Department of Health and Human Services

OFFICE OF INSPECTOR GENERAL

POTENTIA NAMIBIA RECRUITMENT CONSULTANCY GENERALLY MANAGED THE PRESIDENT'S EMERGENCY PLAN FOR AIDS RELIEF FUNDS AND MET PROGRAM GOALS IN ACCORDANCE WITH AWARD REQUIREMENTS

Inquiries about this report may be addressed to the Office of Public Affairs at Public.Affairs@oig.hhs.gov.

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Deputy Inspector General

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Office of Inspector General

https://oig.hhs.gov

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OFFICE OF AUDIT SERVICES FINDINGS AND OPINIONS

The designation of financial or management practices as questionable, a recommendation for the disallowance of costs incurred or claimed, and any other conclusions and recommendations in this report represent the findings and opinions of OAS. Authorized officials of the HHS operating divisions will make final determination on these matters.

EXECUTIVE SUMMARY

BACKGROUND

The United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003 (P.L. No. 108-25) (the 2003 Act) authorized the President's Emergency Plan for AIDS Relief (PEPFAR). PEPFAR's initial authorization of $15 billion expired on September 30, 2008. The Tom Lantos and Henry J. Hyde United States Global Leadership Against HIV/AIDS, Tuberculosis, and Malaria Reauthorization Act of 2008 (P.L. No. 110-293) (the 2008 Act) authorized an additional $48 billion for the 5-year period beginning October 1, 2008, to assist foreign countries in combating HIV/AIDS, tuberculosis, and malaria.

The 2008 Act gives the Department of Health and Human Services' (HHS) Centers for Disease Control and Prevention (CDC) a leadership role in several key areas of research and evaluation in implementing HIV/AIDS programs, including program monitoring, impact evaluation, and operations research. Through its Global HIV/AIDS Program, CDC implemented PEPFAR, working with ministries of health and other in-country partners to combat HIV/AIDS by strengthening health systems and building sustainable HIV/AIDS programs in more than 75 countries in Africa, Asia, Central and South America, and the Caribbean.

HHS receives PEPFAR funds from the Department of State through a memorandum of agreement, pursuant to the Foreign Assistance Act of 1961 (P.L. No. 87-195), as amended, and the 2003 Act, as amended. For fiscal year 2009, CDC "obligated" PEPFAR funds totaling $1.2 billion. CDC awarded these funds through cooperative agreements, which it uses in lieu of grants when it anticipates the Federal Government's substantial involvement with recipients in accomplishing the objectives of the agreements. The regulations that apply to Federal grants also apply to cooperative agreements.

Through a 5-year cooperative agreement (grant number 5U62PS025154), CDC awarded PEPFAR funds totaling $14,486,635 to Potentia Namibia Recruitment Consultancy (Potentia) for the budget period April 1, 2009, through March 31, 2010. Potentia provides management and recruitment services, including a variety of human resource management services, such as payroll. Potentia entered the cooperative agreement with CDC to support the Namibia Ministry of Health's (Ministry) efforts to combat the HIV/AIDS epidemic in Namibia. The goals of the cooperative agreement were to:

- advertise for and recruit medical professionals, technical specialists, and administrative support personnel;
- manage the payroll function for PEPFAR employees; and
- support human resources management.

OBJECTIVE

Our objective was to determine whether Potentia managed PEPFAR funds and met program goals in accordance with the award requirements.

SUMMARY OF FINDINGS

Potentia generally managed PEPFAR funds and met program goals in accordance with award requirements. With respect to financial management, specifically financial transaction testing, we found that $249,062 of $250,710 was allowable but $1,648 was not. Specifically, of the 30 financial transactions tested, 26 transactions totaling $185,113 were allowable. However, for two transactions totaling $37,177, Potentia overstated costs by $2,846; for two transactions totaling $28,420, Potentia understated costs by $1,198. In addition, Potentia used $173,354 of PEPFAR funds to pay potentially unallowable value-added taxes (VAT) on earnings from recruitment services and retainer fees. Furthermore, although Potentia had adequate support for 35 sample items from its interim progress report, it did not submit an annual progress report.

These errors occurred because Potentia did not have adequate policies and procedures to ensure that all expenditures were allowable and that it filed an annual progress report.

RECOMMENDATIONS

We recommend that Potentia:

- refund $1,648 in net unallowable expenditures,
- work with CDC to resolve whether the $173,354 of VAT was an allowable expenditure under the cooperative agreement, and
- develop and implement policies and procedures for ensuring that:
    - all expenditures are allowable and
    - annual progress reports are submitted in a timely manner.

POTENTIA NAMIBIA RECRUITMENT CONSULTANCY COMMENTS

In comments on our draft report, Potentia concurred with our recommendations and described corrective actions that it had taken or planned to take to address most of our recommendations.

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INTRODUCTION

BACKGROUND

President's Emergency Plan for AIDS Relief

The United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003 (P.L. No. 108-25) (the 2003 Act) authorized the President's Emergency Plan for AIDS Relief (PEPFAR). PEPFAR's initial authorization of $15 billion expired on September 30, 2008. The Tom Lantos and Henry J. Hyde United States Global Leadership Against HIV/AIDS, Tuberculosis, and Malaria Reauthorization Act of 2008 (P.L. No. 110-293) (the 2008 Act) authorized an additional $48 billion for the 5-year period beginning October 1, 2008, to assist foreign countries in combating HIV/AIDS, tuberculosis, and malaria. The Department of Health and Human Services (HHS) receives PEPFAR funds from the Department of State through a memorandum of agreement, pursuant to the Foreign Assistance Act of 1961 (P.L. No. 87-195), as amended, and the 2003 Act, as amended.

Centers for Disease Control and Prevention

The 2008 Act gives HHS's Centers for Disease Control and Prevention (CDC) a leadership role in several key areas of research and evaluation in implementing HIV/AIDS programs, including program monitoring, impact evaluation, and operations research. Through its Global HIV/AIDS Program, CDC implemented PEPFAR, working with ministries of health and other in-country partners to combat HIV/AIDS by strengthening health systems and building sustainable HIV/AIDS programs in more than 75 countries in Africa, Asia, Central and South America, and the Caribbean.

For fiscal year (FY) 2009, CDC "obligated"[1] PEPFAR funds totaling $1.2 billion. CDC awarded these PEPFAR funds through cooperative agreements, which it uses in lieu of grants when it anticipates the Federal Government's substantial involvement with recipients in accomplishing the objectives of the agreements.[2] In response to a Funding Opportunity Announcement (FOA),[3] CDC awarded Potentia Namibia Recruitment Consultancy (Potentia) grant number 5U62PS025154 through a cooperative agreement for the project period September 30, 2005, through September 29, 2010.

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[1] "Obligated" funds are amounts for which the recipient has made binding commitments for orders placed for property and services, contracts and subawards, and similar transactions during a funding period that will require payment during the same or a future period per HHS's *Grants Policy Directives* 1.02, the highest level of policy within HHS that governs grants.

[2] The regulations that apply to Federal grants also apply to cooperative agreements.

[3] FOA Number CDC-RFA-AA-108 is entitled: *Building Human Resource Capacity Within the Ministry of Health and Social Services in the Republic of Namibia as Part of the President's Emergency Plan for AIDS Relief.*

Potentia Namibia Recruitment Consultancy

Potentia provides management and recruitment services, including a variety of human resource management services, such as payroll. Potentia entered into the cooperative agreement with CDC to support the Namibia Ministry of Health's (Ministry) efforts to combat the HIV epidemic in Namibia. The goals of the cooperative agreement were to:

- advertise for and recruit medical professionals, technical specialists, and administrative support personnel;

- manage the payroll function for Ministry and International Training and Education Center for Health (I-Tech)[4] employees funded by PEPFAR; and

- support human resources management.

Federal Requirements and Departmental Policies

The grant rules in 45 CFR part 92 apply to State, local, and tribal governments. The grant administration rules in 45 CFR part 74 apply to nonprofit organizations, hospitals, institutions of higher education, and commercial organizations. The HHS *Grants Policy Statement* (GPS), which provides general terms and conditions and HHS policies for grantees and others interested in the administration of HHS grants, specifies that foreign grantees must comply with the requirements of 45 CFR parts 74 or 92, as applicable to the type of foreign organization (GPS II-113). Thus, the rules in 45 CFR part 74 apply to a foreign commercial organization. Also, the cost principles of the Federal Acquisition Regulation at 48 CFR part 31 apply to commercial organizations.

This cooperative agreement was subject to the grant administration rules in 45 CFR part 74 and the terms and conditions detailed in the notice of award (NOA). Furthermore, CDC incorporated by reference the FOA and the application that CDC received from Potentia on May 16, 2009, as a part of this award.

OBJECTIVE, SCOPE, AND METHODOLOGY

Objective

Our objective was to determine whether Potentia managed PEPFAR funds and met program goals in accordance with the award requirements.

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[4] I-Tech is a center in the University of Washington's Department of Global Health that works with local ministries of health, universities, nongovernmental organizations, and other partners to help develop skilled health work forces and national health delivery systems.

Scope

Our audit covered the budget period April 1, 2009, through March 31, 2010. The budget period was the 4th year of a 5-year cooperative agreement. During the budget period under review, CDC awarded Potentia $14,486,635.

We limited our review of Potentia's internal controls to those related to our objective. We conducted fieldwork at Potentia's offices in Windhoek, Namibia, from October through November 2011.

Methodology

To accomplish our objective, we:

- reviewed relevant Federal laws and regulations, HHS guidance, the FOA, the NOA, and Potentia's policies and procedures;

- interviewed and conducted meetings with Potentia to determine its processes and procedures related to financial accounting and reporting and program goals and accomplishments;

- reconciled Potentia's Financial Status Report (FSR)[5] to its audited financial statements for the budget period under review;

- selected and reviewed a judgmental sample of 30 financial transactions with expenditures totaling $250,710 from the grant award of $14,486,635, and generally included the highest dollar expenditures from various cost categories;

- identified the amount of value-added taxes (VAT) that Potentia paid with PEPFAR funds;

- compared the accomplishments described in Potentia's interim progress report to the cooperative agreement's goals and objectives;

- selected a judgmental sample of 35 accomplishments described in Potentia's interim progress report and reviewed supporting documentation to determine whether Potentia met program goals and objectives; and

- determined if Potentia had an audit in accordance with 45 CFR § 74.26(d).

We conducted this performance 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

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[5] Pursuant to 45 CFR § 74.52(a)(1)(iv), FSRs are due to the CDC Grants Management Office 90 days after the end of the budget period. FSRs provide information to CDC on current expenditures and on carryover balances (if any). In addition, these documents are considered in future funding decisions.

based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

FINDINGS AND RECOMMENDATIONS

Potentia generally managed PEPFAR funds and met program goals in accordance with award requirements. With respect to financial management, specifically financial transaction testing, we found that $249,062 of $250,710 was allowable but $1,648 was not. Specifically, of the 30 financial transactions tested, 26 transactions totaling $185,113 were allowable. However, for two transactions totaling $37,177, Potentia overstated costs by $2,846; for two transactions totaling $28,420, Potentia understated costs by $1,198. In addition, Potentia used $173,354 of PEPFAR funds to pay potentially unallowable value-added taxes (VAT) on earnings from recruitment services and retainer fees. Furthermore, although Potentia had adequate support for 35 sample items from its interim progress report, it did not submit an annual progress report.

These errors occurred because Potentia did not have adequate policies and procedures to ensure that all expenditures were allowable and that it filed an annual progress report.

FINANCIAL MANAGEMENT

Financial Transaction Testing

Pursuant to 45 CFR § 74.21(b)(7), recipients' financial management systems must provide accounting records that are supported by source documentation. Federal regulations (48 CFR § 31.201-2(d)) further state: "A contractor is responsible for accounting for costs appropriately and for maintaining records, including supporting documentation, adequate to demonstrate that costs claimed have been incurred, are allocable to the contract, and comply with cost principles in this subpart and agency supplements."

Of the 30 financial transactions tested, 26 transactions totaling $185,113 were allowable. However, for two recorded transactions totaling $37,177, Potentia overstated costs by $2,846; for two recorded transactions totaling $28,420, Potentia understated costs by $1,198. As a result, Potentia claimed $1,648 in unallowable costs.

Specifically, Potentia:

- overstated its fee for the recruitment of 13 nurses by $1,879,
- overstated the salary and retainer fee for a Ministry employee's adjusted leave pay by $967,[6]
- understated its fee for the recruitment of 6 medical officers by $1,137, and

[6] For its payroll services, Potentia received a retainer fee equal to 11 percent of the salaries paid to Ministry and I-Tech employees funded by PEPFAR.

- understated its fee for the recruitment of a regional study coordinator by $61.

Potentia paid inaccurate amounts for these transactions because it did not have adequate policies and procedures to ensure that it accurately paid costs.

Value-Added Taxes Paid

Pursuant to the HHS GPS (section II-114), certain costs, including VAT,[7] are unallowable under foreign grants and domestic grants with foreign components. Also, bilateral agreements with foreign governments may stipulate an exemption from paying the VAT for those contractors and grantees that are funded by the United States and providing foreign aid.[8]

During the audit period, Potentia used $173,354 of PEPFAR funds to pay the VAT, a potentially unallowable cost for this grant. Potentia paid the VAT at a rate of 15 percent for its earnings from recruitment services and retainer fees. Potentia's executive consultant stated that he had discussed obtaining an exemption from the VAT rule and receiving a refund of VAT expenses with CDC and the Namibian Government. However, the Namibian Government has yet to approve the exemption status and refund the VAT to Potentia.

PROGRAM MANAGEMENT

Pursuant to 45 CFR § 74.51(b), recipients are required to submit annual progress reports unless the awarding agency requires quarterly or semiannual reports. Annual reports are due 90 days after the end of the grant year. The notices of award provide the due dates for progress reports.

Pursuant to 45 CFR § 74.52(d)(1)(2)(3), progress reports should contain a comparison of actual accomplishments to the objectives established for the period. Also, progress reports should contain the reasons that any established goals were not met and the additional pertinent information, including, when appropriate, analysis and explanation of cost overruns or high unit costs.

Potentia did not submit its annual progress report, which was due on June 30, 2010. The date of Potentia's interim progress report was January 27, 2010. According to its managing consultant, Potentia did not submit an annual progress report because no reportable changes occurred between the preparation of the interim report and March 31, 2010, the end of the budget period. However, the total number of employees increased by seven during that time. Potentia did not have adequate policies and procedures to ensure that it filed an annual progress report.

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[7] A VAT is a form of consumption tax.

[8] HHS is currently reexamining the applicability of the GPS provision; thus, we are not recommending a disallowance. Instead, we recommended that Potentia work with CDC to resolve the issue.

RECOMMENDATIONS

We recommend that Potentia:

- refund $1,648 in net unallowable expenditures,

- work with CDC to resolve whether the $173,354 of VAT was an allowable expenditure under the cooperative agreement, and

- develop and implement policies and procedures for ensuring that:

    - all expenditures are allowable and

    - annual progress reports are submitted in a timely manner.

POTENTIA NAMIBIA RECRUITMENT CONSULTANCY COMMENTS

In comments on our draft report, Potentia concurred with our recommendations and described corrective actions that it had taken or planned to take to address most of our recommendations. Potentia's comments are included in their entirety as the Appendix.

APPENDIX

APPENDIX: POTENTIA NAMIBIA RECRUITMENT CONSULTANCY COMMENTS

POTENTIA

HUMAN RESOURCE ADMINISTRATION • RECRUITMENT • ORGANISATIONAL DEVELOPMENT • TRAINING

Ms. Patricia Wheeler
Regional Inspector General for Audit Services
Office of Audit Services, Region VI
1100 Commerce Street, Room 632
Dallas, TX 75242

20 February 2013

Dear Ms. Wheeler:

Reference: Draft OIG Report Number A-06-11-00056
Co-operative agreement number: 5U62PS025154
Funding opportunity number: PS10-1096
Building human capacity within the Ministry of Health and Social Services

This letter serves as a response to your letter dated 16 January 2013, regarding the draft report on "*Potentia Namibia Recruitment Consultancy Generally Managed the President's Emergency Plan for AIDS Relief Funds and Met Program Goals in Accordance with the Award Requirements.*"

As the management of Potentia, we welcome the report as this was the first OIG audit conducted on our operations and the outcomes listed will enable us to improve and strengthen our controls and systems to ensure funds are managed in accordance with the award requirements. We would also like to thank the OIG team, during their time on-site provided our office with valuable informal training and guidance on CDC financial requirements.

We concur with all recommendations as stated in the report and we have outlined our corrective actions on these matters.

- **OIG Recommendation:** Refund $1,648 in net unallowable expenditures.

  Potentia Response: Potentia agrees with the finding. We have received your details on this refund and will review them for correction. In addition, we have strengthened controls over the posting of expenditures. We currently employ an outside consultant from PriceWaterhouseCoopers to perform monthly reviews on the accounting system and verify and post journal entries prepared by the accountant each month. Also we are in the process of appointing an Assistant Accountant and we trust that this would ensure greater segregation of tasks and improved checking controls. We will reiterate the need to validate expenditures against the appropriate source documents.

- **OIG Recommendation:** Work with CDC to resolve whether the $173,354 of VAT was an allowable expenditure under the cooperative agreement.

  Potentia Response: Potentia agrees the VAT taxes were paid from grant funds in accordance with Namibian Law which requires the payment of VAT on any service or goods purchased. Potentia does not currently qualify for reimbursement under the laws

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of Namibia. However, the work done on the cooperative agreement programmatic activities is similar in nature to the work performed by other partners here in Namibia who does receive reimbursement of VAT paid. The Centers for Disease Control (CDC) Country Office will work with the Namibian Government to request reimbursement for VAT paid for the activities and expenditures which were carried out by Potentia to fulfill the terms of the cooperative agreement. In addition, Potentia will apply to the Namibian Government for exempt status from VAT for CDC funded activities undertaken going forward. If the application for exemption is denied, Potentia will utilize the CDC appeal process to seek relief from reimbursement of VAT expenditures. In addition Potentia will review and adhere to applicable guidance regarding allowability of expenditures to the fullest extent possible when disbursing grant funds.

❖ **OIG Recommendation:** Develop and implement policies and procedures for ensuring all expenditures are allowable and submitting the annual progress reports in a timely manner.

Potentia Response: To enhance controls on ensuring that all expenditure line items claimed are allowable or not we will develop a policy document using the HHS Grant Policy Statement as well as the 45 CFR 74. This policy would then be used as a tool to monitor and ensure costs claimed are allowable.

Please do not hesitate to contact us should you require any further information.

Yours faithfully

Craig Dennis
Director