

PC-AAA-773

157829



United States
General Accounting Office
Washington, D C 20548

National Security and
International Affairs Division

B-275006

November 27, 1996

The Honorable Benjamin A. Gilman
Chairman, Committee on International Relations
House of Representatives

Dear Mr Chairman

The U S Agency for International Development (USAID) funds a wide range of projects designed to help build democratic institutions and practices. Concerned that USAID's largest contractors may have had an unfair competitive advantage in recent democracy awards, you asked us to determine whether there were any indications that these contractors had received favored treatment in connection with the award of democracy contracts.

To address this concern, we reviewed all 28 active contracts awarded by USAID Washington's two principal democracy centers in the Global Bureau and the Bureau for Europe and the New Independent States¹. Because of the inherent difficulty of assessing whether favoritism may have influenced particular selection decisions, we focused principally on the process used in selecting contractors and the outcomes of the procurements. Specifically, we examined (1) whether USAID complied with applicable procurement regulations and procedures, (2) the level of competition obtained and how the contracts were distributed, and (3) whether any formal or informal complaints regarding agency procurement practices had been raised.

BACKGROUND

In the early 1980s, USAID began funding projects designed to strengthen democratic institutions in Central America, and the agency has expanded the use of these democracy projects to other regions around the world, including Russia and the newly independent states of the former Soviet Union. While both USAID Washington and overseas missions fund democracy projects

¹These contracts were awarded between fiscal year 1991 and 1996 and have an estimated award value of approximately \$310 million.

B-275006

through contracts, grants and cooperative agreements, we reviewed only active contracts awarded by the two democracy centers mentioned above.²

In January 1994, USAID launched a major reform effort to improve its procurement practices. One objective of the reform initiatives was to encourage wider participation of organizations in USAID procurements and dispel the notion of the agency being a "closed shop." USAID sought to broaden its contractor base by various outreach efforts such as holding vendor town meetings, publishing a guide to doing business with the agency, and establishing a site on the Internet that includes details on agency procurement actions. In addition, beginning in 1994, the agency began using multiple award contracts to meet its assistance objectives in the democracy area.

RESULTS IN BRIEF

The two democracy offices awarded contracts through competitions for 17 democracy projects in various regions of the world. USAID used appropriate contracting procedures, which resulted in a wide distribution of contracts for these projects. We found no allegations of favoritism concerning the agency's contracting practices or its ultimate selection decisions. In sum, we found no evidence that favored treatment had been given to any of the contractors currently performing under the democracy contracts.

With one exception, all of the contracts were awarded using procedures providing for full and open competition,³ and based on the documentation we reviewed, we found that USAID followed applicable agency and federal acquisition regulations. For example, for each acquisition, the agency properly published a synopsis in advance of the upcoming procurement in the Commerce

²Contracts are used when the agency is acquiring property or services for the direct benefit of the U.S. government. Grants and cooperative agreements are used when the agency wishes to support the recipient's activities in order to accomplish a public purpose. Under a grant, there is only limited involvement by the agency during the performance of the funded activity. Under a cooperative agreement, there is substantial involvement. See Federal Grant and Cooperative Agreements Act of 1977, 31 U.S.C. 6301-6308.

³When conducting procurements for the purpose of providing foreign aid, agencies have broad authority to determine the extent to which they will comply with competition requirements. (Federal Property and Administrative Services Act of 1949, 40 U.S.C. 474(2)) USAID's acquisition regulation, section 706.302-70, states that procedures providing for full and open competition need not be used when the agency makes a written determination that compliance with those procedures would be inconsistent with the fulfillment of the foreign assistance program. In the one instance where the USAID Administrator invoked this authority, the agency invited 23 organizations to submit proposals.

B-275006

Business Daily, thus providing the required notice to potential offerors wishing to compete for the projects. In addition, in most cases we were able to locate USAID conflict-of-interest certifications filed by panel members responsible for evaluating and scoring proposals submitted to USAID.⁴ These forms state that neither the panelist nor his or her immediate family had employment or financial interests in any of the competing firms. They also provide that the panelist would not evaluate any proposals submitted by an offeror for which he or she had provided service within the last 3 years. In general, we found the procurement files to be complete, and for each contract they included documentation supporting the selection decision.

Concerning the level of competition obtained, we found that USAID received at least 3 proposals in 13 of the 17 competitions conducted for democracy contracts. (For one project, two proposals were received, for the other three, the agency received only one proposal.) To carry out these democracy projects, USAID awarded 28 contracts to 18 different organizations, including both for-profit and nonprofit institutions. Three of the 18 organizations are included in USAID's top 10 contractor list based on cumulative agency awards as of August 1996.

With the agency's shift toward the use of multiple award contracts in 1994, we noted a significant increase in the number of contractors used to implement democracy projects. Prior to January 1994, for 8 democracy projects, the agency relied on 8 single-award contracts with five different organizations. After January 1994, for 9 projects, USAID awarded 20 contracts to 16 separate organizations. For four of the projects after January 1994, USAID awarded indefinite quantity contracts⁵ to more than one organization (2, 2, 3, and 8 awardees for the four respective projects) to perform the same functional area of work. Under each of the four projects, as tasks arise, the agency selects one of the contractors to perform the required work by issuing a task order. Each of the contracts for these projects provided that the contractor would receive a minimum of \$25,000 worth of work and included a specified maximum contract value.

USAID officials, including the Assistant Administrator for Management, the Procurement Ombudsman, the Competition Advocate, the Procurement Executive, the Ethics Counselor, and representatives of the Inspector General's office, reported no allegations of favoritism in the democracy area. In addition, no such allegations were raised by for-profit or nonprofit associations.

⁴We could not locate conflict-of-interest forms for two contracts awarded in 1991 and another awarded in 1993.

⁵An indefinite quantity contract provides for an indefinite quantity of services to be furnished during a fixed time period (Federal Acquisition Regulation 16.504(a)).

B-275006

representatives.⁶ Our review of correspondence files for the contracts we examined revealed no written internal or external complaints regarding USAID's award procedures. Finally, none of the bid protests filed with GAO in the past 6 years regarding USAID procurements have involved democracy project contracts.

SCOPE AND METHODOLOGY

To identify indicators of potential favored treatment, we examined the solicitation and awards process for all 28 active contracts (as of August 1996) managed by USAID Washington's two principal democracy centers located in the Global Bureau and the Bureau for Europe and the New Independent States. We reviewed contract award files to determine whether applicable federal and agency acquisition regulations were followed and reviewed such items as the use of full and open competition, whether the procurement was synopsisized in the Commerce Business Daily in a timely manner, the number of proposals received, whether conflict of interest certification forms were filed, the number of awards made, and whether the selection and awards process was documented. We also examined related correspondence files to determine whether any problems or issues had been raised in writing by USAID officials or outside parties. We did not evaluate mission-awarded contracts.

We interviewed the Assistant Administrator for Management, the Procurement Ombudsman, the Competition Advocate, the Procurement Executive, the Ethics Counselor, and representatives of the Inspector General's office to determine whether they had received any formal or informal allegations of contractor favoritism in the democracy area. Furthermore, we obtained the view of representatives from the Professional Services Council, which represents for-profit international development firms, and the Advisory Committee on Voluntary Foreign Aid, which represents nonprofit organizations. Finally, we reviewed all bid protests filed with GAO regarding USAID procurements over the past 6 years.

⁶In a letter to USAID dated September 29, 1993, the American Bar Association Central and East European Law Initiative (ABA/CEELI) raised issues with USAID officials about potential conflicts of interest regarding awards involving work in the former Soviet Union. A similar concern was raised by the US Information Agency in a letter to USAID dated November 12, 1993. The specific concern was that a particular firm was evaluating ABA/CEELI and USIA democracy programs in Eastern Europe for USAID, while at the same time responding to the agency's solicitation for work in the former Soviet Union. One of USAID's January 1994 procurement reform initiatives addressed the specific concern raised in the ABA/CEELI and USIA letters. This reform generally prohibits firms which provide design, evaluation, or audit services to the agency from competing for implementing, same sector, or non-audit related activities, respectively.

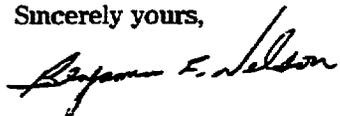
B-275006

We conducted our review from May 1996 through August 1996 in accordance with generally accepted government auditing standards. We met with agency officials to discuss a draft of this report, and they generally agreed with our findings. We have incorporated their comments where appropriate.

We are sending copies of this letter to the USAID Administrator and appropriate congressional committees. Copies will also be made available to others upon request.

If you or your staff have further questions concerning this letter, please call me on (202) 512-4128. Major contributors to this letter were Jess Ford, Ronald Kushner, Michael ten Kate, and Barbara Schmitt.

Sincerely yours,



Benjamin F. Nelsor, Director
International Relations and Trade Issues

(711234)

USAID Democracy Awards Reviewed by GAO

<u>Contract Number</u>	<u>Award Date</u>	<u>Recipient(s)</u>
LAC-0669-C-00-1040-00	9-11-91	National Center for State Courts
AFR-0542-C-00-1108-00	9-19-91	Associates in Rural Development (ARD)
HNE-0377-C-00-2086-00	9-21-92	Chemonics International Consulting Division
CCN-0007-C-00-3110-00	7-1-93	Research Triangle Institute
CCN-0007-C-00-3166-00	9-30-93	ARD/Checchu
CCN-0007-C-00-3169-00	9-30-93	ARD/Checchu
CCN-0007-C-00-4003-00	11-30-93	ARD/Checchu
CCN-0007-C-00-4004-00	12-93	Chemonics International Consulting Division
EUR-0019-I-00-4079-00	9-27-94	Development Associates, Inc
EUR-0019-I-00-4080-00	9-27-94	Development Alternatives, Inc
EUR-0019-I-00-4081-00	9-27-94	KPMG Peat Marwick
EUR-0019-I-00-4082-00	9-27-94	National Academy of Public Administration Foundation
EUR-0019-I-00-4083-00	9-27-94	Chemonics International Consulting Division
EUR-0019-I-00-4084-00	9-27-94	Public Administration Service
EUR-0019-I-00-4085-00	9-27-94	The Johns Hopkins University
EUR-0019-I-00-4086-00	9-27-94	International City/County Management Association
AEP-5470-I-00-5034-00	9-29-95	Management Systems International Inc
AEP-5468-I-00-6003-00	3-12-96	International Foundation for Electoral Systems
AEP-5468-I-00-6004-00	4-10-96	The Research Foundation of the State University of New York
AEP-5468-I-00-6008-00	5-1-96	Development Alternatives, Inc
AEP-5468-I-00-6009-00	5-1-96	ARD
AEP-5468-I-00-6010-00	5-3-96	Casals and Associates, Inc
AEP-5468-I-00-6005-00	5-6-96	Development Associates, Inc
AEP-5468-I-00-6006-00	5-6-96	Management Systems International, Inc
AEP-5468-I-00-6012-00	6-14-96	Management Systems International, Inc
AEP-5468-I-00-6013-00	6-14-96	World Learning, Inc.
AEP-5468-I-00-6014-00	6-17-96	Research Triangle Institute
AEP-5468-I-00-6022-00	8-8-96	Conflict Management Group