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Description of document: Each response to a Question for the Record (QFR) provided to Congress by the U.S. Trade and Development Agency (USTDA), 2012-2014

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U . S . T R A D E A N D D E V E L O P M E N T A G E N C Y

August 15, 2014

Via email:

Re: Freedom of Information Act (FOIA) request 2014-024

This letter responds to your FOIA request to the U.S. Trade and Development Agency (USTDA) dated June 15, 2014, in which you asked for:

a copy of each response to a Question for the Record (QFR) provided to Congress by the USTDA. (By responses to QFRs, I mean the responses to formal questions posed in association with testimony before a Congressional Committee.)

You further stated that USTDA “may limit this request to records create since January 1, 2009.”

In accordance with FOIA, USTDA has conducted a reasonable search for the records. All responsive records are being released in their entirety and are enclosed. No other responsive records were found.

Thank you for your inquiry. There is no charge for this search.

Sincerely,

A handwritten signature in blue ink, appearing to read "Anna T. Katselas".

Anna T. Katselas
Assistant General Counsel

U.S. Trade and Development Agency
Response to
Post-Hearing Questions for the Record
Submitted to the Honorable Leocadia Zak
From Senator Claire McCaskill

“Streamlining and Strengthening Oversight of Overseas Trade and Development Agencies”

December 11, 2013

1. *Are TDA’s foreign grant recipients required to conduct financial and performance audits of their operations?*

See below.

2. *Are TDA’s eventual U.S. grant recipients required to conduct financial and performance audits of their operations?*

USTDA provides grants to foreign grantees for feasibility studies and technical assistance that are performed by U.S. firms. Therefore, there are no foreign grantee “operations” that could meaningfully or usefully be audited. While USTDA does not audit the “operations” of foreign grantees, the Agency conducts extensive due diligence, prior to funding any activity, on each prospective grantee to ensure it is a reputable, solvent entity with the capacity to successfully implement the development project. As an example, USTDA recently provided a grant to assist Vietnam in developing a roadmap to integrate new wind generation into its electrical grid. Like all USTDA grant agreements, the grantee—in this case, the Electricity Regulatory Authority of Vietnam—is required to enter into a fixed-price contract, funded by USTDA grant funds, with a U.S. firm for the performance of the work, and further provides that USTDA will pay the U.S. firm directly on the grantee’s behalf. Accordingly, USTDA’s grant funds are never disbursed to its grant recipients. Rather, the grantees receive the services funded by the grants, and the U.S. firms receive payment for their work directly from USTDA. In this example, the Electricity Regulatory Authority of Vietnam will receive a Final Report containing the U.S. firm’s recommendations for future infrastructure and design priorities. It is USTDA’s goal that Vietnam will subsequently adopt some or all of the Final Report’s recommendations, and procure U.S. goods and services in implementing them.

USTDA does not have any U.S. grant recipients. U.S. firms always perform the services required under the Agency’s grant program, as described in the above example. As Director Zak explained in her testimony, USTDA does select a number of grant activities each year for post-award audits by independent companies based on recommendations

from its Audit Working Group. Led by the Office of Grants Administration, the Working Group uses an objective tool based on a variety of standardized factors to assess which grant activities present the highest risk and recommend them for program and/or financial audit. The Working Group also solicits recommendations for audit activities from the Agency's program staff. Depending on the results of a particular audit, the Agency may take further action, such as a demand for a refund of amounts owed to it. USTDA issues its demand to the U.S. firm responsible for the work, not to its grant recipients. In rare circumstances, USTDA may refer a matter to the U.S. Department of Treasury or the U.S. Department of Justice.

3. *Does TDA contribute financially to the reverse trade missions that it organizes?*

Yes, as the organizer of reverse trade missions (RTMs), USTDA contributes to the visits, typically covering the costs of travel, lodging, meals, logistics and interpretation services. However, U.S. firms often sponsor portions of the RTMs, which can include the transportation and/or meals associated with a particular site visit.

4. *What percentage of the reverse trade "market", so to speak, does TDA occupy as opposed to other organizations, private or public, that organize reverse trade missions?*

USTDA is not aware of a public or private program analogous to its RTM program. The Agency plays a unique role in connecting foreign buyers and project developers with U.S. businesses by bringing these foreign delegates to the United States to observe the design, manufacture and operations of U.S. goods, services and technologies in order to inform their procurement decisions. By funding RTMs, USTDA provides U.S. industry access to foreign delegates, oftentimes at the critical stage before a procurement decision is made, to demonstrate how industry-leading U.S. technology options can address the infrastructure development needs of the foreign officials.

5. *How does TDA measure the success and value of a reverse trade mission?*

USTDA monitors developments once RTMs are completed to document the linkage between the activities and their outcomes. Specifically, the Program Evaluations Office measures the U.S. content, defined in terms of the U.S.-manufactured goods or services of commercial sales when follow-on projects are implemented. USTDA then uses the data to calculate its *export multiplier*, the dollar amount of exports generated per USTDA program dollar obligated, as well as its *total cumulative exports*, the amount of exports associated with USTDA funding in any given time period. This analysis is done on RTMs, as well as all other USTDA-funded activities, in order to measure the results of USTDA's program and determine the Agency's effectiveness in achieving its mission.

6. *GAO and the Inspectors General have identified grant closeout as a major challenge for federal agencies. As you know, closeout procedures are intended to ensure that grants recipients have complied with financial requirements and returned unused funds. GAO has identified millions of dollars in expired grant accounts across the government.*

Q. Please identify how much your agency currently has in undisbursed funding in expired grant accounts.

As the term is used by GAO, “grant closeout” is the process by which agencies redirect funds in expired grant accounts (accounts more than three months past the grant end date that have been inactive for nine months or more) to other projects or return the funds to the Department of the Treasury (Treasury). Due to USTDA’s internal controls and authority to de-obligate and re-obligate its funds, the Agency never has funds in expired grant accounts (and therefore does not have any funds in such accounts at present). In other words, there are only two options with respect to how a USTDA grant-funded activity may end: either 1) the funded activity proceeds to completion with all grant funds disbursed within the period of availability of funds, or 2) the funded activity is terminated prior to completion and the funds de-obligated and re-obligated for another purpose. As long as funds are obligated within the initial statutory period, they remain available to be de-obligated and re-obligated for four years after the date they originally would have expired. As an example, consider the Vietnam grant previously referenced. Because the funds for that grant (fiscal year 2013-14 funds) were obligated within their original two-year period of availability, they are available to be de-obligated and re-obligated for four years from the date they otherwise would have expired (until September 30, 2018). The grant agreement’s timelines are designed to ensure that the activity is completed well in advance of the deadline for de-obligation and re-obligation. It contains an estimated activity completion date of September 30, 2014 (these dates typically range from one to two years from the grant agreement’s effective date), and an outside limit of four years from the grant agreement’s effective date for disbursement of the grant funds, a standard time limitation in USTDA’s grant agreements.

Given the nature of USTDA’s grant activities and the length of time its funds remain available, the Agency’s program staff closely monitors grant activities throughout the duration of the funds’ availability and in the rare event that an activity does not progress satisfactorily, terminates the grant agreement before the funds expire. As a further check, USTDA utilizes a strict de-obligation timeline to ensure that it takes the requisite actions if it does become necessary to de-obligate funds. In the event grant funds have not been disbursed by January 15 of their final fiscal year of availability, USTDA sends a warning letter to the grantee and U.S. firm, and begins taking the steps to terminate the grant agreement and de-obligate the funds, should that ultimately become necessary.

Q. Please provide the average length of time that it takes USTDA to close out a grant.

In the normal course of bringing a grant activity to completion (as opposed to “grant closeout” as the term is used by GAO), USTDA takes approximately one to two months to review the Final Report and make the final disbursement of grant funds. USTDA retains at least 15% of funding for an activity until the U.S. firm’s Final Report is approved. The Agency undertakes a review of every Final Report to ensure that the U.S. firm has complied with the Terms of Reference and mandatory clauses of the grant agreement, the foreign grantee has approved the document, and all applicable documents have been submitted. If necessary, USTDA interacts with the U.S. firm to resolve any outstanding issues with respect to performance of the work. In some instances, such as when a question arises concerning the U.S. firm’s performance, USTDA may hire an independent technical expert to evaluate the work performed and recommend a final amount due to the U.S. firm or owed to USTDA. Thereafter, the Agency disburses the appropriate final payment or seeks the appropriate refund from the U.S. firm. Throughout this process, USTDA’s Office of Grants Administration coordinates with the Agency’s program and finance staff, the Office of the General Counsel and USTDA’s Deputy Director.

7. Please describe TDA’s pre-award process.

The Agency’s senior managers¹ employ a data-driven approach when reviewing funding requests for specific activities. Each program funding request, which must include an analysis of potential export sales, is evaluated in light of financing options, foreign competition and past Agency results in a particular country or sector. USTDA funding is prioritized for those projects for which the Agency’s historical performance data suggests the strongest potential for success. Senior management approval is required for every obligation of program funds, regardless of the dollar amount.

USTDA evaluates projects based on the following criteria: (a) developmental priority in the host country, (b) likelihood of receiving implementation financing and (c) mutual benefit for the United States and partner country, including U.S. export potential.

USTDA develops early project planning activities by (a) working with a host-country partner (potential grantee) or (b) working directly with a U.S. firm that is pursuing a business opportunity in a USTDA-eligible country. These projects are developed, reviewed and recommended to senior management for funding (typically by grant to the foreign grantee) by USTDA’s program staff.

¹ USTDA’s senior managers include the Director, Deputy Director, General Counsel, Chief of Staff, Director of Policy and Program, and Director of Congressional and Public Affairs.

- USTDA program staff identifies early project planning activities through meetings with U.S. industry and travel to priority markets.
- USTDA program staff recommends that funds be obligated to contract with a technical expert for a Desk Study/Definitional Mission to review the proposed project's scope of work and corresponding budget.
- Once a project has been reviewed by the technical expert, USTDA undertakes an extensive due diligence review of the proposed grantee, as further described below.
- If the project meets USTDA's funding criteria and the proposed parties clear due diligence review, the program staff provides an action memorandum requesting approval from senior management to fund the proposed activity by entering into a grant agreement with the proposed grantee.

In order to ensure that USTDA complies with legislative and executive branch restrictions and that its funds support the work and projects of reputable, solvent entities and individuals, the Agency conducts due diligence on all its program activities before its funds are put to use. Using a variety of private and public databases, U.S. government, internal and external sources, USTDA thoroughly yet expeditiously vets its prospective foreign grantees and delegates, as well as the U.S. firms and subcontractors that are proposed to perform USTDA-funded work. Specifically, USTDA conducts due diligence on both private and public prospective foreign grantees, foreign entities and individuals that may participate in its reverse trade missions, and U.S. firms and their subcontractors including, as applicable, the entities' parent corporations, principal officers, directors and shareholders.