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## OFFICE OF INSPECTOR GENERAL

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# AUDIT OF THE PROCUREMENT PROCESS FOR A NATIONAL IDENTIFICATION CARD AND PASSPORT SYSTEM FINANCED BY THE MILLENNIUM CHALLENGE CORPORATION AND MONITORED BY USAID/PARAGUAY

AUDIT REPORT NO. 1-526-08-005-P  
JUNE 27, 2008

SAN SALVADOR, EL SALVADOR



**USAID**  
FROM THE AMERICAN PEOPLE  
*Office of Inspector General*

June 27, 2008

**MEMORANDUM**

**TO:** USAID/Paraguay Mission Director, John A. Beed

**FROM:** Regional Inspector General/San Salvador, Timothy E. Cox /s/

**SUBJECT:** Audit of the Procurement Process Used for a National Identification Card and Passport System Financed by the Millennium Challenge Corporation and Monitored by USAID/Paraguay Program (Report No. 1-526-08-005-P)

This memorandum transmits our final report on the subject audit. In finalizing the audit report, we considered your comments on the draft report and have included them in Appendix II of the report. This report includes one recommendation for your action. Based on your comments, a management decision has been reached on the report recommendation. Please notify USAID's Audit, Performance, and Compliance Division (M/CFO/APC) when final action on the recommendation has been completed.

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

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# SUMMARY OF RESULTS

To help Paraguay meet a criterion for control of corruption, which would make Paraguay competitive for expanded funding from the Millennium Challenge Corporation (MCC), the MCC has established a threshold program to help Paraguay fight corruption. USAID/Paraguay is responsible for administering and monitoring the threshold program. Component four of the threshold program includes the procurement of a new national identification card and passport system. This procurement, which is expected to cost several million dollars, was the focus of our audit (page 2).

In response to a request by USAID/Paraguay, prompted by Government of Paraguay (GOP) allegations of favoritism and based on concerns that certain individuals or entities may have acted inappropriately prior to and during the contracting process, the Regional Inspector General (RIG)/San Salvador performed an audit to determine whether the procurement of the national identity card and passport system was conducted in accordance with the Federal Acquisition Regulation. As a procurement financed by the U.S. Government, the procurement was not managed in accordance with Paraguayan government regulations. Instead, as a matter of policy, the contractor that managed the procurement adhered to the Federal Acquisition Regulation followed by the U.S. Government (page 2).

Our audit confirmed that the procurement process for the national identity card and passport system was conducted in accordance with the Federal Acquisition Regulation. No evidence was found that would indicate that USAID's contractor acted with favoritism, but there is evidence that six GOP officials engaged in inappropriate behavior during the procurement process (pages 4 - 9):

- One member of the technical evaluation committee behaved in a manner that created an appearance of favoritism toward a specific offeror (page 7).
- Four members were present during an incident where a copy of the draft terms of reference for the procurement was removed from the contractor's premises. At this stage of the procurement, the terms of reference were confidential in nature and were not to be removed from the contractor's offices (page 8).
- A sixth member who we interviewed had a copy of the committee's minutes with the scores assigned to each proposal. These scores were sensitive information that was not to be removed from the contractor's office (page 8).

This report recommends that USAID/Paraguay obtain evidence that any officials whose behavior renders them unsuitable for service on the threshold program have been removed from the program (page 9).

USAID/Paraguay agreed with our recommendation. USAID/Paraguay's contractor has informed the Government of Paraguay that four of the individuals discussed above can no longer participate in the program, and a fifth individual is no longer working on the program. USAID/Paraguay will stop working with the sixth individual upon designation of a replacement by the Government-elect of Paraguay (page 10 and Appendix II).

# BACKGROUND

Paraguay is eligible for Millennium Challenge Corporation (MCC) threshold funding, and would be competitive for expanded funding if it were to meet a criterion for control of corruption. USAID and the GOP signed the Millennium Challenge Account Threshold Program Strategic Objective Grant Agreement for Paraguay in 2006, aimed at fighting corruption. Although this is an MCC program with MCC funding, USAID/Paraguay has been given responsibility for administering and monitoring the implementation of the program.

The program includes 10 components. Component four originally included two main activities:

- Network and integrate the Motor Vehicles Registry, the Judiciary Court Records Registry and the Department of Identification of Persons Registry.
- Strengthen the system of registration and identification of persons to maintain a more reliable system of personal identification.

In 2006, the GOP, USAID, and USAID's contractor – Casals & Associates – agreed to include the addition of a new passport system to component four, recognizing that this was not part of the original program and that no additional funds would be made available for this expansion of the scope of the activity. On February 20, 2007, the contractor agreed to include an automated fingerprint identification system (AFIS) as part of the terms of reference for the national identification system, but the contractor noted that an AFIS was not part of the program and it reserved the right to negotiate the inclusion or exclusion of an AFIS based on the availability of funding.

Our audit focused on the procurement of the new national identification card and passport system, which is still in the process of being awarded as a subcontract by USAID's contractor. The procurement amount is expected to be several million dollars. Since the procurement is being financed through a grant agreement between the U.S. Government and the Government of Paraguay, the procurement is not subject to Paraguayan procurement law but, as a matter of policy, USAID's contractor adheres to the U.S. Government Federal Acquisition Regulation.

## AUDIT OBJECTIVE

In response to a request by USAID/Paraguay and the U.S. Ambassador, based on allegations from the GOP Coordinating Unit that USAID's contractor had acted with favoritism during the procurement process and based on concerns that certain individuals or entities may have acted inappropriately prior to and during the contracting process, the RIG/San Salvador performed an audit to answer the following question:

- Was the procurement of the national identity card and passport system conducted in accordance with the Federal Acquisition Regulation?

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



# AUDIT FINDING

The procurement of the national identity card and passport system was conducted in accordance with the Federal Acquisition Regulation (FAR). No evidence was found to support Government of Paraguay (GOP) allegations that the contractor, Casals & Associates, acted with favoritism toward one of the offerors, but there is evidence that some GOP officials acted inappropriately during the procurement.

The results of our review of compliance with the FAR are summarized below:

- The request for proposals (RFP) described the GOP's requirements and the anticipated contract terms and conditions in accordance with FAR 15.203. The RFP was approved by the GOP and USAID's Bureau of Enterprise Architecture before it was issued.
- In accordance with FAR Part 5.101 (b), the procurement opportunity was advertised in two local newspapers in Paraguay, a U.S. newspaper, and a technical magazine's website.
- In compliance with FAR Part 5.203 (c), the contractor issued the RFP on September 15, 2007 and asked for responses by October 22, 2007, 47 days later.
- A total of 137 firms requested the RFP, and 11 firms submitted proposals.
- The contractor disqualified five proposals as they failed to provide documentation showing sufficient experience. This requirement for ten years of experience was clearly stated in the RFP and is in accordance with prior experience requirements in FAR Part 15.304 (c) (2). The contractor also properly documented its determination for these disqualifications.
- When interested firms asked questions, the contractor treated offerors equitably by communicating the responses to all the firms in compliance with FAR Part 15.306 (e) (1).
- The technical evaluation committee, comprised of three GOP officials, two contractor officials, and one USAID official, met on several occasions in December 2007 and January 2008 to determine each proposal's technical merit and the offerors' ability to meet technical requirements. In accordance with FAR Part 15.305 (a) (3), each member of the committee assigned points to each firm and provided written justification for the final scores on January 9, 2008.
- The evaluation factors used by the technical evaluation committee were the same ones described in the RFP, in accordance with FAR Part 15.305 (a).

As part of our audit, we examined several specific GOP questions or allegations about how USAID's contractor managed the procurement. These allegations or questions are addressed below:

- For the offerors that were disqualified, why was each firm disqualified?

One firm was disqualified because its proposal did not include a specific section showing 10 years of experience. Also, the firm did not provide evidence of its creation or legal status and did not provide documentation of the legal existence of its subcontractors.

A second offeror was disqualified because it presented its proposal as a consortium, rather than as a firm as required. Also, the offeror did not have 10 years of experience.

A third offeror was disqualified because it did not provide documentation of its legal existence, did not have 10 years of experience, and did not provide any financial documentation.

Finally, two more offerors were disqualified because they did not have 10 years of experience.

The contractor explained the prequalification process to the technical evaluation committee, stating that the contractor would first review all proposals to assure that they complied with the administrative requirements of the RFP and then present a list of disqualified and qualified companies to the technical evaluation committee for review. The contractor asked the technical evaluation committee members if they wanted to participate in the prequalification process, but only the contractor's own members on the committee participated since no other members expressed interest in participating in this process. Also, on December 11, 2007, Casals & Associates presented its review of the 11 companies with a list of documentation and comments regarding each of the 11 proposals, specifically stating the reasons why each of the five companies were disqualified. The TEC was provided with this information as part of the minutes. Casals & Associates provided the TEC members with the opportunity to review and verify its findings. At this time, there were no objections made by any of the TEC members regarding the disqualified companies.

- Why was one of the offers deemed acceptable when the offeror did not have 10 years of experience and why was USAID's contractor allowed to contact this firm for clarification?

This offeror presented a list of previous clients and work performed that demonstrated more than 10 years of experience. However, after the technical evaluation committee was formed, one member of the technical evaluation committee noted that the offeror was incorporated in Delaware only nine years ago, and wondered whether or not this circumstance contradicted the representation that the company had more than 10 years of experience. USAID's contractor sought clarification from the company and determined that, while the Delaware incorporation was nine years old, the company had been incorporated in California 25 years ago. This clarification was appropriate in the sense that the FAR does not limit such communication with offerors. In fact, FAR Part 15.306 (b) (2) states that communications may be conducted to enhance understanding of proposals or allow reasonable interpretation of the proposal, and the request for proposals specifically stated that the procuring entity could, at its discretion, contact offerors for clarifications.

- At the end of the technical evaluation process, why didn't USAID's contractor contact one of the firms to answer a question about whether the firm was offering to provide its source code? It has been alleged that USAID's contractor favored one firm since this firm was contacted at the beginning of the technical evaluation process (see the previous point above), but then the contractor would not contact another firm at the end of the technical evaluation process to clarify the source code question.

One of the offerors submitted a proposal that was ambiguous with respect to its source code. In one place the proposal said that the offeror would provide the source code and in another place the proposal mentioned this as only a possibility. To resolve the ambiguity, USAID's contractor examined the offeror's cost proposal, which is a separate document and was not provided to the technical evaluation committee. The cost proposal indicated that the offeror was providing a server users license, a type of license that the contractor concluded would not convey the right to the offeror's source code. Three members of the committee, representing the GOP, USAID, and USAID's contractor, in their capacity as information technology specialists, specifically supported this conclusion. However, another GOP member of the committee insisted that the offeror should be contacted for clarification and asked for the opportunity to change his scoring of all the proposals. No other member of the committee asked for the opportunity to revise their scoring of the proposals (see below). Furthermore, the RFP does not explicitly require that the source code be provided, but rather states that "... the offeror must include software generators, API (Application Program Interface) or similar, so that the Computer Department of the National Police can perform modifications, include or replace modules according to the needs of the Identification Department."

- Why was USAID's contractor allowed to review the cost proposals during the technical evaluation process?

There is nothing in the FAR or in the terms of the RFP that prohibits the contractor from consulting an offeror's cost proposal in order to resolve an ambiguity in its technical proposal.

- Why wasn't the GOP or USAID involved in reviewing the cost proposals?

There is no requirement, either in the FAR or in the contract between USAID and its contractor, specifying that either the GOP or USAID be present or participate in reviewing cost proposals.

- Why wasn't one member of the technical evaluation committee allowed to re-score the proposals after the scores from all of the members had been tabulated?

According to the technical evaluation committee minutes from January 15, 2008, one member of the committee wanted to re-evaluate his scoring of the proposals after all of the members had submitted their scores and they were tabulated. At this point, all of the members of the committee could see how the proposals had been scored by each member of the committee and by the committee as a whole. A request by a member to re-score the proposals at this point might easily be viewed as irregular, since tabulation of all the scores indicated to all of the members the relative positions of the individual proposals. The minutes from the technical evaluation committee meeting on January

15, 2008 state that “no other member of the TEC requested to revise his score” and the minutes from the committee meeting on January 9, 2008 state that “the following average scores are final.”

- Once the qualified technical proposals have been selected, is the contractor allowed to negotiate (a lower price) with one or more of the technically qualified offerors?

The contractor is allowed to negotiate with offerors included in the competitive range as outlined in FAR 15.306 (c) and (d).

While our audit did not identify any misconduct on the part of USAID’s contractor, there is evidence that certain GOP officials behaved inappropriately during the procurement. Details are provided in the finding below.

## **Some GOP Officials Behaved Inappropriately During the Procurement**

Summary: Fairness is a central concern in any competitive procurement process. However, some GOP officials involved in the procurement of the national identification card and passport system engaged in inappropriate behavior during the procurement. While the internal controls established by USAID/Paraguay and its contractor identified these instances of inappropriate behavior opportunely, the behavior, to some degree at least, undermined the credibility of the threshold program which is directed toward bringing corruption under control.

A central concern in all competitive procurement processes is ensuring that offerors are treated fairly and without favoritism. This principle underlies the entire FAR but is more specifically described in FAR 15.305 (a), which requires that proposals must be evaluated based solely on the evaluation factors described in solicitation documents, and FAR 15.306 (e) (1), which states that any conduct that favors one offeror over another must be avoided.

However, some of the GOP officials involved in this procurement acted inappropriately during the procurement as described below:

- A member of the TEC behaved in a way that created an appearance of favoritism toward one of the offerors. This was evident from the member’s scoring of the proposals and from other circumstances and judgments made by the member. For example, one paragraph from the RFP stated that “... the offeror must include software generators, API (Application Program Interface) or similar, so that the Computer Department of the National Police can perform modifications, include or replace modules according to the needs of the Identification Department.” The member interpreted this language as requiring offerors to make their source code available to the GOP, which it manifestly did not. Further, in scoring the proposals, the member indicated that only one offeror – the one he favored – offered to provide its source code. This was, at best, a misinterpretation. The offeror he favored submitted a proposal that was ambiguous with respect to its source code. In one place the proposal said that the offeror would provide the source code and in another place the proposal mentioned this as only a possibility. On the other hand, the member concluded that another offeror was not offering its source code when in fact

this offeror's proposal clearly offers its source code to the GOP. As another example, when asked if he had had any contact with any offerors before or during the procurement, the member stated categorically that he had not. However, we obtained an e-mail thread indicating that there was contact between the member and the offeror that he favored before the RFP was issued. Based on these and other circumstances, we concluded that this official acted inappropriately during the procurement.

- Four other GOP officials were present during an incident where the draft terms of reference were removed from the contractor's office before it was released to offerors. The terms of reference were confidential at that stage of the procurement and therefore were not to be removed from the contractor's office (members of the TEC had signed confidentiality statements that explicitly mention this). The contractor had taken rather elaborate precautions to protect the terms of reference, including labeling each copy with the name of an individual on the working group, and these measures allowed the contractor to immediately determine that a copy of the terms of reference was missing. After interviewing the four officials involved, and reading a written account prepared immediately after the incident occurred, we do not find the official explanation of this incident as an "unintentional mistake" to be credible. The official whose copy of the terms of reference was removed from the contractor's office was not permitted to participate further in the procurement but he continues to work on the threshold program in the GOP Coordinating Unit. No action was taken against any of the other officials, including the official who allegedly removed the copy from the contractor's office, the official who returned it, and a fourth official who said that he was not involved. Because no one else was present when the terms of reference were taken from the room where the content was being reviewed, it is hard to assign responsibility for the incident to specific individuals. Still, under the circumstances, we do not believe that it would be prudent to place any of these individuals in positions of trust.
- A sixth GOP official (and member of the technical evaluation committee) had a copy of the committee's minutes with the scores assigned to each proposal when we interviewed him during the audit. This is extremely sensitive information and no member of the committee was permitted to take this document out of the contractor's office.

It is customary in audit findings to describe the cause of any problems identified. The cause is usually described as an internal control weakness or procedural deficiency that allowed the problems to occur. In this case, there was no such internal control weakness or procedural deficiency on the part of either USAID/Paraguay or its contractor. USAID/Paraguay assigned a staff member who participated in the working group that developed the RFP and the TEC that scored the technical proposals received. The contractor also had two staff members participating in these committees and took other measures to protect sensitive procurement information during the procurement process. While no system of internal control can prevent all problems from occurring – and it would not usually be cost effective or practical to try – the controls established by USAID/Paraguay and its contractor were effective in detecting inappropriate behavior opportunistically so that these incidents could be reported to our office for follow-up.

The instances of inappropriate behavior described above undermined, at least to some

degree, the credibility of the threshold program, which is aimed at combating corruption and impunity.

*Recommendation No. 1: We recommend that USAID/Paraguay obtain evidence that any officials whose behavior renders them unsuitable for service on the threshold program have been removed from the program.*

# EVALUATION OF MANAGEMENT COMMENTS

USAID/Paraguay generally agreed with the audit report and recommendation. USAID/Paraguay's contractor has informed the Government of Paraguay that four of the individuals discussed in the report can no longer participate in the program, and a fifth individual has already stopped working on the program. USAID/Paraguay will stop working with the sixth individual upon designation of a replacement by the Government-elect of Paraguay. Based upon the information provided in USAID/Paraguay's comments, a management decision has been reached on the report recommendation.

# SCOPE AND METHODOLOGY

## Scope

RIG/San Salvador conducted this performance audit in accordance with generally accepted Government auditing standards to determine if the procurement of the national identity card and passport system was conducted in accordance with the Federal Acquisition Regulation (FAR). 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. Audit fieldwork was conducted at USAID/Paraguay from March 3, 2008, through March 7, 2008. The audit covered the period from May 30, 2006 through February 29, 2008.

In planning and performing the audit, we assessed USAID's internal controls related to the procurement process. Specifically, we reviewed the following controls: the cognizant technical officer's (CTO's) approval of the contractor's work plan, the CTO's review of the contractor's quarterly progress reports, the participation of a USAID staff member in the working group and technical evaluation committee for the procurement, the CTO's official designation by USAID's contracting officer, and the requirement for USAID consent to the subcontract to be awarded by its contractor. We also conducted interviews with key USAID/Paraguay personnel, contractor officials, and Government of Paraguay (GOP) officials. We conducted the audit at USAID/Paraguay, located in Asuncion, Paraguay and visited GOP officials and contractor personnel located in Asuncion.

## Methodology

To answer the audit objective, we reviewed the task order with USAID's contractor and the RFP related to the procurement in question. We also reviewed the implementing partners' agreement documents, progress reports, detailed task schedule, documentation related to the technical evaluation committee meetings, and correspondence.

We also conducted interviews with USAID/Paraguay officials, GOP officials involved in the procurement process, and contractor officials. We compared the procurement procedures followed with FAR parts 5 and 15 to determine if the procurement was conducted in accordance with the FAR.

# MANAGEMENT COMMENTS

## UNCLASSIFIED MEMORANDUM

TO: Regional Inspector General/San Salvador, Timothy E. Cox

FROM: USAID/Paraguay Mission Director, John A. Beed

SUBJECT: RIG Audit Report – MCC Threshold Program Sub-procurement

### MANAGEMENT COMMENTS:

#### General comments:

USAID/Paraguay has reviewed the RIG audit report of the referenced MCC Threshold Program sub-procurement. We appreciate the professionalism of you and the RIG audit team throughout your review and the audit interviews conducted in Paraguay. We have the following comments and submit below an outlined plan of action to respond to the Audit Recommendation.

USAID/Paraguay would like to underscore both the complexity of developing a new Identification (ID) and passport system for Paraguay, and the significant amount of consultative effort that went into developing the final product, or Terms of Reference (TOR). While it is just one activity/objective under one of ten MCC program components, the scope and scale of the ID system activity is one of the most ambitious efforts under the program, and its largest planned sub-procurement.

Given the interest of both USAID and the MCC in emphasizing host country partnership and ownership for this Threshold Program, the Mission and the USAID contractor developed the Terms of Reference (TOR) for this procurement in a highly-participative manner with cognizant and technical officials of the Government of Paraguay (GOP) Identification Department and Coordinating Unit, as well with staff from the prime contractor, Casals & Associates and USAID.

The TOR also was vetted with USAID/Washington's Office of Business Enterprise Architecture as the Agency's central technical authority for assisting with and evaluating program Information Communications Technology (ICT) activities. Thus, the final TOR document reflects the input of local, regional and international contractor expertise, the GOP, and both USAID/Paraguay and USAID/Washington. The final TOR was shared among all parties, and the final text of the TOR is the result of extensive analyses and exhaustive consultations. The final TOR was also approved by the GOP Coordinating Unit before the solicitation began.

Generally speaking, USAID/Paraguay accepts and will implement the RIG audit recommendation. It merits noting that Paraguay is in the midst of a comprehensive political transition, having just completed presidential and national elections on April 20, 2008. A new Government, formed out of a coalition of opposition parties, has been elected and will assume power on August 15, 2008. For this transition period, a council

chaired by the current Vice President and the Vice President-elect Paraguay has been designated as the mechanism through which international donor projects should operate until the new government takes power.

USAID/Paraguay will work closely with the official transition structure and the Government-elect to ensure that the recommendation is followed. As soon as the Government-elect names its new MCC Coordinator, USAID will meet with him/her and present the audit findings. We should also note that in addition to assuming host country responsibility for the successful completion of the current MCC Threshold program, the Government-elect has been made eligible by the MCC to present a proposal for a second stage of MCC Threshold Program assistance.

Finally, we recommend that once the contractor issues a decision letter regarding the ID/passport subcontract award, that the contractor holds debriefings with all bidders, per FAR 15.306.c.4, so that interested organizations have the opportunity to strengthen their proposals or applications for future procurements. We will provide this recommendation with a clear understanding of the limitations that exist in the contractual relationship (s) between USAID, its prime partner, and subcontractors.

#### RESPONSE TO AUDIT RECOMMENDATION:

*Recommendation No. 1 [from audit report]: We recommend that USAID/Paraguay obtain evidence that any officials whose behavior renders them unsuitable for service on the threshold program have been removed from the program.*

The following is an outline of actions (in addition to those mentioned above) that have already taken place or will take place once the new MCC Coordinator is officially selected by the government-elect:

--The U.S. Ambassador has communicated the RIG audit findings directly to the Paraguayan Minister of Foreign Affairs.

--Based on the finding, USAID and Casals & Associates met subsequently with the Head of the GOP Department of Identifications to convey that the four officials from the Identifications Department cannot be involved in the MCC Threshold Program. At this time, USAID/Paraguay also presented a letter regarding the firm selected and the technical assistance to be provided under the sub-procurement.

--Casals & Associates and the sub-contractor will implement the new ID/Passport system directly through the GOP's Head of National Identification, without the involvement of the four individuals involved in the report.

--Upon designation of the new MCC coordinator for the Government-elect, USAID will cease to work with the two Coordinating Unit members identified in the audit report. One member is no longer working at the Coordinating Unit.

In closing, we believe the above steps fully implement the RIG's audit recommendation, and once again express our thanks to your office for their professionalism and expedience in assisting the United States Government in resolving this sensitive issue between the GOP and USG.

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