



**United States Department of State  
and the Broadcasting Board of Governors  
Office of Inspector General**

**Office of Inspector General**

**Office of Inspections**

**Inspection of  
the American Institute in Taiwan/  
Washington**

**Report Number ISP-I-12-47, September 2012**

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## **PURPOSE, SCOPE, AND METHODOLOGY OF THE INSPECTION**

This inspection was conducted in accordance with the Quality Standards for Inspection and Evaluation, as issued in 2011 by the Council of Inspectors General on Integrity and Efficiency, and the Inspector's Handbook, as issued by the Office of Inspector General for the U.S. Department of State (Department) and the Broadcasting Board of Governors (BBG).

### **PURPOSE AND SCOPE**

The Office of Inspections provides the Secretary of State, the Chairman of the BBG, and Congress with systematic and independent evaluations of the operations of the Department and the BBG. Inspections cover three broad areas, consistent with Section 209 of the Foreign Service Act of 1980:

- **Policy Implementation:** whether policy goals and objectives are being effectively achieved; whether U.S. interests are being accurately and effectively represented; and whether all elements of an office or mission are being adequately coordinated.
- **Resource Management:** whether resources are being used and managed with maximum efficiency, effectiveness, and economy and whether financial transactions and accounts are properly conducted, maintained, and reported.
- **Management Controls:** whether the administration of activities and operations meets the requirements of applicable laws and regulations; whether internal management controls have been instituted to ensure quality of performance and reduce the likelihood of mismanagement; whether instance of fraud, waste, or abuse exist; and whether adequate steps for detection, correction, and prevention have been taken.

### **METHODOLOGY**

In conducting this inspection, the inspectors: reviewed pertinent records; as appropriate, circulated, reviewed, and compiled the results of survey instruments; conducted on-site interviews; and reviewed the substance of the report and its findings and recommendations with offices, individuals, organizations, and activities affected by this review.



United States Department of State  
and the Broadcasting Board of Governors

*Office of Inspector General*

## PREFACE

This report was prepared by the Office of Inspector General (OIG) pursuant to the Inspector General Act of 1978, as amended, and Section 209 of the Foreign Service Act of 1980, as amended. It is one of a series of audit, inspection, investigative, and special reports prepared by OIG periodically as part of its responsibility to promote effective management, accountability, and positive change in the Department of State and the Broadcasting Board of Governors.

This report is the result of an assessment of the strengths and weaknesses of the office, post, or function under review. It is based on interviews with employees and officials of relevant agencies and institutions, direct observation, and a review of applicable documents.

The recommendations therein have been developed on the basis of the best knowledge available to the OIG and, as appropriate, have been discussed in draft with those responsible for implementation. It is my hope that these recommendations will result in more effective, efficient, and/or economical operations.

I express my appreciation to all of those who contributed to the preparation of this report.

A handwritten signature in black ink, appearing to read "H. W. Geisel". The signature is fluid and cursive, with a large loop at the end.

Harold W. Geisel  
Deputy Inspector General

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## Key Judgments

- The American Institute in Taiwan (AIT) is a nonprofit organization founded in accordance with the 1979 Taiwan Relations Act (TRA) and overseen by the Department of State (Department). With offices in the United States (AIT/Washington) and Taiwan (AIT/Taiwan) AIT is a unique hybrid. It is both a nonprofit organization and a Department instrumentality. This arrangement has produced tension and inconsistency in the operational relationship among the Department, AIT's offices in Washington and Taiwan, and other U.S. Government agencies.
- AIT/Washington is required by contract to follow Department direction, and the 1979 TRA gives the Department authority to preempt any conflicting state or District of Columbia law or regulation. Nevertheless, AIT/Washington has periodically invoked its corporate status under District of Columbia law as justification for not conforming to Department regulations.
- The Bureau of East Asian and Pacific Affairs (EAP) has the lead role under the contract for both policy and management oversight. EAP and other Department offices tasked with contractual oversight for AIT have not met their responsibilities under the contract, including those for financial management.
- In 2002, the Foreign Service Act was amended to allow the assignment of active-duty U.S. Government employees to AIT. That change had important implications that the Department has not sufficiently taken into account in its relationship with AIT. As a result, AIT/Washington contractors today unnecessarily perform functions that should be performed by U.S. Government employees.
- Significant vulnerabilities and risks exist within the AIT system in both policy execution and financial management.
- The Department has failed to ensure that its contract with AIT, which entered into force in April 2012, reflects its needs and priorities. The contract is not specific or detailed enough to enable appropriate Department oversight.
- The AIT board of trustees has not met its statutory responsibilities. The board is detached from both the policy environment and the management of AIT and requires reform and reinvigoration. EAP managers did not fully appreciate their authority over AIT/Washington and treated it as an independent entity.

This report should be read in conjunction with the report of OIG's inspection of AIT/Taiwan, conducted in the fall of 2011.<sup>1</sup> This report subsumes, revises, and reissues Recommendations 8 and 24 from that earlier inspection.

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<sup>1</sup> *Inspection of the American Institute in Taiwan*, Report Number ISP-I-12-12A, February 2012.

The inspection took place in Washington, DC, between April 7 and June 28, 2012. (b) (6)



## Context

In 1979, the United States ended diplomatic relations with Taiwan and established diplomatic relations with the People's Republic of China. The TRA<sup>2</sup> ensured that the people of the United States would maintain cultural, commercial, and other unofficial relations with the people on Taiwan. Three decades later, this unofficial relationship remains broad, deep, and complex.

The 1979 TRA provides the legal underpinning for relations between the United States and Taiwan. In the absence of formal diplomatic ties, it puts in place an arrangement in which AIT and its counterpart, the Taipei Economic and Cultural Representative Office in the United States (TECRO), serve as the appropriate instrumentalities for bilateral cooperation. Although neither side maintains an embassy on the other's territory, their representatives are not considered to be diplomats, and written agreements between them are not treaties, the United States and Taiwan engage in a wide range of activities that would otherwise be part of a normal bilateral relationship.

The TRA provides that relations with Taiwan are to be "conducted and carried out by or through"<sup>3</sup> AIT. AIT is a unique hybrid: a private nongovernmental corporation, staffed largely by U.S. Government employees, that operates as a contractor of the Department. It is contractually and institutionally bound to follow Department direction. Although nominally two parts of a single organization, AIT/Washington and AIT/Taiwan operate largely as independent entities and have significantly different functions. U.S.-Taiwan relations are carried out and conducted by AIT/Taiwan and through AIT/Washington.

AIT/Taiwan operates in most respects like an embassy. It carries out a wide range of embassylike activities, including political and economic reporting, commercial advocacy and promotion, consular services, security assistance, and public diplomacy. It is staffed by active-duty U.S. Government personnel.

AIT/Washington, on the other hand, has no direct analogue. Its eight-person staff consists (with one exception) of contract employees, who perform three broad functions paralleling various Department offices:<sup>4</sup>

1. In the United States, AIT/Washington serves as the principal point of contact with TECRO. AIT/Washington acts as an intermediary between TECRO and the Bureau of Consular Affairs in facilitating visa-related matters for TECRO employees in the United States and U.S. Government employees assigned to AIT/Taiwan. AIT/Washington also performs services for TECRO that are analogous to those provided by the Department's Office of Foreign Missions, such as the issuance of tax exemption cards, drivers' licenses, and vehicle registrations.

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<sup>2</sup> Pub. L. No. 96-8 (April 10, 1979).

<sup>3</sup> Section 6.

<sup>4</sup> Contract SAQMMA12D0101, dated 04/04/2012, Section C 4.1. This listing is paraphrased and not comprehensive.

2. AIT/Washington serves as the formal liaison between Taiwan and U.S. Government agencies. It provides a channel through which activities, training, and equipment transfers can be conducted. AIT/Washington personnel act as nominal chair of U.S. delegations in negotiations and sign final documents carrying out programs, transactions, and relations on behalf of the U.S. Government.
3. AIT/Washington provides direction to AIT on fiscal matters pertaining to the Institute's overall operation, monitoring the Institute's overall operation and finances, and preparing documentation for the annual appropriation process.

### **Authority of the Secretary of State over the American Institute in Taiwan**

The Secretary of State has authority over AIT. In practice, this authority has been delegated to the EAP Assistant Secretary.

### **Department of State's Contractual Relationship with the American Institute in Taiwan**

Updated in April 2012, the current contract between the U.S. Government and AIT defines AIT's role as to "carry out on an unofficial basis programs, transactions, and other relations with or relating to the people on Taiwan."<sup>5</sup> The contract directs that performance of administrative, consular, and other functions follow Department regulations. All new and revised position descriptions must be submitted for review and classification to the EAP executive office. Travel and transportation costs must conform to Department regulations, the Federal Travel Regulations, and the *Foreign Affairs Manual* (FAM).<sup>6</sup> As an Indefinite Delivery, Indefinite Quantity contract, changes can be effected through simple task orders, rather than via the complex modifications that were required under the old contract. The contract also serves as a framework under which bureaus and offices within the Department and other agencies can submit task orders to AIT.

### **U.S. Government Employees Assigned to the American Institute in Taiwan**

For many years, U.S. Government employees assigned to work in AIT/Taiwan or AIT/Washington were formally separated from U.S. Government service for the duration of their assignments. Under Section 11 of the TRA, these employees enjoyed reemployment or reinstatement rights that ostensibly protected their retirement and other benefits as U.S. Government employees. In practice, this process was convoluted and confusing and created bureaucratic problems that continue to this day.

In 2002, Congress amended Section 503 of the Foreign Service Act to allow U.S. Government employees to be directly assigned or detailed to AIT without separating from government service.<sup>7</sup> As U.S. Government agencies moved to comply, the status of their employees at AIT changed. Many AIT employees, most of them in Taiwan, went from being

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<sup>5</sup> Contract SAQMMA12D0101, dated 04/04/2012, Section C.1.1.a.

<sup>6</sup> Although the contract was renewed and restructured in April 2012, its substantive provisions remain virtually unchanged from the 2006 version.

<sup>7</sup> Sec. 326, Pub. L. No. 107-228. Such assignments or details cannot exceed 6 years and are renewable once with the Secretary's concurrence.

contractors to direct employees of their home agencies, much like their counterparts at American embassies in the rest of the world. Their supervisory chains, duties, and responsibilities also changed.

This amendment had a significant impact upon AIT's bureaucratic status and operations that went largely unrecognized, both within and outside the Department. The 1979 TRA contains language authorizing AIT employees to undertake discretionary activities akin to inherently governmental functions performed at embassies and in the Department's bureaus.<sup>8</sup> However, AIT employees have sometimes performed such functions with inadequate Department direction or even in a manner inconsistent with direction from the Department or other agencies. When the employment status of personnel assigned to AIT/Taiwan changed to include the direct assignment of diplomatic and military personnel, the Department did not undertake a thorough review of the role of contractors within AIT as a whole to determine the appropriate division of labor between direct-hire U.S. Government employees and contractors.

**Recommendation 1:** The Bureau of East Asian and Pacific Affairs, in coordination with the Office of the Legal Adviser, should conduct a formal review of the practice whereby American Institute in Taiwan contract employees continue to perform inherently governmental functions, and determine an appropriate allocation of all functions between direct-hire U.S. Government employees and contractors within the entire American Institute in Taiwan organization. (Action: EAP, in coordination with L)

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<sup>8</sup>Office of Management and Budget Circular A-76 (revised), May 29, 2003, defines an inherently governmental function as "...an activity that is so intimately related to the public interest as to mandate performance by government personnel." As examples, it cites: "...the exercise of sovereign government authority... and... determining, protecting, or advancing economic, political, territorial, property, or other interests by military or diplomatic action,...contract management, or otherwise."

## Executive Direction

AIT/Washington has generally performed its duties conscientiously and professionally, despite the absence of proper Department oversight. Department officers tasked with contractual oversight for AIT have failed to meet their responsibilities under the contract, including those for financial management. EAP has the lead role under the contract for both policy and management oversight. The contract defines two EAP officers as, respectively, the contracting officer's representative for administration (COR-A) and the contracting officer's representative for policy (COR-P). Neither officer has paid adequate attention to those duties, nor has EAP leadership required that they do so. Because of turnover and staffing gaps, COR-A responsibilities have been handled by a succession of officers, leading to some unfamiliarity with the duties. The COR-P told the inspection team he was unaware of his responsibilities. The Bureaus of Administration, Budget and Planning, Comptroller and Global Financial Services, and Consular Affairs, as well as the Office of the Legal Adviser, share responsibility under the contract as well. The inspection team found that most of the responsible parties showed little or no awareness of their assigned roles under the contract, resulting in significant vulnerabilities and potential risk.

AIT/Washington and the contracting officer in the Department's Office of Acquisitions Management managed the negotiation of the 2012 contract. Input was solicited from various Department offices, but only minor points were raised. EAP provided no policy input to the renewal process, although several EAP officials expressed their concerns to the inspection team about AIT/Washington's role and functions.

## Board of Trustees

AIT is overseen by four trustees who serve at the pleasure of the Secretary of State.<sup>9</sup> The board of trustees does not include any Department representation. A retired U.S. ambassador who is not normally resident in the Washington, DC, area chairs the board on a part-time basis. Two retired U.S. Government employees who play no major role, aside from attending quarterly board meetings, also serve as board members. AIT/Washington's managing director is the fourth board member and presides in the chairman's absence. The COR-A and COR-P attend board meetings as observers, and the director of AIT/Taiwan is also invited.

The board of trustees exercises little oversight of AIT. The minutes of board meetings suggest a high degree of informality and indicate no decisionmaking activities. Under AIT's bylaws, meetings are supposed to be formally convened and agendas and supporting material circulated 2 days in advance. This practice makes meaningful review of the material before the meeting very difficult, especially for those traveling from outside Washington, and is not in accordance with DC corporation law.<sup>10</sup> The board also does not follow a formal decisionmaking process regarding budget, investment actions, personnel, and approval of contract amendments. Motions are never made and votes are not recorded. In addition, appointing the AIT/Washington managing director as a trustee, and making her a de facto deputy chairman, has significantly

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<sup>9</sup> AIT Bylaws, Section 2.02.

<sup>10</sup> D.C. Code § 29-401.01.

undermined the oversight role of the board by allowing an individual who is under board supervision to become the trustee with the greatest knowledge of AIT/Washington operations.

The current bylaws and composition of the board of trustees do not allow for the provision of appropriate oversight of or direction to AIT. Lines of authority are unclear, board decisions lack finality, and follow-on actions by AIT staff lack legitimacy. Reconstituting the board and expanding its membership, including a deputy assistant secretary from EAP to provide oversight and policy input, at least one member with management expertise, and the AIT/Taiwan director and AIT/Washington managing director as nonvoting members, would help address these problems. In addition, common practice dictates that materials for consideration and decision (including the previous minutes, proposed motions to be considered, and any documentation in support of the motions) be circulated well in advance of board meetings.

**Recommendation 2:** The Bureau of East Asian and Pacific Affairs, in coordination with the Bureau of Administration, should direct the American Institute in Taiwan to amend its bylaws to expand the number of board trustees to five, including the appropriate Bureau of East Asian and Pacific Affairs deputy assistant secretary as a voting member, and make the managing director of the American Institute of Taiwan/Washington and the director of the American Institute of Taiwan/Taiwan nonvoting ex officio members of the board. (Action: EAP, in coordination with A)

**Recommendation 3:** The Bureau of East Asian and Pacific Affairs should make the deputy assistant secretary's active participation in the American Institute in Taiwan's board of trustees meetings a specific work requirement in his/her annual performance evaluation. (Action: EAP)

**Recommendation 4:** The Bureau of East Asian and Pacific Affairs, in coordination with the Bureau of Administration, should direct the American Institute in Taiwan to amend its bylaws to require that an annual schedule of meetings of the board of trustees be established and that agendas and supporting material for board meetings be provided to attendees at least 3 weeks before the meeting date. (Action: EAP, in coordination with A)

**Recommendation 5:** The Bureau of East Asian and Pacific Affairs, in coordination with the Bureau of Administration, should direct the American Institute in Taiwan to record board of Trustee decisions in the meeting minutes. (Action: EAP, in coordination with A)

### **Chairman of the Board of Trustees**

Until 2004, AIT bylaws designated the board chairman as both chairman and managing director. Upon the departure of the 2004 incumbent, and at the direction of the Department, the role of chairman was reduced to a part-time function. The deputy managing director of AIT/Washington became managing director and a member of the board. The managing director was also designated as the de facto deputy chairman, to act as chairman in his/her absence. The AIT bylaws now state that the chairman is responsible for presiding over the meetings of the board "if present." The role of chairman is also mentioned in the Department's contract with AIT, which specifies that the chairman is responsible for additional duties, such as

accompanying important Taiwan visitors in the United States. The contract also states that “the [c]hairman and other trustees may also advise policymakers on issues within their purview.”<sup>11</sup>

Over the more than three decades of AIT’s existence, activities undertaken by various chairmen have occasionally resulted in confusion and uncertainty at AIT/Taiwan regarding the relative responsibilities and policy roles of the AIT/Taiwan director and the chairman. There have been cases in which a chairman ignored policy direction from the Department or sought to direct resources inappropriately. (This is not true of the current chairman.) According to the AIT bylaws, but absent from the contract, the chairman may also be asked to provide services to the Department at AIT’s expense, including meetings with U.S. officials or with senior Taiwan representatives; telephone consultations with the Department, National Security Council, and AIT/Washington; and drafting and editing statements on behalf of the Department and the National Security Council. EAP and National Security Council staff have drawn upon the current chairman’s experience and expertise in these areas. However, as such additional duties are distinct from AIT’s mission, they would be more appropriately handled as a direct consulting contract between EAP and the chairman.

**Recommendation 6:** The Bureau of East Asian and Pacific Affairs should specify in a direct consulting contract any services it wishes the American Institute in Taiwan chairman to perform beyond those stipulated in the Institute’s contract. (Action: EAP)

### **Managing Director**

As noted previously, the managing director of AIT/Washington is currently a voting member of the board of trustees and fills in for the chairman in his absence. She has no day-to-day supervisory or management responsibilities for AIT/Taiwan. The managing director’s functions are described in both the bylaws and the contract, using identical text; she is the only AIT employee whose duties are specified in the contract. But the description is flawed. Some of the elements are overly broad or intrude upon the authorities of other U.S. Government agencies. Some elements are functions of AIT/Washington as a whole, not of the managing director alone. No mention is made of supervisory responsibilities. Including a position description in a time and materials contract such as AIT’s not only is inconsistent with the purpose of the contract but also makes it difficult to modify the description as needed.

**Recommendation 7:** The Bureau of Administration, in coordination with the Bureau of East Asian and Pacific Affairs, should exclude the managing director’s position description from the American Institute in Taiwan contract. (Action: A, in coordination with EAP)

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<sup>11</sup> Section C.4.

## Management

AIT receives all its operational funding by virtue of its contractual relationship with the Department, which amounts to more than \$60 million annually. Given the complexity of the contract, greater attention needs to be paid to management of the contract and oversight of AIT. The OIG team's review of official files indicates that proper management oversight of AIT has been lacking for many years. Although the contract specifies that all financial and operational decisions taken by the board of trustees be subject to review by the contracting officer or his/her representatives in EAP, inadequate board meeting minutes make this impossible, and EAP did not follow up.

### Contract Oversight

The EAP Assistant Secretary is charged under the contract with providing policy direction for AIT and ensuring that AIT's activities on behalf of the U.S. Government are carried out properly. His operating agents within EAP are the COR-A and COR-P. Despite the specific duties attributed to them in the contract, AIT and EAP's relationship has grown quite relaxed. Oversight of the contract has been largely carried out via email. During the recent revision and updating of the contract, EAP authorized AIT/Washington to work directly with the Department's contracting officer in the Office of Acquisitions Management to provide input from interested parties inside the Department. A more appropriate assignment of contracting duties would have been for EAP itself to work with the contracting officer so that AIT's assigned duties and responsibilities properly reflected the interests of the Department and the U.S. Government as a whole.

The contract lacks specificity regarding the functions to be carried out and how they should be carried out. It does not specify deliverables or performance standards, which forces the COR-A and COR-P to operate with little guidance. As a result, the evaluation of AIT's performance, in both Washington and Taiwan, is left to AIT's board, which, as noted above, is ill-prepared for that role.

There are also lapses in contract oversight. The contract specifies that AIT can "collect visa processing fees to the extent authorized by [EAP]."<sup>12</sup> These fees are designated for a working capital fund, to be drawn on for capital improvements or other costs authorized by Congress or EAP, and approved in advance and in writing by the contracting officer in the Bureau of Administration. A thorough review of AIT's budget submissions indicates that the visa processing fees have been used for a variety of operational activities—rents, utilities, communications, and maintenance—without written approval from the Department.

The current contract also specifies that AIT follow guidance contained in the Federal Acquisitions Regulations when carrying out contracting activities and sets a limit of \$150,000 on purchases allowed without the contracting officer's approval. There is no record of the contracting officer having formally approved any such waivers, although AIT has often exceeded this limit. The absence of formal oversight by the Department has undermined the basis of the

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<sup>12</sup> Section B. 10.2.

contractual relationship whereby AIT, as a Department contractor, uses appropriated funds to carry out “duties as specified in the contract.”<sup>13</sup>

**Recommendation 8:** The Bureau of East Asian and Pacific Affairs, in coordination with the Bureau of Administration, should review the functions and activities of the American Institute in Taiwan and identify positions and functions no longer required. (Action: EAP, in coordination with A)

**Recommendation 9:** The Bureau of East Asian and Pacific Affairs, in coordination with the Bureau of Administration, should amend the existing contract between the Department of State and the American Institute in Taiwan to reflect the Bureau of East Asian and Pacific Affairs’ broad policy and managerial objectives. (Action: EAP, in coordination with A)

**Recommendation 10:** The Bureau of East Asian and Pacific Affairs, in coordination with the Bureau of Administration, should issue annual task orders to the American Institute in Taiwan to delineate specific administrative goals and objectives, as well as benchmarks, performance standards, staffing levels, and budgetary requirements. (Action: EAP, in coordination with A)

### **Travel and Representation**

AIT/Washington manages its own travel and representational activities without reference to EAP’s policies or procedures. In addition, travel and representation performed on behalf of the bureau is not approved in advance by the EAP executive office.

The inspection team reviewed 3 years of travel vouchers and found that, although use of premium-class airfare was approved and documented in AIT/Washington, the criteria applied were not in accordance with EAP guidelines, of which AIT/Washington was unaware. Similarly, travel by AIT/Washington personnel that was reimbursed by the Defense Security Cooperation Agency (DSCA) prior to 2010 did not conform to Department of Defense (DOD) restrictions on premium-class travel.

The inspection team also reviewed 3 years of AIT/Washington representational expenditures and found that EAP did not authorize representational events in advance in accordance with the bureau’s policies. Aside from an annual Chinese New Year office party, the majority of AIT/Washington’s representation expenditures were for informal welcome barbecues for Taiwan military delegations, hosted by the AIT/Washington political-military director at his home. Defense-related events would be more appropriately hosted by DOD officials, using their funds. In 2010, DSCA informed AIT that it would no longer reimburse for such events. The Department should not reimburse such expenses without an evaluation of their effectiveness and appropriateness.

Outside auditors, viewing AIT as a typical nonprofit, have noted that on several occasions AIT used appropriated funds to purchase alcohol for representational events, in violation of provisions of Office of Management and Budget Circular 122. However, the TRA establishes that AIT is to act “in the manner and to the extent” directed by the President, who

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<sup>13</sup> Sections B.8 and B.9.

delegated that authority to the Secretary.<sup>14</sup> Although AIT is conducting representational activities on the Department's behalf and at the Department's direction, the Institute's use of these funds to conduct representational activities does not adhere to the Department's guidelines and authorities, notwithstanding Office of Management and Budget Circular 122.

AIT's failure to adhere to EAP requirements pertaining to travel and representational events has resulted in additional expense to the U.S. Government and called into question the value of certain travel and representational activities.

**Recommendation 11:** The Bureau of Administration, in coordination with the Bureau of East Asian and Pacific Affairs, should amend the American Institute in Taiwan contract to require that the Institute follow Department of State regulations and Bureau of East Asian and Pacific Affairs policies regarding travel and representation, notwithstanding Office of Management and Budget Circular 122. (Action: A, in coordination with EAP)

### **Human Resources**

At the end of 2011, several AIT/Washington employees ran up against the 12-year statutory limitation on U.S. Government employees detailed to AIT. They then retired and continue to work at AIT/Washington as contract employees. Most have long tenures and even longer experience with issues involving Taiwan. However, their position descriptions are not current and are due for review, as required in the contract. In contrast, all positions in AIT/Taiwan have been approved and classified according to Department regulations.

Because contract employee duties and responsibilities are determined solely by the duties the Department assigns to AIT, EAP has the responsibility to approve in advance any decision to adjust staff levels at AIT/Washington or to hire a specific contract employee. When position descriptions within AIT/Washington are not up to date with EAP requirements, confusion exists among various offices within the Department, other agencies, AIT/Taiwan, and AIT/Washington regarding the proper functions for AIT/Washington contractors.

**Recommendation 12:** The Bureau of East Asian and Pacific Affairs, in coordination with the Bureau of Human Resources and the Bureau of Administration, should review and classify current position descriptions for the American Institute in Taiwan/Washington, as required by the contract. (Action: EAP, in coordination with DGHR and A)

### **Financial Management**

Management of AIT finances differs significantly from standard Department operating procedures, which hampers the Department's ability to provide adequate financial controls. By virtue of the contract, AIT receives operational funds from three sources, each of which constitutes about one-third of the total: congressionally appropriated funds (FY 2011, \$20,934,671); visa processing (FY 2011, \$21,500,000); and reimbursements from the U.S. Government (FY 2011, \$20,570,407). Funds are deposited into one of several commercial bank accounts, and AIT/Washington or AIT/Taiwan then write checks on these accounts. Once these

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<sup>14</sup> Section 6. (b).

funds are deposited in AIT's bank accounts, they are outside the Department's budget system and oversight and are, as a result, not visible on a timely basis to the Department's financial managers. In the absence of the routine internal controls that operate inside the Department, financial management of these funds is left in large measure to the experience and goodwill of the personnel responsible for management within AIT itself. According to the current AIT/Taiwan financial management officer, it takes a year to master the AIT system.

The working capital fund for capital improvements resides in a commercial bank account consisting of Treasury bills amounting to some \$140 million. However, the contract contains no details about governance of the fund, its authorized uses, or who is authorized to manage it. Consequently, the governance of this fund is weak. At the end of the fiscal year, balances remaining in other AIT bank accounts are deposited in this fund. Lack of adequate Department oversight and control of these funds places them at risk of improper use.

**Recommendation 13:** The Bureau of East Asian and Pacific Affairs, in coordination with the Bureau of Budget and Planning, the Bureau of the Comptroller and Global Financial Services, and the Bureau of Administration, should form a financial oversight team consisting of representatives from these bureaus to carry out quarterly visits to the American Institute in Taiwan/Taiwan. (Action: EAP, in coordination with CGFS, BP, and A)

**Recommendation 14:** The Bureau of Administration, in coordination with the Bureau of East Asian and Pacific Affairs, the Bureau of Budget and Planning, and the Bureau of Overseas Buildings Operations, should amend the American Institute in Taiwan contract to specify the specific purposes for building fund use and who has authority to release funds from this account. (Action: A, in coordination with BP, EAP, and OBO)

The Department's contracting officer has authorized AIT only limited use of visa processing fees for operational expenses, but the lack of transparency in the expenditure of funds, noted previously, has made compliance difficult to track. As a result, millions of dollars have accumulated at both AIT/Taiwan and AIT/Washington without notification of the appropriate offices in the Department. In one case, AIT set aside \$10 million to pay a bill for biometric processing that the Bureau of Consular Affairs had already paid.

**Recommendation 15:** The Bureau of East Asian and Pacific Affairs should direct the American Institute in Taiwan to discontinue segregating the funds set aside for biometric processing and instead deposit these funds in the building improvement fund account. (Action: EAP)

The Department's poor financial oversight creates significant risk, especially when officers assigned to manage the funds at AIT/Taiwan are transferred to other posts and take their institutional memory with them. A similar accumulation of excess funds took place at AIT/Taiwan in 2004. These funds were ultimately transferred to AIT/Washington for deposit in the building fund, again without the Department's knowledge. OIG's 2011 inspection of AIT/Taiwan identified problems with financial management and recommended changes;<sup>15</sup> this

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<sup>15</sup>*Inspection of the American Institute in Taiwan*, Report Number ISP-I-12-12A, February 2012, Recommendation 24.

report revises and reissues Recommendation 24 of that report, which is now closed, and makes additional recommendations to address deficiencies in this area.

**Recommendation 16:** The Bureau of the Comptroller and Global Financial Services, in coordination with the Office of the Legal Adviser and the Bureau of East Asian and Pacific Affairs, should provide the American Institute in Taiwan/Taiwan with Department of State financial systems and training on their use. (Action: CGFS, in coordination with L and EAP)

**Recommendation 17:** The Bureau of Administration, in coordination with the Bureau of East Asian and Pacific Affairs, should amend the contract with the American Institute in Taiwan to require use of Department of State financial systems. (Action: A, in coordination with EAP)

**Recommendation 18:** The Bureau of East Asian and Pacific Affairs, in coordination with the Office of the Legal Adviser and the Bureau of Administration, should place the responsibility for financial management of the American Institute in Taiwan/Taiwan and the American Institute in Taiwan/Washington under the direct oversight of the Bureau of East Asian and Pacific Affairs. (Action: EAP, in coordination with L and A)

**Recommendation 19:** The Bureau of Administration, in coordination with the Bureau of East Asian and Pacific Affairs, should amend the contract to give financial oversight responsibilities for the American Institute in Taiwan/Taiwan and the American Institute in Taiwan/Washington to the Bureau of East Asian and Pacific Affairs. (A, in coordination with EAP)

In addition to handling visa processing fees, AIT/Washington serves as a conduit for funds to and from AIT/Taiwan and U.S. Government agencies, the latter of which provide equipment and/or training to a Taiwan entity via an AIT-TECRO agreement. The U.S. Government agency then submits a bill to AIT/Washington, which forwards it to TECRO. TECRO pays the bill and deposits the funds in AIT/Washington's "pass-through" account that is specific to TECRO. AIT/Washington writes a check to the U.S. Government agency concerned. Several U. S. Government agencies and units of the Department also have agreements, in the form of memoranda of understanding or contracts, to provide funding to AIT/Taiwan to support their employees assigned to Taipei and/or Kaohsiung. These sustainment costs include what in regular Department missions would be International Cooperative Administrative Support Services charges, plus, in some cases, salary and benefits costs. These U.S. Government agencies and offices were not informed of the April 2012 revision of the Department's contract with AIT.

***Informal Recommendation 1:*** The Bureau of Administration should formally advise other U.S. Government agencies with subsidiary or independent contracts with the American Institute in Taiwan of the April 2012 contract update and encourage them to revise their agreements accordingly.

## **Ethics**

Personnel assigned to AIT/Washington routinely accept gifts from visiting dignitaries. The contract between the Department and AIT specifies that employees are to conduct themselves according to Department ethics requirements in 2 FAM 963 and 2 FAM 964.

Although there are no indications of wrongdoing, the absence of a gifts registry and lack of annual ethics training present serious vulnerabilities.

**Recommendation 20:** The Bureau of East Asian and Pacific Affairs should direct the American Institute in Taiwan/Washington to establish a gifts registry that adheres to Department of State guidance and should require that personnel assigned to the American Institute of Taiwan/Taiwan and those employed at the American Institute of Taiwan/Washington complete the Department of State's annual ethics training. (Action: EAP)

## Conducting or Carrying Out Unofficial Relations

The TRA, bylaws, and contract are largely silent on the respective roles of AIT/Washington's economic and political-military directors. Both officers have developed excellent contacts with officials in TECRO and Taiwan, but their skills are misplaced in AIT/Washington. Linking their substantive knowledge, interagency experience, and understanding of U.S.-Taiwan relations more effectively to the Department would be of benefit to them, AIT, and the U.S. Government. It is appropriate that EAP maintain substantive and operational oversight of the directors' activities and that AIT/Taiwan or other offices or agencies of the U.S. Government take on some of the directors' daily functions. Such an arrangement would provide the Department with better access to, and oversight of, this valuable policy resource.

**Recommendation 21:** The Bureau of East Asian and Pacific Affairs, in coordination with the Bureau of Administration, should direct the American Institute of Taiwan/Washington to place its economic and political-military directors under the direct day-to-day oversight of the Taiwan Coordination office. (Action: EAP, in coordination with A)

### Economic Relations

The AIT/Washington director for economic and trade issues is the focal point for economic, commercial, science and technology, and energy issues, overseeing 43 agreements involving 11 USG agencies. With more than 30 years' experience on Taiwan and/or trade issues, he has an encyclopedic knowledge of U.S.-Taiwan economic relations. Highly regarded by his interagency colleagues, he has astutely struck a delicate balance of maintaining AIT/Washington's statutory role without impeding practical implementation by the interested agencies. His role in coordinating the negotiation of new agreements in his area of responsibility is particularly valuable.

### Political-Military Relations

The TRA states that the United States will make available to Taiwan such defense articles and services "as may be necessary to enable Taiwan to maintain a sufficient self-defense capability."<sup>16</sup> The unofficial military-to-military relationship is deep and active, encompassing billions of dollars annually in the sale of arms and services and dozens of military exchanges and visits. AIT/Taiwan has nearly 20 staff members pursuing these goals in Taipei, but in AIT/Washington only the political-military director and a program support specialist do so on a part-time basis. The political-military director is hardworking, dedicated, and knowledgeable. He is widely respected for his institutional memory, historical knowledge, and profound understanding of U.S.-Taiwan security issues.

The 2002 statutory change allowing active-duty personnel to serve in Taiwan makes it advisable for AIT to adhere as closely as possible to the procedures governing security assistance offices worldwide. At U.S. embassies, the sale of defense articles and services to foreign buyers

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<sup>16</sup> Section 3.1.

is generally managed by security assistance offices, in accordance with standard U.S. Government mechanisms and in cooperation with the DSCA. In the case of Taiwan, AIT/Washington serves as both the conduit between TECRO and the U.S. Government and as the signatory of formal documentation, such as Letters of Agreement. In recent years, this arrangement has become unsatisfactory, resulting in imperfect information flows and disagreements over authorities and associated expenditures. AIT/Washington maintains files (often hard-copy originals) of key documents associated with each sale, but the files for specific cases are not kept together, and AIT/Washington has had little occasion in recent memory to retrieve such documents. AIT/Taiwan indicated that it frequently is unaware of deadlines and other details required for its action because AIT/Washington has not provided the necessary documentation. The 2011 inspection of AIT/Taiwan also identified problems in the handling of political-military issues and recommended changes;<sup>17</sup> this report revises and reissues that 2011 report recommendation, which is now closed.

**Recommendation 22:** The Bureau of East Asian and Pacific Affairs, in coordination with the Bureau of Political-Military Affairs, should direct the American Institute in Taiwan to reorient its political-military structures to parallel more closely the worldwide U.S. security assistance system. (Action: EAP, in coordination with PM)

***Informal Recommendation 2:*** The Bureau of East Asian and Pacific Affairs should direct the American Institute in Taiwan to store and make available documentation electronically to the maximum extent possible.

Requests for visits from foreign governments, international organizations, and foreign contractors to U.S. military and defense contractor facilities are made electronically and processed through DOD's Security Policy Automated Network. TECRO uses this electronic system, but its requests are routed to AIT/Washington for review of compliance with U.S. Government substantive and Taiwan-related policies. This process gives the incorrect impression—to both TECRO and the U.S. facilities—that AIT/Washington is approving the visit. In the case of other foreign visitors, the military facility in question would make approval decisions. It would be more appropriate for DOD officials to conduct compliance reviews if required, based upon the same interagency-approved guidance currently applied by AIT/Washington. If there is a wider policy concern, those officials could then seek interagency review.

**Recommendation 23:** The Bureau of Administration, in coordination with the Bureau of East Asian and Pacific Affairs, should amend the contract with the American Institute in Taiwan to discontinue the Institute's role in processing requests for visits to military and defense contractor facilities by military officials from Taiwan and so inform the Department of Defense. (Action: A, in coordination with EAP)

AIT/Washington's political-military director is intensively involved in the preparation and execution of the visits of military officials from Taiwan. His efforts include preparing detailed schedules, making appointments, greeting arriving visitors at the airport, accompanying them on their calls, serving as notetaker, and hosting a welcome dinner at his home. These

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<sup>17</sup>*Inspection of the American Institute in Taiwan*, Report Number ISP-I-12-12A, February 2012, Recommendation 8.

activities exceed the normal level of involvement of comparable Department officials in the visits of foreign military officials and are generally considered to be the responsibility of a visitor's embassy and/or DOD officials.

**Recommendation 24:** The Bureau of East Asian and Pacific Affairs should direct the American Institute in Taiwan/Washington to provide a level of support to military visitors from Taiwan that is consistent with the practices of the bureau's country desks. (Action: EAP)

## **Liaison for the Taipei Economic and Cultural Representative Office in the United States**

### ***Host-Country Relations***

The Bureau of Consular Affairs normally manages visa functions to facilitate the work of foreign missions and international organizations in the United States. In Taiwan's case, AIT/Washington plays an intermediary role in processing requests for U.S. visa renewals and extensions of stay for TECRO employees, thereby adding an extra step. AIT/Washington also requests Taiwan visas from TECRO for U.S. Government employees assigned to AIT/Taiwan. An AIT/Washington employee spends from 5 to 30 percent of her time handling visas. This time could better be spent on other matters if the Bureau of Consular Affairs handled these issues.

**Recommendation 25:** The Bureau of East Asian and Pacific Affairs, in coordination with the Bureau of Consular Affairs, should instruct the American Institute in Taiwan/Washington to revise its current practice with the Taipei Economic and Cultural Representative Office in the United States and designate the Bureau of Consular Affairs with responsibility for handling requests from the Taipei Economic and Cultural Representative Office in the United States for U.S. visa renewals and extensions of stay. (Action: EAP, in coordination with CA)

**Recommendation 26:** The Bureau of East Asian and Pacific Affairs, in coordination with the Bureau of Consular Affairs, should instruct the American Institute in Taiwan/Washington to revise its current practice with the Taipei Economic and Cultural Representative Office in the United States and designate the Bureau of Consular Affairs as the office responsible for submitting Taiwan visa applications for Department of State employees. (Action: EAP, in coordination with CA)

### ***Ceremonial Functions***

Because the United States does not recognize the Taiwan Government, high-level Taiwan officials do not make official visits to the United States. Such officials do, however, transit the United States en route to other countries. In those circumstances, the AIT chairman will usually meet these visitors at the port of entry and escort them for the duration of their transit stay. This practice is authorized by AIT contract language<sup>18</sup> that assigns the chairman "primary responsibility for meeting, hosting, and accompanying important Taiwan visitors in the United States." The AIT/Washington's managing director's position description states that this role may be delegated to her. In practice, the AIT/Washington directors for economic and political-military affairs also perform this function, and there is no reason why the AIT/Taiwan director

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<sup>18</sup>Section C.4.

should not do so as required. However, the absence of standard operating procedures that define which Taiwan visitors qualify for what courtesies leads to ad hoc extension of such courtesies and to AIT/Washington employees devoting more time and attention to these duties than do EAP country desk officers.

**Recommendation 27:** The Bureau of East Asian and Pacific Affairs should implement standard operating procedures regarding greeting and escorting of official visitors from Taiwan during transit stays in the United States. (Action: EAP)

## List of Recommendations

**Recommendation 1:** The Bureau of East Asian and Pacific Affairs, in coordination with the Office of the Legal Adviser, should conduct a formal review of the practice whereby American Institute in Taiwan contract employees continue to perform inherently governmental functions, and determine an appropriate allocation of all functions between direct-hire U.S. Government employees and contractors within the entire American Institute in Taiwan organization. (Action: EAP, in coordination with L)

**Recommendation 2:** The Bureau of East Asian and Pacific Affairs, in coordination with the Bureau of Administration, should direct the American Institute in Taiwan to amend its bylaws to expand the number of board trustees to five, including the appropriate Bureau of East Asian and Pacific Affairs deputy assistant secretary as a voting member, and make the managing director of the American Institute of Taiwan/Washington and the director of the American Institute of Taiwan/Taiwan nonvoting ex officio members of the board. (Action: EAP, in coordination with A)

**Recommendation 3:** The Bureau of East Asian and Pacific Affairs should make the deputy assistant secretary's active participation in the American Institute in Taiwan's board of trustees meetings a specific work requirement in his/her annual performance evaluation. (Action: EAP)

**Recommendation 4:** The Bureau of East Asian and Pacific Affairs, in coordination with the Bureau of Administration, should direct the American Institute in Taiwan to amend its bylaws to require that an annual schedule of meetings of the board of trustees be established and that agendas and supporting material for board meetings be provided to attendees at least 3 weeks before the meeting date. (Action: EAP, in coordination with A)

**Recommendation 5:** The Bureau of East Asian and Pacific Affairs, in coordination with the Bureau of Administration, should direct the American Institute in Taiwan to record board of Trustee decisions in the meeting minutes. (Action: EAP, in coordination with A)

**Recommendation 6:** The Bureau of East Asian and Pacific Affairs should specify in a direct consulting contract any services it wishes the American Institute in Taiwan chairman to perform beyond those stipulated in the Institute's contract. (Action: EAP)

**Recommendation 7:** The Bureau of Administration, in coordination with the Bureau of East Asian and Pacific Affairs, should exclude the managing director's position description from the American Institute in Taiwan contract. (Action: A, in coordination with EAP)

**Recommendation 8:** The Bureau of East Asian and Pacific Affairs, in coordination with the Bureau of Administration, should review the functions and activities of the American Institute in Taiwan and identify positions and functions no longer required. (Action: EAP, in coordination with A)

**Recommendation 9:** The Bureau of East Asian and Pacific Affairs, in coordination with the Bureau of Administration, should amend the existing contract between the Department of State

and the American Institute in Taiwan to reflect the Bureau of East Asian and Pacific Affairs' broad policy and managerial objectives. (Action: EAP, in coordination with A)

**Recommendation 10:** The Bureau of East Asian and Pacific Affairs, in coordination with the Bureau of Administration, should issue annual task orders to the American Institute in Taiwan to delineate specific administrative goals and objectives, as well as benchmarks, performance standards, staffing levels, and budgetary requirements. (Action: EAP, in coordination with A)

**Recommendation 11:** The Bureau of Administration, in coordination with the Bureau of East Asian and Pacific Affairs, should amend the American Institute in Taiwan contract to require that the Institute follow Department of State regulations and Bureau of East Asian and Pacific Affairs policies regarding travel and representation, notwithstanding Office of Management and Budget Circular 122. (Action: A, in coordination with EAP)

**Recommendation 12:** The Bureau of East Asian and Pacific Affairs, in coordination with the Bureau of Human Resources and the Bureau of Administration, should review and classify current position descriptions for the American Institute in Taiwan/Washington, as required by the contract. (Action: EAP, in coordination with DGHR and A)

**Recommendation 13:** The Bureau of East Asian and Pacific Affairs, in coordination with the Bureau of Budget and Planning, the Bureau of the Comptroller and Global Financial Services, and the Bureau of Administration, should form a financial oversight team consisting of representatives from these bureaus to carry out quarterly visits to the American Institute in Taiwan/Taiwan. (Action: EAP, in coordination with CGFS, BP, and A)

**Recommendation 14:** The Bureau of Administration, in coordination with the Bureau of East Asian and Pacific Affairs, the Bureau of Budget and Planning, and the Bureau of Overseas Buildings Operations, should amend the American Institute in Taiwan contract to specify the specific purposes for building fund use and who has authority to release funds from this account. (Action: A, in coordination with BP, EAP, and OBO)

**Recommendation 15:** The Bureau of East Asian and Pacific Affairs should direct the American Institute in Taiwan to discontinue segregating the funds set aside for biometric processing and instead deposit these funds in the building improvement fund account. (Action: EAP)

**Recommendation 16:** The Bureau of the Comptroller and Global Financial Services, in coordination with the Office of the Legal Adviser and the Bureau of East Asian and Pacific Affairs, should provide the American Institute in Taiwan/Taiwan with Department of State financial systems and training on their use. (Action: CGFS, in coordination with L and EAP)

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## List of Informal Recommendations

Informal recommendations cover operational matters not requiring action by organizations outside the inspected unit and/or the parent regional bureau. Informal recommendations will not be subject to the OIG compliance process. However, any subsequent OIG inspection or on-site compliance review will assess the mission's progress in implementing the informal recommendations.

***Informal Recommendation 1:*** The Bureau of Administration should formally advise other U.S. Government agencies with subsidiary or independent contracts with the American Institute in Taiwan of the April 2012 contract update and encourage them to revise their agreements accordingly.

***Informal Recommendation 2:*** The Bureau of East Asian and Pacific Affairs should direct the American Institute in Taiwan to store and make available documentation electronically to the maximum extent possible.

## American Institute in Taiwan/Washington Personnel

<b>Title</b>	<b>Name</b>	<b>Arrival Date</b>
Chairman	Raymond F. Burghardt	02/24/2006
Managing Director	Barbara Schrage	09/13/1998
Director, Trade and Commercial Policy	Francis F. Ruzicka	03/29/1999
Director, Political Military Affairs	Greg K.S. Man	11/08/1999
Executive Officer	Beth Bernhardt	Dept. employee on loan from EAP
Lead Accountant	Nancy Noble	07/19/1999
Accountant	Hisae Diez de Medina	03/14/2010
Program Specialist	Yermay English	02/11/2001
Administrative Program Specialist	Teresa Hoggard	06/28/2004

## Abbreviations

AIT	American Institute in Taiwan
AIT/Taiwan	Taiwan office of the American Insitute in Taiwan
AIT/Washington	Washington office of the American Institute in Taiwan
COR-A	Contracting officer's representative for administration
COR-P	Contracting officer's representative for policy
Department	U.S. Department of State
DOD	Department of Defense
DSCA	Defense Security Cooperation Agency
EAP	Bureau of East Asian and Pacific Affairs
FAM	<i>Foreign Affairs Manual</i>
OIG	Office of Inspector General
TECRO	Taipei Economic and Cultural Representative Office in the United States
TRA	Taiwan Relations Act

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