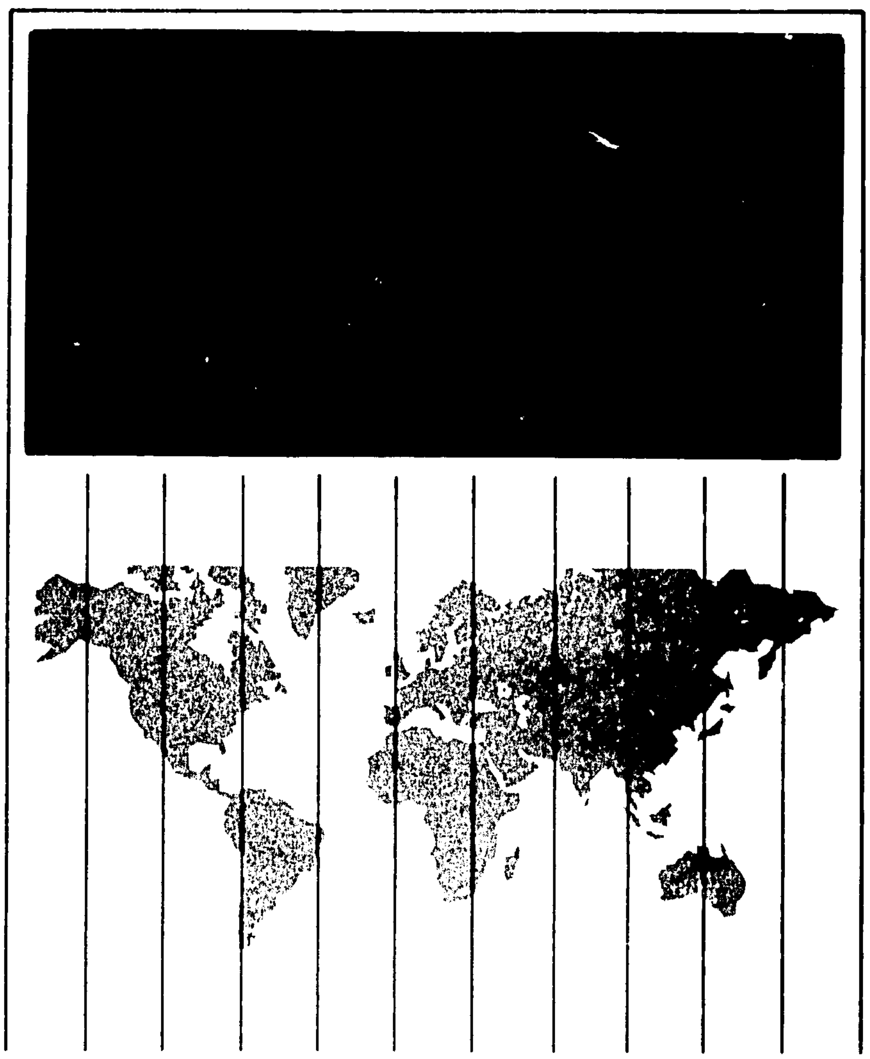
UNITED STATES
AGENCY FOR INTERNATIONAL DEVELOPMENT

THE INSPECTOR GENERAL



Regional Inspector General for Audit
NAIROBI

MEMORANDUM AUDIT REPORT ON REVIEW OF
HOST COUNTRY CONTRIBUTIONS
ASSOCIATED WITH A LOUIS BERGER
INTERNATIONAL, INC.HOST COUNTRY CONTRACT
IN KENYA.

AUDIT REPORT NO. 3-615-83-10
MARCH 11, 1983

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U.S. AGENCY FOR INTERNATIONAL DEVELOPMENT
RIG/A/NAIROBI

March 11, 1983

TO: Mr. Barry M. Riley, Acting Director, USAID/Kenya

FROM: Ray D. Cramer, RIG/A/N

SUBJ: Memorandum Audit Report On A Review Of Host Country Contributions Associated With A Louis Berger International, Inc. Host Country Contract In Kenya.
Audit Report No. 3-615-83-10

Introduction

We made an audit of three Louis Berger International, Inc. (LBII) host country contracts -- two in Somalia and one in Kenya. Our audit was made primarily to look at contracting procedures, and the effect of time rate contracts and lump sum contracts provisions on project costs. This report includes only those issues related to host government inputs on the Kenya contract.

The Arid and Semi-Arid Lands (ASAL) Development Project (No. 615-0172) began in Kenya on August 30, 1979, with a Project Assistance Completion Date of December 31, 1984. Planned AID financing over the life of the grant project is $13 million. The Government of Kenya (GOK) agreed to provide the equivalent of $5.6 million for the project, representing a 30.3 percent project contribution -- which meets the 25 percent host country contribution required by Section 110(a) of the Foreign Assistance Act.

The ASAL Development Project is to establish the basis for launching an accelerated development program in Kenya's arid and semi-arid lands and improve and preserve the agricultural production base in portions of the Kitui District of Kenya. The project consists of three principal components: (a) planning for ASAL development, (b) data collection and analysis, and (c) soil and water conservation.

In August 1981, the GOK entered into a $9.8 million host country contract with LBII to implement the ASAL Development Project.

Purpose and Scope

We conducted a limited scope review of the three LBII host country contracts. The primary purposes of the examination were to:

- Review effectiveness of procedures followed by Kenya and Somalia in selecting the contractor and contract teams, and the degree of support and assistance provided by USAID/ Kenya, USAID/Somalia and AID's Regional Economic Development Services Office for East Africa (REDSO/EA).
- Review lump sum reimbursements to the contractor and/or its employees and related contract provisions, paying particular attention to areas where profits in addition to the fees included in the time rate could be made.
- Identify and report on signficant implementation and other problem areas.

We reviewed records, reports, and correspondence at USAID/Kenya, USAID/Somalia, REDSO/EA, LBII/Kenya, LBII headquarters office in the U.S., and both host governments; and held discussions with officials from those organizations.

This report includes only issues related specifically to the Kenya project which we believe need further attention. The issues related to contracting procedures and problems with time rate contracts will be presented in a report to be issued in the near future.

<u>Findings, Conclusions and Recommendations</u>

<u>USAID/Kenya Failed To Adequately Monitor The Government of Kenya's Provision Of Inputs To The Project</u>

The GOK had not provided agreed to financial inputs to the LBII contract. As a result AID was paying for costs that should have been paid by the GOK, and the LBII technicians were not able to work effectively because the GOK had not provided funds or personnel to implement project activities.

The Government of Somalia inputs were also initially a problem on the LBII contracts; however, USAID/Somalia solved the problem by programming counterpart funds from PL 480 Title I into the program. This had not been done in Kenya -- although substantial amounts of counterpart funds were available from both PL 480 Title I and Commodity Import Programs.

One reason, perhaps the prime reason, the GOK had not provided their promised inputs was that USAID/Kenya had not made necessary arrangements with the GOK on procedures to be followed by the GOK in supporting the LBII contract. In response to our draft audit report, USAID/Kenya stated:

"It should be pointed out that the ASAL Project was designed during the 'coffee boom' of the mid to late 1970's when GOK recurrent expenditures were not a major problem. In anticipation of GOK constraints to implementation resulting from the recurrent GOK 'cash flow' problem the USAID Mission has entered into a contract with HIID for the services of Richard Hook to do a review of the ASAL Project No. 615-0172 including the LBII contract. Mr. Hook's scope of work anticipated most of the problems pointed out in Recommendation 1-5 and his review will be most helpful in addressing the issues. 1/ He arrived in Kenya on February 2, 1983 and will present a draft response to USAID within 30 days.

While we recognize that GOK has not yet provided direct funding support for the LBII contract, they have continued to provide resources to the rest of the project even though this support may not have been sufficient to meet all current project needs as in the case of vehicle operations. The real problem ...is that USAID/K and GOK have not to date agreed upon a method or procedure to collect and disburse the GOK contribution of funds specified in the contract.

GOK has always intended to fulfil its commitment to the LBII contract. Once the mechanics for the transfer of funds has been completed GOK will more than meet the minimum required 25% commitment to the project. This will allow all costs to be charged to the appropriate funding sources as specified under the contract."

GOK Contribution Not Made -- The LBII contract provides that Ksh. 9,923,740 ($1,195,631) 2/ is payable from GOK funds. The GOK had not provided these funds. Local currency costs that were to have been paid from these funds, such as local staff salaries, education allowance, and guard service were paid in local currency from AID dollar accounts. Thus, AID was financing local currency

1/ It is RIG/A understanding that Reports of Audit Findings submitted during the audit to USAID/Kenya provided the basis for most of the scope of work of this contract.

2/ The 8.3 conversion rate used here is the rate prevailing when the agreement was signed. The current conversion rate is about Ksh. 12.9: $1.

costs which were the responsibility of the GOK. This is mismanagement of agency funds and a waste of taxpayer money because dollar funds were being disbursed when they should not have been. This contributes to the U.S. Government's already heavy debt burden.

The issue of why USAID/Kenya was expending Agency funds for obligations of the GOK was discussed with the Regional Inspector General for Investigations and Inspections (RIG/II), who assurred us his office would follow-up on the legality of the issue.

<u>The GOK Did Not Adequately Support LBII Contract Technicians</u> -- The GOK-LBII contract, dated August 18, 1981, states that the GOK would provide certain facilities, equipment and services at no charge to the contractor. These items included:

- Offices and guest house in Kitui for use by the contractor's long and short term personnel.

- Housing in Kitui for each of the contractor's long term staff, and one house as a guest house for short term consultants.

The contract stipulated that the GOK would provide at no cost to the contractor, counterparts, local staff, offices, housing, equipment and various services. The GOK authorized and/or approved LBII to disburse $15,000 of contract funds ($5,000 from workshop and $10,000 from contingency line items) for the completion of office space in Kitui. Use of this $15,000 was not in accordance with the contract and should be billed to the GOK -- the GOK used the contract to pay for expenditures that the GOK should have made as its contribution to the project. We were advised that this approach was approved by USAID/Kenya as a mechanism for the most expeditious completion of facilities which had not been completed on time for expatriate contract technicians.

In addition, the GOK was to provide a guest house in Kitui for short term contract personnel. LBII had rented a house, and was paying rent and operating costs. This also should have been part of the GOK contribution to the project.

At the time our audit began in October 1982, none of the houses to be constructed for LBII personnel had been completed. Kitui-based contractor staff arrivals in Kenya began in October 1981 with the arrival of the Team Leader. Subsequently, the Agricultural Economist and the Contract Administrator arrived in November 1981, the Soil/Water engineer arrived in May 1982, and the Agronomist arrived in September 1982. Rented quarters were provided in Kitui for these personnel until July 1982, when the landlord evicted the Kitui-based team from two houses. Upon eviction, the Kitui-based team and their families returned to Nairobi. The team continued to work in Kitui by a combination of commuting from Nairobi and residing in a rented guest house. Three of the nine planned houses were completed and occupied by LBII staff in November 1982. The remaining staff member who was to be based in Kitui was still residing in Nairobi at the completion of our audit.

The lack of GOK-provided facilities adversely affected implementation because of time lost commuting between Nairobi and Kitui, because of low team morale caused by family separations, and because office facilities were not available as expected.

USAID/Kenya's failure to press the GOK to meet its commitment increased the contractor's costs and wasted AID funds. LBII was paying $72 per day per person to keep the Kitui-based team members and their families in Nairobi. In addition, some team members received Kitui per diem when working in that area as well as Kitui differential and, at the same time, their families received per diem while in Nairobi.

Another example of poor GOK project participation was the non-availability of project vehicles. The contract stipulates that the GOK will provide vehicles and pay for operating costs. As part of the U.S. Government's contribution to the project, AID purchased eight Landrovers for use by the project technicians. These vehicles were turned over to the GOK, who made them virtually inaccessible to the LBII contract team members. The contracto had no access to some of the vehicles, and access to others only part of the time.

The non-provision of gasoline was an additional problem when the vehicles were available to the LBII team. The effect was wasted contractor technician time hassling over vehicles which should have been at their disposal at all times. To alleviate the problem, the technical assistance team had to use contract funds to rent cars and/or pay for gasoline for rented and AID financed vehicles. For example, LBII paid Ksh. 14,365 ($1,300) in August for operating costs of GOK vehicles.

Project vehicles should not be turned over to host governments until the project is completed. New vehicles are usually too prestigious and scarce a commodity within developing countries to expect contractor access to them when needed, unless vehicle usage is rigidly controlled.

Other examples of the GOK not providing promised inputs:

- The GOK did not provide casual labor to undertake field work in the Kitui District. As a result, maize and bean trials were ruined because weeds overtook the trial plots and crop growth was stunted.

- As of December 1982, the GOK had not provided a replacement draftsman to Geodata Systems International (an LBII subcontractor), even though the GOK was informed of the upcoming need in July 1982. This could result in the Nairobi based LBII team not receiving approximately 30 maps needed for planning purposes.

- The counterparts provided by the GOK for the Soil and Water Conservation component were only spending part-time (estimated at 5 percent) on the project because of other GOK duties.

- AID purchased four Fordson tractors for the Soil and Water Conservation component. The tractors were received by the GOK, but were in need of repair and had some missing parts. Because the tractors were urgently needed, two of them were repaired under the LBII contract at a cost of Ksh 16,7?5 ($1,500). Operation, maintenance and repair of GOK furnished vehicles was not intended to be a contract cost, but a GOK responsibility.

These examples are the result of the GOK not providing funding and personnel as agreed. As previously noted, this was at least partially caused by USAID/Kenya's failure to press the GOK to honor its obligations. The GOK had budgeted only $200,000 (about one-fifth of the agreed amount of $1.1 million) for its 1982-83 fiscal year. Even provision of the $200,000 may be questionable.

The lack of adequate GOK funding resulted in the Kitui LBII team members not being able to implement the project as planned. They were wasting their expensive time because of lack of laborers, transport, petrol, tools and travel funds. We find this situation incongruous when GOK-owned local currencies generated by AID-financed Commodity Import and PL 480 Title I programs are programmed for other activities.

Conclusion, USAID/Kenya Comments, RIG/A/Nairobi Response, and Recommendations

AID funds were wasted through increased contractor costs and lack of project progress. Furthermore, project activities will not have much future benefit unless the GOK is able to finance the programs being planned and developed under the project. The concept of this project may no longer be valid in view of the changed economic situation in Kenya.

The local currency costs attributable to the GOK but paid by AID should be billed to the GOK. This billing should be at the current dollar equivalent exchange rate so that AID does not lose dollars as a result of a recent 15 percent devaluation.

USAID/Kenya's general comments in response to our draft report are presented on page three. In addition, USAID/Kenya made specific comments on each recommendation. Those USAID comments which pertained to this section of the report, and RIG/A/Nairobi's response thereto, follow. Several of the recommendations which appeared in our draft report have been revised or deleted.

USAID/Kenya Comment

> "Recommendation No. 1 (Draft): The specific method of transfer of funds, over the life of Project, from the GOK has not been accomplished to date. Since the GOK has always intended to fulfill its agreement under the LBII contract, your recommendation to withhold disbursements is not realistic or practical. USAID/Kenya is at present negotiating with the GOK for the provision of funds stipulated under the LBII contract."

RIG/A/Nairobi Response

USAID/Kenya, in our opinion, is being unduly optimistic regarding the GOK's ability to promptly and fully provide local currency funding and personnel which the GOK agreed to provide in the Project Agreement. We have noted in our last two audits of AID development projects in Kenya, the inability (or reluctance) of the GOK to provide their previously agreed to financial and/or personnel commitments (see AR 3-615-82-07, Major Changes Are Needed In AID's Road Program In Kenya; and AR 3-615-83-2, A Greater Commitment To Family Planning By The GOK Is Required Before Donor Assistance Can Be Effective). Also, local Kenyan newspapers have recently published numerous articles regarding the over commitment by the GOK of donor funded projects, and the inability of the GOK to honor those commitments.

RIG/A/Nairobi recognizes, however, that in this instance one of the causes (perhaps the primary one) behind the GOK's lack of financial support to the contractor, was the failure of USAID/Kenya to make necessary arrangements with the GOK on procedures to be followed by the GOK in providing support to the contractor. Note that the host country contract between LBII and the GOK (financed primarily by AID) was signed August 1981 -- 18 months ago. We have, accordingly, revised the recommendation which appeared in our draft report.

Recommendation No. 1

USAID/Kenya (a) finalize negotiations with the GOK on "methods or procedures to collect and disburse the GOK contribution of funds specified in the contract", and (b) obtain from the GOK reimbursement of such funds which should have been provided by the GOK, but were paid under the LBII contract over the past 18 months.

As it may not be possible for USAID/Kenya to promptly implement Recommendation No. 1, we are offering an alternate recommendation with four alternati . RIG/A/Nairobi wishes to emphasize that the alternate recommendation (No. 2) applies only if Recommendation No. 1 cannot be promptly implemented -- if/when Recommendation No. 1 is closed, Recommendation No. 2 will automatically be closed.

Recommendation No. 2

If actions proposed in Recommendation No. 1 cannot be finalized within a reasonable time period (90-120 days), USAID/Kenya should (a) withhold future project disbursements until the recommended actions can be finalized, or (b) request the GOK to renogatiate with LBII to reduce the scope of work to a level which can be adequately supported by the GOK, and reduce AID funding accordingly, or (c) insist that the GOK deposit local currency funds generated under the CIP or Title I programs into a special account designated solely for the project, or (d) terminate the project.

USAID/Kenya Comment

"Recommendation No. 2 (Draft): USAID/Kenya agrees with the general findings on page nine of the (draft) Memorandum Audit Report...We also agree that project goals would be more easily met if the 'vehicles purchased by AID (were) under the full control of the contract team'.

However, as permitted under the host country contracting mode, GOK policy has been to have all vehicles under the control of the line ministries. This recommendation as worded would require a contract amendment, a project agreement amendment, and still might not be the most satisfactory method of solving the problem. The best method of dealing with this issue is being explored by Mr. Hook in his review. To withhold disbursement at this time, would only worsen a situation that is temporarily being dealt with under a provision of the contract."

RIG/A/Nairobi Response

We cannot agree that the situation whereby AID has already financed the cost of project vehicles, but the contract technicians can not obtain access to those vehicles and therefore have to rent commercial vehicles, could get much worse. However, since USAID/Kenya thinks the situation may improve after a review of the "GOK Cash Flow" problems by a personal services contractor, we have revised the recommendation which appeared in our draft report.

Recommendation No. 3

USAID/Kenya determine the best method to deal with the vehicle issue so that the project vehicles purchased by AID are placed under the full control of the contract team, or are at least promptly made available to the contract team when required for work on the project.

USAID/Kenya Comment

"Recommendation No. 3 (Draft): In response to Report of Audit Finding, dated November 2, 1982, LBII was instructed to provide a detailed listing of contract costs that should have been paid by GOK. These costs will be charged against GOK resources when a method of transfer of GOK funds is agreed upon."

RIG/A/Nairobi Response

We considered USAID/Kenya's response to this draft recommendation in connection with revising Recommendation No.1, and eliminated Draft Recommendation No. 3 from our final report.

USAID/Kenya Comment

"Recommendation No. 4 (Draft): Recommendation No. 4 is not valid. Once (Draft) Recommendation No. 1 is satisfied the GOK will be providing its appropriate share of total project funding. As we have indicated in our response some specific items need to be addressed in Recommendation Numbers 1, 2, and 5."

RIG/A/Nairobi Response

RIG/A/Nairobi does not concur that this draft recommendation was not valid. As previously noted, our last two audits of AID development projects in Kenya reported on an inability (or reluctance) of the GOK to provide funding and/or personnel in accordance with the terms of the project agreements. Also as previously noted, over the past 18 months the USAID has not yet "arranged for" the promised GOK contributions -- neither have we seen any indications whereby the GOK has tried to foster their promised support on the contractor. However, we have revised the recommendation which appeared in our draft report, and it now appears as one of the alternative methods to follow if Recommendation No. 1 cannot be promptly implemented (see Recommendation No. 2).

The GOK Had Not Agreed To Hire Conservation Technicians As Permanent GOK Employees

Section 5.6 of the ProAg states that the GOK covenants that it will provide approximately 20 - 30 Certificate level graduates over the project period to receive basic training in soil and water conservation principles and practices at the project's facility at the Better Living Institute. The project planned three classes per year with 20 trainees in each class.

The ProAg also states that the GOK will establish and fill 55 Soil Conservation Technician positions by the fourth year of the Project.

The first soil/water conservation training program began in September 1982 with 20 trainees. A second phase of 20 trainees was scheduled to begin in January 1983. The GOK had, however, put a freeze on hiring and as of January 1983, had not yet agreed that the trainees would be hired as permanent employees once they have completed training. Instead, Government officials suggested that the Conservation Technicians be hired as casual laborers, paid from maintenance of station funds. This is not an acceptable alternative because, as the GOK's Kitui District Agricultural Officer stated, it is likely that the Conservation Technicians would be terminated at or before the project completion date.

This is a critical issue because the Conservation Technicians are the ones who are to perform field work during the project, and the ones who would carry on the work after the contract technicians have gone. As one LBII contract technician put it, there is no need for the contract advisors to be in Kenya unless it is assured that Conservation Technicians will be provided by the GOK.

Conclusion, USAID/Kenya Comments, RIG/A/Nairobi Response, and Recommendation

The GOK had not yet complied with the terms of the ProAg to hire the graduating conservation technicians as permanent employees. These technicians are considered to be one of the basic inputs if the project is to have any current and lasting impact.

USAID/Kenya Comments

In response to our Report of Audit Findings, USAID/Kenya stated:

"It was my understanding that the GOK had advertised for 55 permanent positions for soil conservation technicians and that the students presently under training were to be placed against these advertised slots. If this is not the case we will discuss the issue with Ministry of Economic Planning and Development, Ministry of Agriculture, Government of Kenya and reach a satisfactory conclusion."

In response to our subsequent draft audit report, USAID/Kenya stated:

"Recommendation No. 5 (Draft): As a result of discussion with GOK, we were informed that the conservation technicians were serving a 6 month probationary period. We have no official indication that these people will not be hired following probation."

RIG/A/Nairobi Response

We believe that a probationary period for recently trained technicians is wise. However, while USAID/Kenya may not have received an official indication that the conservation technicians will not be hired following probation, we also believe our finding is indication enough that there is a reluctance on the part of the GOK to hire the conservation technicians as permanent employees. Consequently, we have revised, but retained the recommendation which appeared in our draft report.

Recommendation No. 4

USAID/Kenya reach firm agreement with the GOK that upon graduation and a probationary period, the conservation technicians who performed satisfactorily will be hired as permanent employees, paid from GOK funds.

cc: AA/M
AA/AFR (5)
LEG
GC
OPA
IG
AFR/EA (2)
FM/ASD (2)
PPC/E
S&T/DIU (4)
REDSO/EA (3)