



OFFICE OF INSPECTOR GENERAL

AUDIT OF USAID/IRAQ'S OVERSIGHT OF PRIVATE SECURITY CONTRACTORS IN IRAQ

AUDIT REPORT NO. E-267-09-002-P
March 4, 2009

BAGHDAD, IRAQ



Office of Inspector General

March 4, 2009

MEMORANDUM

TO: USAID/Iraq Mission Director, Christopher D. Crowley

FROM: Acting Director, Office of Inspector General, Iraq, Mark S. Norman /s/

SUBJECT: Audit of USAID/Iraq's Oversight of Private Security Contractors in Iraq
(Report Number E-267-09-002-P)

This memorandum transmits our final report on the subject audit. In finalizing the report, we considered your comments on the draft report and modified the report language as appropriate. Your comments are included in their entirety as appendix II.

The report contains two recommendations for corrective action. Based on your written comments in which you described actions planned to address our concerns, we consider that a management decision has been reached on both recommendations.

I want to express my sincere appreciation for the cooperation and courtesies extended to my staff during this audit.

CONTENTS

Summary of Results	1
Background	2
Audit Objective	2
Audit Findings	3
Incident Reporting Received Inadequate Oversight.....	4
Evaluation of Management Comments	10
Appendix I – Scope and Methodology	11
Appendix II – Management Comments	13

SUMMARY OF RESULTS

USAID relies on private security contractors to provide a variety of security services for its programs in Iraq, including protection of individuals, nonmilitary transport convoys, buildings, and housing areas. While USAID/Iraq does not maintain any direct contracts with private security contractors, security services are procured by the mission's implementing partners (contractors and grantees) who have primary responsibility for oversight. Nevertheless, in managing its contracts and grant agreements, USAID/Iraq provided some degree of oversight as well. The mission, for example, took timely action in response to a governmentwide policy ruling, which required that all prime contracts be modified to add general guidelines that applied to armed contractors, covering such topics as use of deadly force, training, and hiring standards. (See page 3.)

This audit was conducted to determine whether USAID/Iraq had managed its contracts and grant agreements with implementing partners to ensure that the partners provided adequate oversight over their private security contractors. (See page 2.)

At the time of the audit, USAID/Iraq maintained a portfolio of 12 contracts and grant agreements that had a private security subcontract. As of September 30, 2008, cumulative obligations and expenditures associated with these subcontracts totaled approximately \$375.1 million and \$278.9 million, respectively. (See page 2.)

The audit found that USAID's implementing partners were not adequately overseeing the private security contractors' reporting of serious incidents to ensure that such incidents were reported properly. This was the case at all three of the implementing partners visited, as evidenced by the partners' lack of familiarity with prescribed reporting procedures as well as the limited records on file documenting previously reported incidents. Often relying on the security contractors to report these incidents, partners felt little need to become involved in overseeing the reporting process. As a result, partners were not in a position to detect reporting deficiencies such as the ones identified by the audit, allowing some incidents to be reported improperly or, in one case, not reported at all. In addition, incident reports issued by the security contractors were often not being received by USAID/Iraq. With these contractors now subject to Iraqi laws—under the terms of the latest Security Agreement with the Government of Iraq—stronger oversight is needed to ensure that private security contractors clearly understand and follow prescribed operational procedures in reporting serious incidents and provide the U.S. Government with timely notification of these incidents. (See pages 4 through 9.)

To ensure that this is done, the audit team recommended that USAID/Iraq require its implementing partners to (1) establish procedures for monitoring the reporting of serious incidents; and (2) report future incidents directly to the mission in conjunction with normal incident reporting procedures. (See page 9.)

In response to our draft report, USAID/Iraq concurred with both recommendations and outlined detailed monitoring and reporting procedures it planned to incorporate into its prime contracts and grant agreements to address the auditors' concerns. Based on the mission's proposed actions, we consider that a management decision has been reached on the two recommendations contained in the report. (See page 10.)

Management comments are included in their entirety in appendix II.

BACKGROUND

Given the security concerns and shortage of U.S. troops in Iraq, the U.S. Government, including USAID, has relied on private security contractors (PSCs) for a wide variety of security services, which include the protection of individuals, nonmilitary transport convoys, buildings, and housing areas. By providing security for reconstruction and stabilization activities, PSCs contribute an essential service and are viewed as vital to U.S. efforts to bring peace to Iraq. Nevertheless, the use of armed contractors to perform security tasks, coupled with prior incidents involving PSCs, has raised concerns about the oversight and accountability of these firms.

In Iraq, two agencies are responsible for the security of U.S. Government employees and contractors: (1) the U.S. military, which has responsibility for the security of all personnel under direct control of the combatant commander and (2) the Department of State (DOS), which is responsible for all U.S. Government and nongovernment personnel under Chief of Mission authority. With regard to DOS responsibility, authority is delegated to Embassy Baghdad's Regional Security Office which establishes security policies and procedures. Together, the military and DOS share responsibility for providing general oversight and coordination of their respective PSCs, regardless of whether the PSCs perform their services through direct contracts with the U.S. Government or subcontracts with the Government's implementing partners.

Since 2005, USAID—whose employees are protected under DOS-procured security contracts—has not maintained any direct contracts with PSCs, only subcontracts through its implementing partners (contractors and grantees). Accordingly, this audit focused primarily on the oversight that these implementing partners exercised over their PSC subcontractors, particularly with regard to the reporting of serious incidents¹. At the time of the audit, the mission's portfolio had 12 contracts and grant agreements involving PSC subcontracts. As of September 30, 2008, cumulative obligations and expenditures associated with these PSC subcontracts totaled approximately \$375.1 million and \$278.9 million, respectively.

AUDIT OBJECTIVE

As part of its fiscal year 2009 annual audit plan, the Office of Inspector General/Iraq conducted this audit to answer the following question:

- Has USAID/Iraq managed its contracts and grant agreements with implementing partners such that the implementing partners provided adequate oversight of private security contractors?

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

¹ A "serious incident" is defined as involving the use of deadly force, the discharge of a weapon, and/or an incident resulting in death, serious injury, significant property damage (even if a weapon is not involved), or other serious consequences.

AUDIT FINDINGS

For the most part, USAID/Iraq managed its contracts and grant agreements such that the implementing partners for these instruments provided at least some degree of oversight of their private security contractors (PSCs). The audit found, however, that additional oversight was needed with regard to PSCs' reporting of serious incidents to ensure that such incidents were reported properly and in a timely manner.

USAID/Iraq had only limited management responsibility for ensuring the oversight of PSCs since it did not have a direct contractual relationship with the PSCs, only with the implementing partners who subcontracted with the PSCs. Nevertheless, the mission still made efforts to ensure that a level of oversight was being maintained. For example, the mission took prompt action, in response to a governmentwide procurement policy ruling,² to ensure that all of its prime contracts involving a PSC subcontract include a new required clause (FAR 52.225-19), providing general guidelines for armed contractors, including standards on the use of deadly force, training, and hiring. This clause also included a separate provision requiring implementing partners to incorporate the substance of the clause into their subcontracts with PSCs. Although the audit team verified that the PSC subcontracts had been modified to incorporate the clause, this action was often apparently carried out only after the auditors requested supporting evidence documenting that this had, in fact, been done. Nevertheless, with the clause now incorporated into the PSC subcontracts, no further action is deemed necessary.

In addition to modifying its contracts to include the new FAR clause, USAID/Iraq assisted Embassy Baghdad in efforts to educate USAID's implementing partners and their PSCs on the Embassy's latest policy directives for armed contractors issued on May 18, 2008 ("Policy Directives for Armed Private Security Contractors in Iraq"). The purpose of these directives, which apply to all PSCs working—either directly or indirectly—with a Federal agency under Chief of Mission authority, was to provide a set of rules and requirements that applied to all nonmilitary PSCs operating in Iraq. To facilitate a dialogue to discuss and better understand these new policies and procedures, in August 2008 USAID/Iraq hosted a presentation attended by its implementing partners and their PSCs, which was organized by the Embassy's Regional Security Office. This meeting gave attendees an opportunity to obtain clarification on specific aspects of the new policies and discuss other security issues and concerns.

Site visits to several of USAID's implementing partners, meanwhile, found that procedures were generally in place for overseeing PSC operations. These procedures varied but often included regular meetings or debriefings with the PSC staff as well as the receipt and review of various documents furnished by the PSC, such as daily security intelligence reports, security advisories, listings of scheduled transport convoys, incident reports, and staffing reports (validating the PSC staff present at each location). Collectively, these procedures helped to keep the implementing partners informed on PSC operations and other security matters. However, the partners needed to improve their oversight of PSC reporting of serious incidents to ensure that these incidents were reported properly and within the required time frames.

² Issued March 31, 2008, by the Federal Acquisition Regulatory Council, a governmentwide body within the Office of Management and Budget's Office of Federal Procurement Policy that is responsible for setting rules on Federal procurement and authorizing revisions to the Federal Acquisition Regulation (FAR).

Incident Reporting Received Inadequate Oversight

Summary: Policies and procedures for reporting serious security incidents, which apply to all nonmilitary PSCs operating in Iraq under Chief of Mission authority, are contained in a set of policy directives issued by Embassy Baghdad. These directives specify the procedures PSCs are to follow in reporting serious incidents, including the timing of the incident reports and the entities to be notified. The audit found that USAID's implementing partners were not providing sufficient oversight of this area to ensure that their PSCs were reporting incidents in accordance with existing policy guidance. This weakness was attributed, in large part, to the partners' reliance on their PSCs for reporting incidents; partner staff often felt little need to become involved in overseeing the process. As a result, USAID's implementing partners were not in a position to determine whether incidents were being reported properly or to detect any potential reporting deficiencies, such as the ones identified by the audit—most of which stemmed from PSCs' confusion concerning prescribed reporting procedures. The audit did not encounter any cases in which a serious incident (i.e., involving death or serious injury) failed to be reported to the mission, but notification was not always carried out in a timely manner, underscoring the need for greater oversight and improved reporting in this area.

Since September 2007, when an incident involving a PSC firm resulted in the deaths of 17 Iraqi civilians in Baghdad, measures have been instituted to improve PSC oversight and coordination. This effort has led to the issuance of new regulations and guidance.

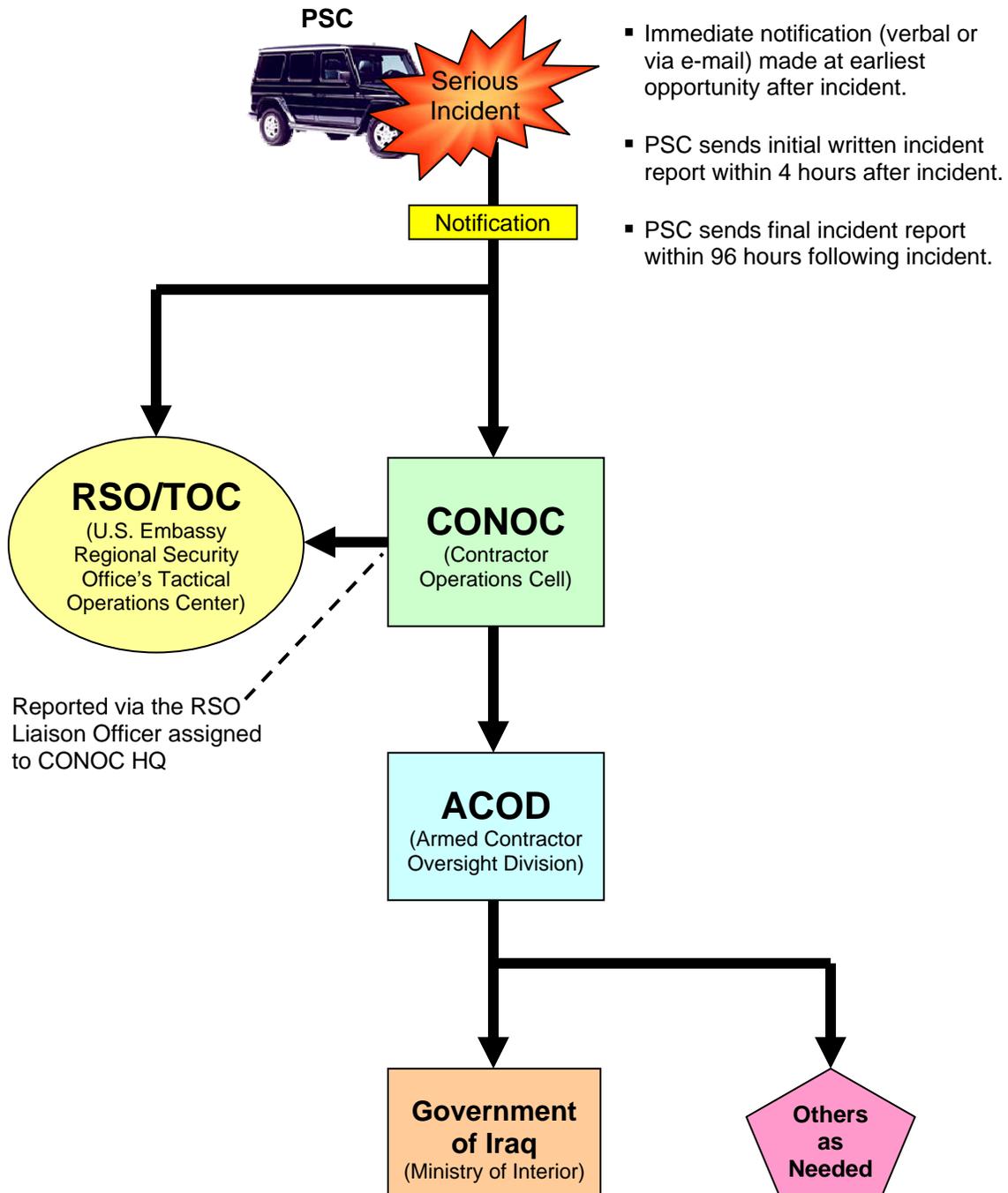
For example, the Multi-National Force-Iraq published comprehensive regulations—documented in a series of updated orders—covering areas related to PSC operations, including detailed procedures for reporting serious incidents. Although these orders were applicable to PSCs contracted by the Department of Defense, USAID's PSC subcontractors have relied on the orders for guidance as well and were expected to follow them in reporting serious incidents prior to the issuance of policy guidelines by Embassy Baghdad. Among other things, the orders required that PSCs observing or participating in a serious incident, such as a weapons discharge, provide an immediate incident report (or Spot report) to the Multi-National Corps-Iraq's Contractor Operations Cell (CONOC), which has responsibility for tracking and coordinating the movement of PSCs throughout Iraq. Following this initial notification, the PSC was required to issue an initial written draft of the serious incident report (initial SIR) to CONOC within 4 hours after the incident, followed by a final written report (final SIR) to be filed within 96 hours. CONOC forwarded these reports to other entities, including the Embassy's Regional Security Office's Tactical Operations Center (RSO/TOC) and Multi-National Force-Iraq's Armed Contractor Oversight Division (ACOD).³

In May 2008, Embassy Baghdad issued a set of policy directives that provided guidelines applicable to all PSCs operating in Iraq under either a contract or subcontract with any Federal agency under Chief of Mission authority. Although these new policy

³ In November 2007, the Armed Contractor Oversight Division was established to provide oversight of PSCs operating in Iraq and serve as a point of contact on policy issues relating to PSCs. In addition to publishing guidance, the division is responsible for reviewing and tracking all reported PSC incidents as well as facilitating coordination on PSC matters among Department of Defense, the Department of State, the Government of Iraq, and the PSC community.

directives were considered to be aligned for the most part with the guidance contained in the Multi-National Force-Iraq's operational orders, they contained a few key differences. One, specified in the policy directives, required PSCs to start reporting serious incidents directly to both CONOC and RSO/TOC, rather than only to CONOC as previously required under the Multi-National Force's reporting procedures.

Figure 1: Current Serious Incident Reporting Process



The audit, however, found that USAID's implementing partners were not always providing sufficient oversight over their PSCs with regard to the reporting of serious incidents. Site visits to three of the partners selected for review disclosed that procedures were in place to keep the partners informed on the PSC's day-to-day operations and other security matters, including the occurrence of any serious incidents. However, there appeared to be little effort made by the implementing partners to oversee the PSCs' reporting of such incidents to ensure that they were reported properly and within the prescribed time frames.

This lack of oversight was apparent during discussions with the partners' security and operations staff, who were often unfamiliar with the required reporting procedures outlined in the Embassy's policy directives or not even aware that the document existed. It was also reflected in the lack of records (i.e., incident reports) on file in the partners' offices documenting previously reported incidents. Examples include the following:

- One implementing partner had virtually no records on hand documenting any of the serious incidents reported by its PSC during fiscal year (FY) 2008. Of the ten serious incident reports (SIRs) issued by the PSC during the fiscal year, none were on file at the partner's office. During an interview, the partner's new security director acknowledged that prior to his arrival in July 2008, recordkeeping had been inadequate as evidenced by his inability to find any records documenting earlier serious incidents. Although he has made efforts to improve the recordkeeping, a review of his records, during a visit in October 2008, revealed that his file was still incomplete and missing at least one incident report issued since his arrival.
- Incident reports were also not on file at the office of a second partner, whose security records were limited primarily to security advisories and correspondence relating to various security matters. A review of these records found that they made reference to only 1 of the 13 serious incidents reported by the partner's PSC during FY 2008.

The lack of oversight in this area was attributed, in part, to the implementing partners' reliance on their PSCs for reporting serious incidents. Partners considered it the PSC's responsibility to ensure that incidents were properly reported and felt little need to be involved in overseeing this area, beyond being informed of incidents. Staffing was also a factor. At one implementing partner, the audit team noted that the partner had employed its own security director, whose primary responsibility was to work on security matters, including overseeing the PSC. Other partners, meanwhile, had assigned these tasks to officials who were already responsible for other operational areas and, therefore, were unable to devote enough time to overseeing the reporting process.

With little or no oversight in this area, implementing partners were not in a position to detect potential reporting deficiencies—such as those identified by the audit team—and, therefore, were unable to ensure that their PSCs were reporting incidents in accordance with prescribed procedures. Interviews with the PSC staff, for example, revealed a certain degree of confusion, with staff not always clearly understanding the reporting requirements—a problem of which the partners were unaware. To illustrate, one PSC official stated that he understood that serious incidents must be reported to RSO/TOC, but mistakenly thought that this only applied to incidents involving partner staff or activities. As a result, a vehicle accident in August 2008—which should have been reported—went unreported, since the passengers in the vehicle, some sustaining serious injuries, involved PSC staff only.

This confusion was also reflected in the PSCs' written procedures. In reviewing one PSC's flowchart that outlined its incident reporting process, the audit team noted that the procedures presented were not always consistent with those prescribed in the Embassy's policy directives and, in some cases, did not even accurately reflect actual practice. The flowchart indicated that initial SIRs were to be completed within 12 hours after the incident—not 4 hours as stipulated in the guidelines—and were not being issued to CONOC as required. Although this chart correctly indicated that final SIRs were to be issued to CONOC, the PSC acknowledged that this was not being done in actual practice. In fact, of the three required stages of notification to CONOC (spot report, initial SIR, and final SIR), the PSC official stated that only the spot reports were being sent to CONOC. When asked why, the official replied that this initial notification was the only reporting PSCs were required to provide to CONOC—which was incorrect and contrary to the Embassy's reporting guidelines.



A PSC team secures the immediate area while transporting staff with one of USAID's implementing partners. (Photograph source: PSC firm)

Given this confusion, coupled with possible recordkeeping issues at some locations, it was not surprising that incident reports prepared by the PSCs were not on file at some of the key offices within the incident reporting process. An analysis comparing the SIRs maintained by the PSC against those on file with other entities within the reporting chain, for the 7-month period from March 1 to September 30, 2008, disclosed some large discrepancies. Of the 10 SIRs prepared by one PSC, for example, only 4 (40 percent) were on file with the implementing partner; 5 (50 percent) with CONOC; 4 (40 percent) with ACOD; and 3 (30 percent) with RSO/TOC. Other examples are presented below.

Analysis of Incident Reports on File at Key Offices Within the Incident Reporting Process (March 1 to September 30, 2008)									
PSC		Implementing Partner		CONOC		ACOD		RSO/TOC	
No.	Total Reports	Reports on File	%	Reports on File	%	Reports on File	%	Reports on File	%
1	10	4	40%	5	50%	4	40%	3	30%
2	7	0	0%	4	57%	4	57%	2	29%
3	6	1	17%	2	33%	0	0%	2	33%
Totals	23	5	22%	11	48%	8	35%	7	30%

Unfortunately, we were unable to determine whether any of these incident reports eventually reached USAID/Iraq or whether the mission was ever notified of the incidents, since the mission did not have a formal reporting mechanism in place. Although PSCs often sent a copy of the incident report directly to the USAID Regional Security Officer (USAID RSO), believing that in doing so they were keeping the mission informed, these reports were probably not received by the mission because of a misunderstanding over the role of the USAID RSO. This individual, in actuality, is not a USAID employee, as the partners and PSCs mistakenly thought, but rather a DOS employee posted at the mission who serves as an onsite representative of the Embassy's RSO. And with regard to reported incidents, the USAID RSO serves as a conduit between the PSCs and the Embassy's RSO—but not the mission. Accordingly, unbeknownst to USAID's partners and their PSCs, the incident reports sent to the mission via the USAID RSO were generally not passed on to the mission and instead were forwarded to the Embassy's RSO. As a result, the mission was excluded from the reporting process, unless mission staff happened to learn about incidents through word of mouth or other channels.



A PSC team prepares to depart in a convoy of armored vehicles.
(Photograph source: PSC firm)

And while the audit did not encounter any instances where a serious incident—involving the death of an employee or local civilian—occurred without some manner of notification to the mission, the reporting was not always carried out in a timely manner. One such case involved the death of a guard employed by a PSC firm under contract with two of USAID's implementing partners. The guard, a third-country national, died on August 8, 2008, after being accidentally electrocuted at the partners' main compound, where he was assigned. An initial investigation revealed that an unauthorized, improperly wired electrical connection leading outside the compound had created a dangerous safety hazard, especially in the gym room (inside the compound), where the incident occurred.

Although the PSC reported the accident immediately, notifying CONOC within an hour after its occurrence, RSO/TOC did not receive details of the incident until August 12, 2008—4 days later—when it received the PSC's final SIR. USAID/Iraq, meanwhile, did not learn of the incident until the following day—5 days after the incident—when RSO/TOC forwarded the final SIR. During the subsequent investigation, an OIG investigator assisting in the investigation noted that the PSC staff was uncertain of whom they were supposed to notify. One PSC official thought such incidents were to be reported initially to CONOC only, and that in doing so, the Embassy RSO's requirement to report incidents to the RSO/TOC would be satisfied, since CONOC had an RSO liaison officer onsite. The official later acknowledged, however, that to comply with current policies, the incident should have been reported directly to RSO/TOC as well.

This and other examples show a clear need for PSCs to gain a better understanding of the required reporting procedures and for USAID's implementing partners to provide stronger oversight in this area. Now that PSCs will be subject to Iraqi laws—under the terms of the latest Security Agreement with the Government of Iraq—and with the U.S. Government expected to issue new rules of engagement and other security procedures as it executes the new agreement, it is critical that PSCs keep abreast of the current procedures and clearly understand and follow them. To help ensure that this is done, so that serious incidents are properly reported, with USAID receiving timely notification of these incidents as well—we are recommending the following:

Recommendation No. 1: *We recommend that USAID/Iraq require its implementing partners to establish procedures to monitor the reporting of serious incidents to ensure that such incidents are properly reported.*

Recommendation No. 2: *We recommend that USAID/Iraq require its implementing partners to notify the mission of all serious incidents by including the mission in the reporting of these incidents.*

EVALUATION OF MANAGEMENT COMMENTS

In its written comments on our draft report, USAID/Iraq concurred with the findings and recommendations contained in the report and described the monitoring and reporting procedures it planned to establish to address our concerns and strengthen oversight.

To address our recommendation relating to the monitoring of reported incidents, USAID/Iraq stated that it planned to incorporate a reporting provision into its prime contracts and grant agreements, outlining procedures for monitoring and reporting serious incidents. Among other things, these new procedures will include incident reporting procedures—consistent with those specified in Embassy Baghdad’s policy directives—to be carried out by the implementing partner’s private security contractor. In addition, the new reporting provision will require the mission’s implementing partners to: (1) ensure that they receive a copy of all serious incident reports issued by their private security contractors; (2) maintain detailed records (e.g., copies of incident reports) documenting all reported incidents to facilitate monitoring; (3) review applicable procedural guidance to gain a clear understanding of the current prescribed procedures for reporting serious incidents; and (4) regularly review the security contractors’ actual reporting procedures to ensure that they are consistent with those currently prescribed by Embassy Baghdad.

To address the second recommendation concerning the need for implementing partners to notify USAID/Iraq of all serious incidents, the mission stated that the reporting provision, referred to in the preceding paragraph, will also require implementing partners to include the mission in the reporting process for notification and recordkeeping purposes. Under this new reporting procedure, the mission’s partners will be required to furnish the mission with a copy of all incident reports that are issued—both the initial and final versions—within the same timeframes that these reports are required to be issued to Embassy Baghdad and other required recipients. To ensure that appropriate mission personnel are promptly notified of any serious incidents, the mission designated the Contracting Officer Technical Representative and Agreement Officer Technical Representative for each contract and grant award to serve as the point of contact for receiving the incident reports.

We believe that the above actions appropriately address our concerns. Consequently, we consider that a management decision has been reached on both recommendations. The mission’s comments are included in their entirety as appendix II.

SCOPE AND METHODOLOGY

Scope

We conducted this audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions.

Since USAID/Iraq did not have direct contracts with any private security contractors (PSCs)—only subcontracts through its implementing partners—the audit focused primarily on the partners’ oversight of their PSCs. At the time of the fieldwork, the mission maintained a portfolio consisting of 12 contracts and grant agreements involving a PSC subcontract. As of September 30, 2008, cumulative obligations and expenditures associated with the PSC subcontracts totaled approximately \$375.1 million and \$278.9 million, respectively.

The scope of the audit included only 3 of the 12 direct contracts and grant agreements in the audit universe—consisting of 2 contracts and 1 grant agreement—each with its own PSC subcontract, with these subcontracts representing 71 percent of the total PSC personnel employed and 62 percent of the total PSC funds obligated.

The audit, in general, covered the period from October 1, 2007 to September 30, 2008. However, in the case of one analysis—focusing on the reporting of serious incidents—the audit period was adjusted to cover the 7-month period from March 1 through September 30, 2008, to avoid distortions in the results, since certain key entities involved in this analysis were not in existence throughout fiscal year (FY) 2008.

In planning and performing the audit, the audit team assessed relevant controls used by the mission to manage its portfolio of contracts and grant agreements and to ensure that the implementing partners for those instruments were providing adequate oversight of their PSCs. Because the mission’s contractual relationship with these PSC subcontractors was indirect, USAID/Iraq’s management responsibilities, in the context of this audit, were fairly limited. Specifically, the mission’s controls were limited to: (1) ensuring that contracts with prime contractors having private security subcontracts be amended to include a clause representing an amendment to the Federal Acquisition Regulation (FAR 52.225-19), providing general guidelines for PSC personnel performing security functions as well as a provision that a similar clause be included in the prime contractor’s subcontract with the PSC; (2) requiring implementing partners to provide a monthly threat report listing any threat-related incidents that occurred during the preceding month; and (3) receiving financial data quarterly to track cumulative obligations and expenditures under both the prime contract and PSC subcontract. Additionally, the auditors examined the mission’s FY 2008 annual self-assessment of management controls, which the mission is required to carry out to comply with the Federal Managers’ Financial Integrity Act of 1982.

Audit fieldwork was performed at the USAID/Iraq Mission and the country offices for the three selected implementing partners and their PSCs, all of whom were located in Baghdad, Iraq, from September 22, 2008 through January 20, 2009.

Methodology

To determine whether USAID/Iraq had been managing its contracts and grant agreements to ensure that its implementing partners were providing adequate oversight of their PSCs, the audit team initially interviewed key USAID/Iraq staff in the mission's Office of Acquisition and Assistance, both by e-mail and in person, to ascertain the mission's management responsibilities in ensuring that its implementing partners provide oversight of their PSCs. One of the key tasks involved executing a policy ruling issued by the Federal Acquisition Regulatory Council, a Governmentwide body within the Office of Federal Procurement responsible for establishing and updating the Federal procurement regulations contained in the Federal Acquisition Regulation (FAR). This policy ruling, which went into effect on March 31, 2008, provided general guidelines that applied to armed contractors (e.g., rules of engagement, training, and hiring standards) and, in the case of USAID, required all prime contracts involving PSC services to be modified to include an additional clause (FAR 52.225-19), which provided these guidelines. This clause also included text requiring the contractor to incorporate the substance of the clause into its subcontract with the PSC. In determining whether the mission executed the policy ruling, the audit team examined the contract documents on file at the mission for all of the contracts in the audit universe and verified that the contracts had been modified to include the FAR clause. Selected PSC subcontract documents were also obtained and checked to verify that the contractors had included the substance of the clause in their subcontracts.

In assessing whether implementing partners were providing adequate oversight of their PSCs, the audit team reviewed each partner's procedures for monitoring PSC operations and keeping the partner and USAID informed on security matters, including serious incidents. This review involved discussions with security or operational officials at each of the three selected implementing partners to gain an understanding of the partners' procedures. Additionally, the auditors examined available records on file at each implementing partner's office, such as daily security reports and advisories, as evidence of the information received from the PSC and the extent of oversight provided by the implementing partner.

The audit team also conducted an analysis of the PSCs' reporting of serious incidents. This entailed a review of PSC reporting procedures to determine whether they were consistent with the latest reporting guidelines contained in "Policy Directives for Armed Private Security Contractors in Iraq," issued by the U.S. Embassy in Baghdad on May 18, 2008. This review also included a comparative analysis in which the auditors examined the serious incident reports issued by three selected PSCs during the 7-month period from March 1 to September 30, 2008, comparing the reports issued and on file with the PSC against those on file with other entities within the incident reporting chain. Other entities included the implementing partner, the Embassy's Tactical Operations Center, the central office for the Contractor Operations Cell, the Multi-National Force-Iraq's Armed Contractor Oversight Division, and USAID/Iraq. In conducting this analysis, we interviewed officials from each of these offices.

In assessing the results of our analyses, we established a materiality threshold of 85 percent. For example, if at least 85 percent of the incident reports issued by a PSC were found to be on file with the implementing partner and other offices within the reporting chain, we concluded that these reports were reaching the intended recipients.

MANAGEMENT COMMENTS



USAID | **IRAQ**
FROM THE AMERICAN PEOPLE

February 23, 2009

To: Director, Office of Inspector General/Iraq, Gerard Custer

From: USAID/Iraq Deputy Mission Director, Thomas R. Delaney /s/

Subject: Management Comments, Audit of USAID/Iraq's Oversight of Private Security Contractors in Iraq

References: Draft Audit Report No. E-267-09-002-P

Thank you for affording the USAID/Iraq Mission an opportunity to respond to the draft of the audit of USAID/Iraq's Oversight of Private Security Contractors (PSCs) in Iraq. Below is the Mission's response to the two (2) recommendations outlined in the draft audit for your consideration.

We would also like to thank your team who spent a good deal of time evaluating this issue. This mutual effort will certainly result in improved oversight to the extent possible, given that since 2005, USAID/Iraq has not maintained any direct contracts with PSCs, but has only sub-awards through its contractors and grantees (i.e., our implementing partners). Accordingly, we understand that this audit focused primarily on the oversight that these implementing partners exercised over their PSC subcontractors, particularly with regard to the reporting of serious incidents. We look forward to resolving the two recommendations in a timely fashion.

Background

The OIG draft audit report of the Mission's oversight of the Private Security Contractors in Iraq (PSCs) was provided to the Mission on January 21, 2009. The audit sought to determine whether USAID/Iraq has managed its contracts and grant agreements with implementing partners such that the implementing partners provided adequate oversight of private security contractors.

Each of the findings has been examined to determine 1) whether the Mission is in agreement, and 2) what actions would be undertaken in response to the audit. Where management actions in response to the audit are not yet resolved, the Mission will provide target dates for their completion. The Mission recognizes the value as a management tool of this OIG audit, and is in agreement with both of the audit's recommendations.

Recommendation No. 1:

We recommend that USAID/Iraq require its implementing partners to establish procedures to monitor the reporting of serious incidents to ensure that such incidents are properly reported.

Action taken:

USAID/Iraq concurs with the recommendation and is taking the following actions:

1. Within 90 days (or by June 30, 2009, whichever is later) OAA/Baghdad will ensure, through formal modification, an update of Section H (Special Award Conditions) of all prime contracts, or to the Schedule (Section A) of all prime assistance awards to include the following reporting provision:

SERIOUS INCIDENT REPORTING REQUIREMENTS**DEFINITIONS**

Private Security Contractor (PSC): A private company, and or its personnel, that provides physical protection to or security for persons, places, buildings, facilities, supplies, or means of transportation.

Protective Security Specialist (PSS): An individual performing static or mobile security functions on a personnel protective security detail assignment, as authorized by contract.

Protective Security Detail (PSD): A team of PSS personnel that provides physical protective services for the movement of protected persons and/or property.

Static Guards: an individual who is providing security at facilities and/or check-points.

Serious Incident: An incident involving the use of deadly force, the discharge of a weapon (other than in training or into a clearing barrel), and/or an incident that resulted in death, serious injury, significant property damage (even if a weapon is not involved), or other serious consequences.

The following reporting requirements apply to all PSCs (including static guards) regardless of whether their movements are coordinated through the RSO Tactical Operations Center (TOC) or the Multi-National Corps Iraq (MNC-I) Contractor Operations Cell (CONOC).

PSCs must provide notification, either verbal or in writing via email, of any serious incident to the RSO TOC - and to the CONOC if PSD movements are coordinated by the CONOC – as soon as practical, but not later than **one hour** after the incident. This notification must provide as many details known at the time about the incident. PSCs must submit an initial formal written incident report within **4 hours** of the incident to the prime

contractor/recipient. The prime contractor/recipient **must ensure** that the report has been appropriately disseminated (to the TOC or CONOC) and that it is concurrently sent to the USAID cognizant contracting/grant officer representative (COTR/AOTR) **immediately** upon receipt. The initial report will include the name of the company, where the incident occurred, time when the incident occurred, a brief description of the events leading up to the incident, and a point of contact for the company. A follow-up, comprehensive written report of events surrounding the incident must be provided within 96 hours unless otherwise directed by the RSO.

Follow-up reports must be submitted, with confirmed receipt, to the prime contractor, the RSO TOC in addition to any other supervising contractors and to the cognizant contracting/grant officer representative (COTR/AOTR). Although subject to RSO discretion, RSO will generally investigate incidents involving a confirmed or likely death or serious injury, or where criminal misconduct may have occurred. The prime contractor/recipient must ensure timely investigation occurs and that all records are maintained on file.

The prime contractor/recipient is responsible for ensuring that they and all sub-awardees are familiar with and comply with relevant Chief of Mission and US Central Command policies, rules and requirements, as well as USAID requirements and applicable Iraqi law.

At a minimum, these procedures require the partners to: (1) ensure that they receive a copy of all serious incident reports issued by their PSC; (2) maintain detailed records (e.g., copies of incident reports) documenting all reported incidents to facilitate monitoring; (3) review applicable procedural guidance to gain a clear understanding of the current prescribed procedures for reporting serious incidents; and (4) regularly review their PSC's actual reporting procedures to ensure they are consistent with those current and prescribed by the U.S. Embassy.

2. Prior to formal modification of the subject awards, OAA/Baghdad will issue an A&A Notice executed by the Supervisory Contracting Officer, with input by the U.S. Embassy Baghdad Regional Security Office (RSO), communicating this mandatory monitoring and reporting requirement to all implementing partners concurrent with the issuance of this audit report.

Recommendation No 2:

We recommend that USAID/Iraq require its implementing partners to notify the Mission of all serious incidents by including the mission in the reporting of these incidents.

Action taken:

USAID/Iraq concurs with the recommendation and is taking the following actions:

1. In accordance with Recommendation No. 1 above, additional monitoring and reporting requirements related to their administration and oversight of the PSC sub-awards will be required of each implementing partner. These requirements include an immediate and timely copy provided to the Mission for the reporting of all serious

incidents (i.e., incidents involving the issuance of a Serious Incident Report or SIR). In addition, Mission management must be, at a minimum, verbally notified of any SIR within 6 hours of the actual event. Subsequently, the implementing partner will be required to furnish the Mission (in addition to the USAID RSO) with a copy of the incident reports that are issued—including the initial and final version of the SIR—within the TOC and CONOC required timeframes for notification and federal recordkeeping purposes. The Mission has designated the COTR/AOTR for each award to serve as the point person for receiving these reports.

With the above measures, the PSCs will gain a better understanding of the required reporting procedures and USAID's implementing partners will be able to provide stronger oversight in this area. Now that PSCs will be subject to Iraqi laws—under the terms of the latest Security Agreement with the Government of Iraq—and with the U.S. Government expected to issue new rules of engagement and other security procedures as it executes the new agreement, we agree that it is critical that all USAID funded PSCs keep abreast of the current procedures and clearly understand and follow them.