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November 6, 2003

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The Honorable Andrew S. Natsios  
Administrator  
U.S. Agency for International Development  
1300 Pennsylvania Avenue, NW  
Washington, DC 20523

Dear Mr. Natsios:

I am writing to express my dissatisfaction with USAID's refusal to cooperate with congressional requests for information regarding work in Iraq. USAID's actions stand in marked contrast to the agency's public assertions that it is fully cooperative.

I first wrote to you on April 28, 2003 — over six months ago — requesting copies of the contracts and grants USAID has awarded for work in Iraq. I raised questions about the way USAID secretly limited competition for those contracts to a few hand-picked companies, and I sought basic information about the scope and status of their work.

To date, USAID has provided none of this information. On May 30, 2003, J. Edward Fox, Assistant Administrator for Legislative and Public Affairs, wrote to inform me that USAID could not provide the contracts until a review had been performed to determine whether the contracts contained classified or confidential business information. The letter promised a full response by "late next week."

Four months later, on September 22, 2003, I received another letter from Mr. Fox. Once again, USAID reported that it was "not yet able to provide copies of the contracts, grants and source selection information" that I had requested. The letter gave no explanation for the delay, except to say that "with the advice of General Counsel" various agencies and offices within USAID "have been engaged in a careful review of the extensive documents requested." The letter claimed USAID would "continue to give priority attention to this matter."

It has been over six more weeks since this letter, and I have still not received the information I requested, including the USAID contracts for work in Iraq.

At the same time that USAID is refusing to provide basic information to members of Congress, the agency is portraying itself in public as fully cooperating with any and all requests

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for information. For example, this week, USAID's Assistant General Counsel Jeffrey Marburg-Goodman, the agency's chief procurement counsel, wrote a journal article touting the agency's high level of transparency regarding Iraq procurement contracts.<sup>1</sup>

In his article, Mr. Marburg-Goodman says that while some secrecy may have been necessary during the process of awarding contracts for work in Iraq, this process was ultimately salvaged by the "substantial *after*-award publication" of all relevant information. In his view, secrecy preserved the "integrity" of the bidding and award process, but the publication of contracts and other information under "laws and regulations that appeared in the post-Watergate wave of 'sunshine legislation'" demonstrated the fairness of the process after the fact.

The obvious problem with Mr. Marburg-Goodman's explanation is that nothing has been provided. More than six months have passed since my original request, and USAID has not provided a single contract for my review. Despite this fact, Mr. Marburg-Goodman complains about the "continuing drumbeat of mistaken information disseminated by some in the media, Congress, and even procurement experts outside the government."

Mr. Marburg-Goodman also claims that "USAID stands ready . . . to release its documents regarding decisions, as well as to open its processes even more fully to any appropriate review." He says USAID has available not only the contracts themselves, but "the contracting officer's negotiation memorandum chronicling the complete evaluation process." Ultimately, he explains, USAID cannot "avoid its post-award obligations to disclose its evaluation methodology; the rated strengths, deficiencies, and weaknesses of the competing contractors; and the resulting contract itself."

Mr. Marburg-Goodman's account is good public relations, but it appears to bear no resemblance to reality. On Monday, my staff contacted USAID once again and requested the contracting officers' negotiation memoranda referenced in Mr. Marburg-Goodman's article. Once again, USAID said it would not provide the requested documents.

I urge you to align your agency's actions with your rhetoric. Please provide the following information:

1. All contracts and grants that USAID has awarded for work in Iraq;
2. All contracting officer negotiation memoranda chronicling the evaluation processes for each contract or grant awarded for work in Iraq;

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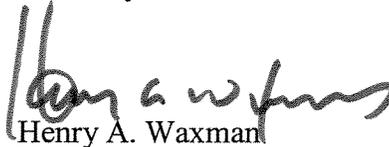
<sup>1</sup> Jeffrey Marburg-Goodman, *USAID's Iraq Procurement Contracts: Insider's View*, The Procurement Lawyer, 10-12 (Fall 2003).

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3. The identity of all companies or organizations invited to bid for contracts and grants awarded for work in Iraq, as well as any information — including, but not limited to, memoranda, notes, letters, e-mails, and phone messages — produced or received by USAID regarding the process by which these companies were selected and solicited;
4. All task orders authorizing or obligating the expenditure of funds for contracts or grants awarded for work in Iraq; and
5. All subcontracts awarded under the prime contracts for work in Iraq.

Please provide this information no later than Friday, November 14, 2003.

Sincerely,

A handwritten signature in black ink, appearing to read "Henry A. Waxman". The signature is written in a cursive style with a large initial "H".

Henry A. Waxman  
Ranking Minority Member