. HOWEVER, THE OFFEROR BECAME AWARE OF THIS PROBLEM AND CORRECTED IT PRIOR TO SIGNING THE CONTRACT WITH USAID.

IN ADDITION TO THIS WORK WHICH FOCUSED ON CONTRACTING PROCESSES ASSOCIATED WITH THE IRAQ PROGRAM, MY OFFICE HAS ALSO CONDUCTED FINANCIAL AND PERFORMANCE AUDITS IN IRAQ ITSELF.

SPECIFICALLY, WE HAVE INITIATED 33 FINANCIAL AUDITS COVERING COSTS INCURRED BY CONTRACTORS IMPLEMENTING THE USAID PROGRAM TO REBUILD IRAQ. THESE AUDITS ARE BEING PERFORMED BY DEFENSE CONTRACT AUDIT AGENCY AUDITORS LOCATED IN BAGHDAD AND KUWAIT CITY AND IN DCAA REGIONAL OFFICES IN THE U.S. THE AUDITS WILL EXAMINE THE PROPRIETY OF COSTS INCURRED UNDER THESE CONTRACTS AND THE CONTRACTORS' INTERNAL CONTROL SYSTEMS. THE OIG WILL REVIEW AND ISSUE FINAL REPORTS TO USAID TO ENSURE THAT USAID COLLECTS ANY QUESTIONED COSTS DUE TO USAID AND TAKES ACTION ON ANY IDENTIFIED MANAGEMENT AND FINANCIAL SYSTEM WEAKNESSES. TO DATE, WE HAVE ISSUED 22 AUDIT REPORTS COVERING ABOUT \$35 MILLION IN USAID FUNDS. THE AUDITORS QUESTIONED \$339,646, WHICH INCLUDED \$275,772 IN INELIGIBLE COSTS AND \$63,874 IN UNSUPPORTED COSTS.

IN ADDITION, WE HAVE CONDUCTED ONE PERFORMANCE AUDIT THAT EXAMINED THE ACCURACY OF RESULTS DATA COMPILED BY USAID FOR ITS EDUCATION ACTIVITIES IN IRAQ. MY STAFF IS DRAFTING A REPORT ON THE RESULTS OF THAT AUDIT NOW. WE WILL CONDUCT ADDITIONAL PERFORMANCE AUDITS IN IRAQ DURING FISCAL YEAR 2004.

PROACTIVE INVESTIGATIVE WORK WILL INCLUDE CONTINUAL REVIEW AND ASSESSMENT OF CONTRACTS AND CONTRACT FILES TO DETERMINE AREAS OF POTENTIAL VULNERABILITY. IN ADDITION, CONTACTS WITH KEY PERSONNEL INVOLVED WITH THE EFFORT HAVE BEEN INITIATED. THE OIG WILL INVESTIGATE ANY ALLEGATIONS OF WRONGDOING IN THE IRAQ PROGRAM.

AGAIN, THANK YOU FOR THE OPPORTUNITY TO TESTIFY TODAY. I WILL BE HAPPY TO RESPOND TO ANY QUESTIONS YOU MAY HAVE.