



OFFICE OF INSPECTOR GENERAL

AUDIT OF USAID'S MANAGEMENT OF THE VICTIMS OF TORTURE FUND

AUDIT REPORT NO. 9-000-10-006-P
MAY 18, 2010

WASHINGTON, DC



Office of Inspector General

May 18, 2010

MEMORANDUM

TO: Director, Office of Democracy and Governance, Dorothy Taft
Director, Program Management, Office of the Director of Foreign Assistance,
James E. Painter

FROM: IG/A/PA, Director, Steven H. Bernstein /s/

SUBJECT: Audit of USAID's Management of the Victims of Torture Fund
(Audit Report No. 9-000-10-006-P)

This memorandum transmits our final report on the subject audit. We have considered your comments on the draft report in finalizing the audit report and have included your response in appendix II of the report.

The report contains two recommendations for your action. Based on your comments, management decisions have been made on both recommendations.

I sincerely appreciate the cooperation and courtesy extended to my staff during this audit.

CONTENTS

Summary of Results	1
Background	3
Audit Objective	4
Audit Findings	5
USAID’s Victims of Torture Fund Lacks Clear Authority and Responsibility.....	6
USAID’s Victims of Torture Fund Lacks Clear Guidelines and Protocols.....	8
Evaluation of Management Comments	11
Appendix I – Scope and Methodology	13
Appendix II – Management Comments	15

SUMMARY OF RESULTS

Since 1999, USAID has spent approximately \$96 million to carry out activities for torture victims through what the Agency refers to as the Victims of Torture Fund (the Fund).¹ In fiscal year (FY) 2008, \$8 million was used to fund activities in Africa, Asia, Eastern Europe, and Latin America. USAID also provided funding to two worldwide programs that span approximately 23 countries. The Victims of Torture Fund is not a single account, but instead are monies that USAID has designated for activities that are consistent with congressional expectations. Programs and activities are modeled after goals arising from the Torture Victims Relief Act of 1998, section 4(b) (1), codified as 22 U.S.C. § 2152 (the Act). The Act supports rehabilitation assistance to victims of torture in foreign countries, with a focus on treatment centers designed to treat the physical and psychological effects of torture (page 3). Congress has authorized funds for foreign treatment centers pursuant to the Foreign Assistance Act of 1961, under the Torture Victims Relief Act of 1998 and subsequent amendments. Congress did not appropriate funds under the Act for foreign treatment centers for FY 2008.² However, the Agency acknowledges the intent of the Act, along with congressional expectations, and uses resources to provide support services for this vulnerable population throughout the developing world (pages 3–4).

This audit was carried out to determine whether the Victims of Torture Fund is being managed to support the goals of the Act (page 4). For current activities that received funds in FY 2008, the audit found that activities overseen by the Office of Democracy and Governance’s Fund manager are consistent with the Act’s goals, while some activities with limited or no oversight and coordination by the Fund manager veered away from those goals. In FY 2008, resources for activities were distributed in three ways. With the first two ways, the Office of Democracy and Governance received \$4.4 million and either assumed responsibility and authority over those funds or provided money to missions, with the Fund manager in Washington staying involved and coordinating the activities funded for victims of torture. The third way provided \$3.6 million to missions through their regional bureau, with limited or no oversight and coordination by the Fund manager in Washington (pages 5–6).

No single bureau or office has oversight for all monies and activities attributed to the Fund once monies are allocated and distributed. However, the Office of Democracy and Governance reports to both Congress and the public on the status of all resources for victims of torture, despite the fact that not all those resources are funneled through that office. The Office of Democracy and Governance, through its Fund manager and the assistance of technical experts, does not have clearly defined authority over and responsibility for funds given to other bureaus. As a result, the Office of Democracy and Governance and USAID as a whole are at risk of not being able to properly oversee, coordinate, and report on all Victims of Torture activities. As discussed below, there is

¹ The terms “Fund” and “Fund manager” are further clarified in the Background section of the report (page 3).

² H.R. 1678 and S. 840, which were not enacted, would have provided \$12 million for foreign treatment centers for victims of torture for each of fiscal years 2008 and 2009.

no reasonable assurance that program implementation will support goals modeled after the Act (pages 6–8).

Furthermore, no clear guidelines or protocols exist to assist USAID officials in the management of monies designated for the Victims of Torture Fund. Without these controls, some Fund activities veer away from the Act's goals, and the limited resources supporting these activities may not be placed where USAID officials consider there is the greatest need. Of the \$3.6 million that went to missions with limited or no oversight and coordination by the Fund manager, approximately \$1 million was for activities conducted or planned that veered away from the goals of the Act. Of that \$1 million, approximately \$750,000 was used for awareness campaigns, advocacy, and study tours. The Fund manager and other Office of Democracy and Governance staff familiar with funding for victims of torture expressed concern that these types of activities are typically outside the programming scope. Another mission planned to use \$250,000 of monies designated for victims of torture for activities supporting victims of violence, but not torture. In this case, the mission consulted with the Fund manager, was informed that the planned use was inappropriate, and did not spend the money on the proposed activities. However, while this mission's Fund monies had been obligated, as of November 2009 they had not been used (pages 8–10).

To address the problem areas described, this report contains two recommendations. The first recommends that USAID assign a designee to oversee all monies and activities associated with funding for victims of torture. The second recommends that the existing guidelines be revised and distributed and that missions adhere to the guidelines (pages 8 and 10).

Despite disagreement with some elements of the report, the Office of Democracy and Governance and the Bureau for Foreign Assistance substantially agreed with both recommendations and have agreed to take corrective action. Therefore, management decisions have been reached on both recommendations (pages 11-12).

BACKGROUND

USAID refers to monies the Agency provides specifically for activities to assist victims of torture as the Victims of Torture Fund (the Fund), although the Fund is not a single account as the name may imply. Rather, the Agency uses the term to refer to certain monies to be used consistent with the goals of the Torture Victims Relief Act of 1998. USAID is a decentralized agency; therefore, monies for victims of torture are generally allocated to regional bureaus and then forwarded to missions, which assume responsibility and authority for those resources. Since 1999 monies have gone to the Bureau of Democracy, Conflict and Humanitarian Assistance (DCHA) and the Bureaus of Latin America and the Caribbean, Europe and Eurasia, Africa, Asia, and the Middle East. While DCHA's Office of Democracy and Governance (DCHA/DG) has a Fund manager who currently manages two worldwide Fund programs, most activities are implemented through grants and agreements that are awarded and managed by missions. The Fund manager serves as the technical expert and policy coordinator, providing information to the field as well as coordinating and retrieving information for reporting by the Agency. As part of its oversight and managerial responsibilities, DCHA also maintains a contract with Manila Consulting to provide technical assistance and support to missions developing programs for torture victims.

According to USAID officials, the Agency's Fund activities are not legally bound to any particular legislation. However, in representations to Congress and the public, the Agency indicates that it looks to the Torture Victims Relief Act of 1998, 22 U.S.C. § 2152 (the Act) for guidance and models its activities on the foreign assistance goals of the Act.³ The Act gives the President authority to provide assistance for the rehabilitation of victims of torture in foreign countries, focusing on treatment centers designed to treat the physical and psychological effects of the torture. The Act states that:

- Funds shall be available for direct services to victims of torture.
- Funds shall be available to provide research and training to health care providers outside of these treatment centers or programs to enable them to provide services.

In recent years, USAID funding from the Torture Victims Relief Act of 1998 has not been explicitly included in annual appropriations acts. Rather, funding language referencing the Act is typically described in directives included in House, Senate, and conference reports accompanying annual appropriations acts. While a congressional directive is not a legal restriction, it does indicate Congress' intent in relation to how funds should be

³ Subsequent reauthorizations of the Act have occurred with no change to the foreign assistance section. On December 4, 2009, S. 2839 was introduced in the Senate to authorize appropriations under the Act for fiscal year 2010 and fiscal year 2011, including monies for foreign treatment centers appropriated pursuant to the Foreign Assistance Act of 1961. The U.S. Department of Health and Human Services and the United Nations also receive funding under this Act for support services to victims of torture.

spent.⁴ As noted by both the Government Accountability Office (GAO) and past Office of Inspector General audits, agencies take a practical approach to abide by Congress' expression of intent and clearly expressed legislative history when considering how funds should be spent. USAID takes this practical approach for the Victims of Torture Fund.

Since 1999, USAID has spent approximately \$96 million (\$8 million in fiscal year 2008) to support social services for victims of torture where needs are not addressed through humanitarian assistance or other programs.⁵ Amnesty International found evidence of torture in more than 81 countries as of 2007. According to Victims of Torture Fund publications, because of limited resources, USAID cannot work in all countries where there is evidence of torture; therefore, priority must be given to countries where the needs far outweigh financial commitments of donors. In 2009, USAID supported activities that attend to the medical, physical, and psychological needs of torture survivors and their families in approximately 23 countries.

It is important to note that the Fund is not the only foreign assistance or USAID effort to assist torture victims around the world. In many instances, different types of assistance to torture victims come from other sources, including emergency services for refugees and displaced persons, health services for women and children, and economic support programs. These activities are not attributed to the Victims of Torture Fund and are not part of this audit.

AUDIT OBJECTIVE

As part of its fiscal year 2009 annual plan, the Office of Inspector General carried out an audit of USAID's Victims of Torture Fund. The audit was designed to answer the following question:

- Is USAID's Victims of Torture Fund being managed to support the goals of the Torture Victims Relief Act of 1998?

The audit's scope and methodology are described in appendix I.

⁴ Agencies are not required to consider nonstatutory statements or indication of views of Congress when determining how to commit, obligate, or expend funds appropriated to them, according to Executive Order 13457. Authoritative weight is given to legislative history only when it is anchored in the text of the statute, as found in *Shannon v. United States*, 512 U.S. 573, 583 (1994).

⁵ Other types of humanitarian assistance programs that address torture victims include rule of law and human rights programs.

AUDIT FINDINGS

Activities overseen by the Office of Democracy and Governance's Fund manager⁶ are consistent with the goals of the Torture Victims Relief Act of 1998 (Act), while some activities with limited or no oversight and coordination by the Fund manager veered away from those goals. No clear lines of authority and responsibility are present for the oversight and reporting of Victims of Torture Fund (the Fund) activities. Furthermore, no guidelines or protocols clearly outline what activities are consistent with the goals of the Act; as a result, some Fund resources go to activities that are not consistent with those goals.

In fiscal year (FY) 2008, USAID distributed \$8 million in resources in three different ways. In the first way, the Office of Democracy and Governance, with the assistance of the Fund manager, received funding for and directly managed two worldwide programs with the Center for Victims of Torture and with Johns Hopkins University.

- The Center for Victims of Torture, through the International Capacity Building Project, received a 4-year grant to offer capacity building to foreign treatment centers worldwide. The center is involved in 16 treatment centers located in Africa, Asia, Eastern Europe, Latin America, and the Near East. A review of the implementing agreement between USAID and the Center for Victims of Torture indicated this program is supporting the goals of the Act by providing direct services to victims through treatment centers or programs and by training health care professionals in providing services to torture victims.
- In October 2008, Johns Hopkins University and USAID entered into an associate cooperative agreement to improve effectiveness of treatment for torture survivors worldwide. This program supports the goals of the Act by providing additional technical assistance to the Fund manager and strengthening the planning, implementation, monitoring, and evaluation of activities that assist victims of torture, particularly interventions to treat the mental health and psychosocial problems of torture-affected populations.

In the second way, the Office of Democracy and Governance received funds that it then distributed to missions, while the Fund manager remained involved in coordinating Victims of Torture activities. For example, FY 2008 activities in the Democratic Republic of Congo and Sri Lanka that support the goals of the Act were managed this way.

- In FY 2008 the Democratic Republic of Congo received approximately \$2 million, which was used to improve treatment and health center facilities and capacity. Current programs reached close to 9,500 beneficiaries through direct services in medical treatment, psychological and social support, and vocational training.
- Sri Lanka received approximately \$1 million in FY 2008. Although some of the funded activities involved advocacy services, these activities compliment the

⁶ The terms "Fund" and "Fund manager" are further clarified in the Background section of the report (page 3).

overarching goals of direct services and training for physical and psychological support of torture victims. The activities are also working to increase client access to these services and to provide effective, evidence-based treatment strategies.

In the third method of distribution, missions received monies for victims of torture directly from the regional bureau, with limited or no oversight and coordination by the Fund manager. In FY 2008, the Bureau for Africa disbursed \$3.6 million for Victims of Torture Fund activities to three missions. Based on document reviews and interviews with USAID officials in each mission, some activities conducted or planned using Fund monies veered away from the goals of the Act, goals on which the Agency models its activities. Issues for two of these activities are discussed in detail below.

USAID's Victims of Torture Fund Lacks Clear Authority and Responsibility

Summary: According to the *Standards for Internal Control in the Federal Government*, a good internal control environment requires that an agency's organizational structure clearly define key areas of authority and responsibility and establish appropriate lines of reporting. USAID's organizational structure and the assignment of authority and responsibility for the Victims of Torture Fund fall short of this standard. Currently, no clear line of authority and responsibility exists to ensure oversight of Victims of Torture Fund activities. As a result, the Office of Democracy and Governance and the Agency as a whole are at risk for not properly reporting and monitoring all Fund activities.

The U.S. Government Accountability Office's (GAO) *Standards for Internal Control in the Federal Government* defines internal control as a major part of managing an organization. Internal control comprises the plans, methods, and procedures used to meet organizational goals and objectives. Internal control also serves as the first line of defense in safeguarding assets and preventing and detecting errors and fraud. These GAO standards note that a good internal control environment requires that an agency's organizational structure clearly define key areas of authority and responsibility and establish appropriate lines of reporting. In addition, an agency must have relevant, reliable, and timely communications relating to internal as well as external events in order to run and control its operations.

USAID's organizational structure and the assignment of authority over and responsibility for the Victims of Torture Fund fall short of this standard for a good internal control environment. USAID's Automated Directives System 103.3.17.7 states the Office of Democracy and Governance has authority to approve, authorize, and administer all programs, projects, and activities funded for victims of torture, but according to USAID officials, this authority is limited to funds received by the Bureau of Democracy, Conflict and Humanitarian Assistance (DCHA) and its offices. No single bureau or office has oversight of all monies and activities designated for victims of torture once monies are allocated and distributed. The Office of Democracy and Governance reports to Congress and the public on the status of all Fund activities for the Agency, despite the fact that not all resources for activities are funneled through that office. The Fund

manager is not always aware when monies designated for victims of torture are provided to the Agency's regional bureaus and allocated to mission programs based on decisions made by the Bureau of Foreign Assistance.

The Bureau for Foreign Assistance is responsible for the allocation of funds to other bureaus and is accountable to ensure the effective use of foreign assistance resources. Overall, the mission of the Bureau for Foreign Assistance is to promote good stewardship of foreign assistance funds by strengthening oversight and accountability. The audit determined that the Bureau for Foreign Assistance internally generates documents that track the initial allocation decision of funds throughout the Agency and provides each bureau with this documentation. However, officials from the Office of Democracy and Governance were not aware of this document and could not readily verify the total amount allocated for victims of torture. Furthermore, Fund monies cannot be readily identified in Phoenix, the primary mechanism for financial accountability within the Agency. Prior to FY 2006, the Fund had its own activity code that was easily identified in Phoenix. According to Agency officials, the Bureau for Foreign Assistance determines which accounts, including earmarks and directives, are specifically designated in Phoenix.

In FY 2008, of the total \$8 million attributed to the Fund, \$3.6 million went to the Bureau for Africa, while the remaining \$4.4 million went directly to DCHA, to be overseen by the Office of Democracy and Governance's Fund manager. Because missions are not required to coordinate with or report to the Fund manager, the Fund manager, with technical assistance from a contractor, had to reach out to those missions to determine how they planned to use the monies and offer them advice. As late as July 2009, the Fund manager was still tracking the status of funds provided to one mission.

Since missions are not required to report to the Fund manager on Victims of Torture Fund activities, missions provide this information on an ad hoc basis. The Fund manager has no authority over activities or programs that operate outside the Office of Democracy and Governance's own structure, but does voluntarily offer assistance and guidance to missions receiving monies directly from regional bureaus. Despite this ad hoc reporting structure, the Fund manager is expected to accurately report to Congress and the public on funding for victims of torture. For example, in July 2007, the Senate Committee on Foreign Relations requested information on the Agency's use of funds related to the Victims of Torture Act of 1998. Specifically, the Committee requested information on the Agency's oversight mechanisms and processes for conducting such oversight. USAID responded, in part, that the Agency conducts oversight through a program manager (the Fund manager), who reviews progress reports, maintains contact with the field, and conducts monitoring visits with assistance from contractor staff.

As a result of not having clearly defined authority over and responsibility for Fund activities, the Office of Democracy and Governance and the Agency as a whole are at risk of not being able to properly oversee, coordinate, and report all such activities. In addition, allocating monies to various bureaus without clear internal controls in place does not provide reasonable assurance regarding program implementation, as shown in the examples on pages 8 and 9.

Accordingly, this audit makes the following recommendation.

Recommendation No. 1: *We recommend that the Director of Program Management for the Bureau for Foreign Assistance and the Director of the Office of Democracy and Governance establish and implement procedures to assign the Office of Democracy and Governance as designee for the purpose of oversight, including collecting all financial and program data and conducting monitoring visits to allow the Agency to report to Congress and the public on the Victims of Torture Fund.*

USAID's Victims of Torture Fund Lacks Clear Guidelines and Protocols

Summary: USAID indicates that it looks to the Torture Victims Relief Act of 1998 for guidance on the use of Victims of Torture Fund monies. The audit found that some activities attributed to the Fund veered away from the goals of the Act. The lack of clear guidelines and protocols makes it difficult to ensure that activities are in keeping with those goals. This limitation results in some Fund resources being managed in a way that does not support the goals of the Act.

The Agency, in representations to Congress and the public, indicates that it looks to the Act for guidance and models its activities on the foreign assistance goals of the Act. The Act's goals are focused on making funds available for direct services to victims of torture and for research and training to enable health care providers outside of these treatment centers or programs to provide services.

To ensure proper stewardship and accountability for Government resources, GAO Standards note that agencies should ensure that appropriate mechanisms, including policies and procedures, exist and are implemented. These control activities are also essential to achieving effective and efficient program results.

Some activities with limited or no oversight and coordination by the Fund manager veered away from the goals of the Act. The lack of protocols or guidelines clearly outlining what activities are consistent with the goals of the Act results in some resources going to activities that are not consistent with those goals. Specifically, of the \$3.6 million that went to the Bureau for Africa, at least \$1 million went to activities conducted or planned that veered away from the goals of the Act. This included approximately \$750,000 in funding to USAID/Burundi and \$250,000 in funding to USAID/South Africa, as noted below.

Of the \$1.3 million received by USAID/Burundi in FY 2008, \$750,000 was used for activities that veered away from the goals of the Act. For example, \$248,000 was used for a 3- to 4-day torture awareness campaign, \$141,000 went to advocacy for political reform and promotion of human rights activities, and \$330,000 was used for two short study tours for government officials, legislators, and some service providers. The first study tour included 13 people visiting Cambodia, and the second tour involved 13 people visiting South Africa. Activities supporting direct services to victims of torture were

included in the USAID/Burundi's effort, but accounted for only \$279,000 of the total funding.⁷

USAID/Burundi activities occurred as part of a 1-year contract with Chemonics International and followed the successful completion of a 5-year Victims of Torture Fund program in Burundi that was overseen by the Fund manager. Responsibility for this earlier program was successfully transferred to local organizations in 2007.⁸ However, because Burundi received funds in FY 2008 through the Bureau for Africa without oversight and coordination by the Fund manager, the Fund manager had not identified any immediate plans for additional programs in Burundi. Once the Fund manager was aware of victims of torture monies distributed to USAID/Burundi, he contacted the mission and attempted to provide guidance and assistance on the use of these funds that would be in keeping with the goals of the Act. USAID/Burundi took the position that the monies should be used for a broader and more comprehensive approach to human rights issues, including economic reform, democratization, and conflict resolution. However, the Fund manager, as a policy coordinator, and other Office of Democracy and Governance staff familiar with the Fund expressed concern that this approach moved into activities typically outside the scope of the program.

In another example, the Bureau for Africa distributed \$250,000 to USAID/South Africa in FY 2008. The mission made inquiries to determine whether a program for victims of violence—but not torture—would be an appropriate use of the Victims of Torture Fund.⁹ The Fund manager provided guidance on the use of the monies for torture victims and, as a result, the mission changed its plans. However, while the monies have been obligated, they had not been used as of November 2009. In this instance, the Fund manager's intervention—and the willingness of the mission to follow the advice and guidance—prevented monies from being used in a manner that did not support the goals of the Act and the historical intent expressed by Congress.

The Office of Democracy and Governance has guidelines for the Victims of Torture Fund.¹⁰ While these guidelines are offered to missions that receive monies directly from the Office of Democracy and Governance, the guidelines are not publicly available to missions that receive monies from regional bureaus. In addition, the guidelines are not comprehensive or consistent with the goals of the Act. For example, the mention of training for professionals who provide services to treatment centers is limited, but is clearly expressed as a key component in the Act. Furthermore, no mechanism exists to ensure that missions receiving monies directly from a regional bureau—rather than from the Office of Democracy and Governance—follow guidelines developed by the Office of Democracy and Governance should they receive them. Agency officials consistently maintained that USAID is a decentralized agency and that each bureau or mission has its own authority over and responsibility for resources and activities for victims of torture.

⁷ Of the remaining funds, \$206,000 had not yet been invoiced.

⁸ USAID has limited presence in Burundi; support for operations is provided from the East Africa Office in Kenya.

⁹ Mission staff sent an inquiry to both the general counsel in Washington and the regional legal advisor. Staff members were then directed to the Victims of Torture Fund manager in the Office of Democracy and Governance for information on suggested use of the monies.

¹⁰ Other USAID programs that offer guidelines for the use of resources include the Global Health and Child Survival Account, Global Climate Change and Clean Energy Program, and the Water Earmark Fund.

However, this is not consistent with the representations made in congressional inquiries regarding oversight of funds, as mentioned previously in this report on page 7. The lack of appropriate mechanisms, including procedures to follow guidelines, can lead to program results that are not effective or efficient.

In addition to the absence of clear guidelines, the audit found two missions where no adequate USAID protocols were in place to ensure that those missions' activities are consistent with congressional expectations.

Without effective guidelines or protocols, some monies are managed in a way that does not support the goals of the Act, upon which the agency has modeled its activities. If missions or operating units are not aware of guidelines developed by technical experts, or if guidelines are unclear, the limited resources may not be used where the need is greatest. The Agency has developed guidelines for other programs that are designed to ensure effective, evidence-based programming and to increase consistency and predictability of operations. In at least one instance, the Agency has also provided specific protocols in the event that operating units wish to deviate from or adapt guidelines to particular situations, especially when such deviations correspond with the guiding principles of direct impact and optimal use.

Accordingly, this audit makes the following recommendation.

Recommendation No. 2: *We recommend that the Director of the Office of Democracy and Governance and the Director of Program Management for the Bureau for Foreign Assistance revise and make publicly available the existing Victims of Torture Fund guidelines and that missions are notified, upon receipt of funds, to adhere to these guidelines when implementing Victims of Torture Fund activities.*

EVALUATION OF MANAGEMENT COMMENTS

Despite disagreement with some elements of the report, the Office of Democracy and Governance (DCHA/DG) and the Bureau for Foreign Assistance substantially agreed with both recommendations and have agreed to take corrective action by August 31, 2010. Therefore, management decisions have been made on both recommendations.

Regarding recommendation no. 1, both DCHA/DG and the Bureau for Foreign Assistance concur with the recommendation to the extent that DCHA/DG will collect data on and monitor activities and resources designated for victims of torture. Management went further to comment that the DCHA/DG will take the lead in developing USAID policy and technical guidance. DCHA/DG will work with regional bureaus, which are responsible for oversight of the funds received from the Bureau for Foreign Assistance, and DCHA/DG will collect all financial and program data and report them to Congress. The Bureau for Foreign Assistance will assist in the dissemination of policy guidance and help clarify the policy coordination role of DCHA/DG. Management states the policy coordination role will involve DCHA/DG providing technical guidance to the field on programming for victims of torture, coordinating Agency reporting requirements, and tracking and monitoring the use of such funds. The Bureau for Foreign Assistance will also continue to assist any bureau or office seeking information from the field or bureaus. Management has agreed to take corrective action by August 31, 2010.

Notwithstanding their concurrence, DCHA/GG and the Bureau for Foreign Assistance take the position that this recommendation asserts that only a single unit can provide oversight, without which there would be no clear lines of authority for funding and no consistent policy guidance. According to DCHA/DG and the Bureau of Foreign Assistance, this implies that other USAID earmarks must also have designated managers, changing USAID's decentralized business model. In response, the scope of this audit is limited to monies used from victims of torture funding and cannot address what the implications may be for other directives or earmarks.

Regarding recommendation no. 2, both DCHA/DG and the Bureau for Foreign Assistance concur with the need to make policy guidance more easily available and agree to work together to revise the current guidance. They also agree to better publicize the revised guidance so that bureaus and missions can easily find the information and know whom to contact for further guidance. Before allowing funding to the field, DCHA/DG will work closely with missions to ensure they have access to the policy guidance, and DCHA/DG will notify the relevant regional bureaus and the Bureau for Foreign Assistance as necessary if a program is not adhering to the policy guidance. DCHA/DG will work with bureaus and missions that are not adhering to the policy guidance to resolve any problems. Management has agreed to take corrective action by August 31, 2010.

Besides commenting on the recommendations, DCHA/DG and the Bureau for Foreign Assistance also took issue with some report terminology and conclusions derived from the report. An evaluation of their additional comments follows.

As to DCHA/DG and the Bureau for Foreign Assistance's significant disagreement with the terms "Fund" and "Fund manager," the audit team takes the position that the report must remain consistent with the terminology used by the Agency during the period covered by the audit, even though use of "Fund" and "Fund manager" may require additional explanation. During the audit period, both terms were consistently used throughout Agency publications and reports. The report clarifies the true character of these resources in the Background section (page 3), and we further clarified them throughout the report in response to management comments. DCHA/DG and the Bureau for Foreign Assistance have acknowledged that the term "Fund manager" was used in the past, and to avoid further confusion, they will ensure Web sites and other materials provide clarification by May 31, 2010.

Additionally, despite the assertion made by DCHA/DG and the Bureau for Foreign Assistance, the audit report does not make a recommendation for all of the victims of torture funds to flow through DCHA/DG, nor does it intend to imply that bureaus and missions should not be held responsible for Fund programming. Rather, the two recommendations call for DCHA/DG to have oversight authority to collect information and for the establishment and dissemination of guidelines for missions receiving funding for victims of torture. Such changes should not interfere with allocation decisions made by the Bureau of Foreign Assistance, but will establish clear lines of authority for victims of torture policy consistency and reporting purposes.

Management comments are included in their entirety in appendix II.

SCOPE AND METHODOLOGY

Scope

The Office of Inspector General 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, in accordance with our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. The purpose of the audit was to determine whether USAID's Victims of Torture Fund (the Fund) was being managed to support the goals of the Torture Victims Relief Act of 1998 (the Act).

The audit fieldwork was performed from August 19 to November 10, 2009, at USAID's main offices in Washington, DC. To assess the Agency's controls related to Fund activities, we reviewed regulatory requirements and contacted offices, missions, and officials, including the Office of Democracy and Governance, the Bureau for Foreign Assistance, USAID's general counsel, USAID/Burundi, and USAID/South Africa. The following criteria were used to assess USAID's administration of its Fund activities: Public Law 105-320 and subsequent reauthorizations of the Act, 22 U.S.C. § 2152, the Government Accountability Office's (GAO) *Standards for Internal Control in the Federal Government*, and USAID's Automated Directives System (ADS).

The audit primarily focused on the active programs funded in fiscal year (FY) 2008 for victims of torture. The Office of Democracy and Governance reported that \$8 million was awarded for activities related to victims of torture in FY 2008. Of the \$8 million, \$4.4 million was distributed through the Office of Democracy and Governance, and \$3.6 million was distributed through the Bureau for Africa to missions.

Since this audit was done entirely from Washington, DC, no field assessments could be made to determine whether the results reported were accurate. All documentation that was provided to us from the missions and offices was assessed against relevant public laws, U.S. code, and the Automated Directives System.

Methodology

To answer the audit objectives, we met with staff from the Office of Democracy and Governance, and the Bureau of Foreign Assistance. We reviewed all the active programs that received funds totaling \$8 million in FY 2008. Our review included programs in Tibet, the Democratic Republic of Congo, and Sri Lanka; two worldwide programs; and a more detailed review of three African countries that received Fund monies but were outside the direct authority of the Office of Democracy and Governance. We agreed to the Agency's request that we not name missions with security concerns that were reviewed in greater detail. We contacted the Bureau for Africa and interviewed officials from missions in each of the three funded countries. We reviewed relevant documentation produced by these offices and missions, such as the operational plans, award documents, and mission-maintained results tracking reports.

We also reviewed partner-prepared documentation such as annual work plans and annual progress reports.

To determine the extent to which activities were in keeping with the goals of the Act, we relied on an evaluation of USAID policies and procedures compared with the above-mentioned criteria, and we reviewed the active awards. To do this, we reviewed funding for both worldwide and mission-level programs and examined implementing partners' agreements. In addition, we assessed management's responsibility for internal control against GAO's *Standards for Internal Control in the Federal Government*. Our audit findings and associated recommendations for improving the administration of USAID's Victims of Torture Fund resulted from the evaluation of criteria, USAID policies and procedures, and active USAID awards for activities related to victims of torture.

MANAGEMENT COMMENTS



Mr. Steven H. Bernstein
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Performance Audits Division
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Washington, D.C., 20523

Dear Mr. Bernstein:

Thank you for your notification of January 27, 2010, regarding the “Audit of USAID’s Management of the Victims of Torture Fund.” This letter formally confirms receipt of the draft audit and provides comments. While our staffs have had several very informative discussions, we still have several fundamental disagreements with certain assertions in your report and appreciate the opportunity to respond to the recommendations made in the draft audit.

1. No Victims of Torture “Fund”

A significant disagreement lies in the draft audit’s continual reference to the Agency having a Victims of Torture “Fund.” There is no Fund. There has been an earmark or directive for a number of years for USAID to provide funding for victims of torture. However, that does not create a “Fund” in the way that the entire audit is premised. Each year Congress directs USAID to meet a number of earmarks and directives. Although we budget resources to respond to these requirements, we do not create separate Funds.

Therefore, with no “Fund,” there is no “Fund Manager.” For most earmarks/directives USAID manages that cross bureaus and/or missions, and for other cross-cutting programs that are not congressionally mandated, the Agency has one or more individuals who provide both technical expertise and policy coordination to ensure that the design of such programs is consistent with the intent of the earmark/directive and USAID policy. The funding may be under the control of this policy coordinator or may be managed by one or more operating units. In the case of victims of torture, the policy coordinator, who is in DCHA/DG, represents the Agency in discussions with Congress, provides guidance to Agency field personnel, and coordinates reporting requirements for the Agency. Noting the confusion caused by the past use of the term of “Fund Manager,” DCHA will ensure that the USAID website and other materials make clear that the technical expert in DCHA also serves as the policy coordinator. This will be completed by May 31, 2010.

The Agency has not considered or designated the policy coordinator as the “manager” of the funds in the way that the draft audit implies. The policy coordinator is asked to work with bureaus and missions to provide information to the field as well as coordinate and retrieve the

data required for reporting by the Agency. The draft audit appears to conclude that there was a gap in coordination in the case of victims of torture funds. The Office of the Director of U.S. Foreign Assistance (F) and DCHA/DG will identify ways to ensure better coordination with bureaus and missions in the future.

2. Director of Foreign Assistance Allocation of Funds for Congressional Directives

The draft audit clearly argues that all funds for the victims of torture directive should flow through DCHA/DG. The logical implication of that recommendation is that funds for every earmark/directive should be allotted by F to one particular bureau/office or another, which would be fully responsible for managing the funds, including their allocation and the requisite reporting. However, the Director of U.S. Foreign Assistance has responsibility for making decisions on the allocation of USAID and State foreign assistance resources. This responsibility was vested in F in 2006 in part to help ensure that programming decisions take into account a broad range of budget and policy issues. Since a significant part of the Agency's annual foreign assistance program is earmarked or directed in one way or another, the IG's recommendation would leave the Director of Foreign Assistance making few programming decisions. This would completely undermine the mandate of F, leaving no organization with the ability to look at the overall impact of foreign assistance allocations. This is not a model that the Secretary of State or the USAID Administrator can accept.

F needs to retain flexibility regarding funding designations and priorities in order to respond to needs in the field and political priorities. Past experience proves the importance of this practice. In FY 2009 and FY 2010, F allocated 100 percent of the funds set aside for victims of torture funding to DCHA/DG. In prior years F, and the Bureau for Policy and Program Coordination before it, allocated the directive funds in a different manner, allocating the funds directly to bureaus. In some years, the Agency met an Administration priority by including victims of torture funds at the outset in the budget levels designated for the Africa region. In FY 2008, F provided some funds directly to missions in Africa and the balance to DCHA/DG. F reached agreement with Congress on a level for the directive that was less than had been in report language, and DCHA/DG helped craft the argument for the lesser amount through the inclusion of carryover from the previous year and funds that were allocated directly to missions.

It is important to note that while F allocated all of the victims of torture funding for the last two years directly to DCHA/DG, F cannot commit that this practice will continue in future years. Urgent priorities may demand that funds are allocated in a different manner. F must respond to these needs.

3. Existing Lines of Authority

Another issue that the draft audit implies is that unless the victims of torture funds are channeled directly from DCHA/DG to a mission no clear lines of authority or responsibility for their use exists. We disagree with that premise. When allocation decisions are finalized, F provides detailed breakouts of requirements to bureaus that pass them on to missions. Bureaus and missions are then held responsible for the programming of those funds.

In the case of the FY 2008 victims of torture funds allocated by F to missions in Africa, the detailed breakouts of requirements provided to the Africa Bureau included explicit allocations for victims of torture. The missions' Operational Plans (OPs), which detail how missions intended to spend their FY 2008 allocations, specified the amounts that they were going to spend on victims of torture, which tied to the allocations provided to the Africa Bureau. Once the OPs were

approved, the funds were allowed by the Africa Bureau, and the victims of torture funds were allowed as a separate pot of money within the missions' allowances. Those missions were well aware that they had funds that were to be used for victims of torture.

In other words, clear lines of authority and responsibility for those funds already are in place, whether they are channeled from F to a regional bureau to a mission, or from F to DCHA/DG to a mission. That is the basis for the Agency's entire programming process.

4. Comments Regarding Recommendations

With respect to the two recommendations made in the draft audit, we have the following comments.

Recommendation No. 1: We recommend that the Director of Program Management for the Bureau for Foreign Assistance and the Director of Democracy and Governance establish and implement procedures to assign the Office of Democracy and Governance as designee for the purpose of oversight, including collecting all financial and program data and conducting monitoring visits to allow the Agency to report to Congress and the public on the Victims of Torture Fund.

This recommendation asserts that this congressional directive needs a single unit designated by F to provide "oversight" and manage the funds devoted to assistance of torture victims, absent which there are no clear lines of authority for the funding and no consistent policy guidance on the programming for those funds. As discussed above, this implies that all earmarks (e.g., the water earmark, the microenterprise earmark, or any number of other congressional earmarks and directives that cross internal organizational lines within USAID) also must have designated managers. This would lead to the conclusion that USAID would be required to change its proven decentralized business model. One likely result of such a change is that USAID headquarters would become ever more centralized, at the expense of the overseas missions.

DCHA/DG and F concur with this recommendation to the extent that DCHA/DG will take the lead in developing USAID policy and technical guidance, in addition to carrying out the collection and monitoring functions described in the draft audit report with regard to all monies and activities provided by USAID to assist torture victims. Each USAID Mission the receives Victims of Torture money after August 31, 2010 will be advised as to the guidance and reporting requirements associated with its use. Based on how funds for torture victims have been allocated in the past and the lessons learned from that, DCHA/DG would work with the respective regional bureaus responsible for the oversight of the funds received from F. DCHA/DG would also hold the responsibility of collecting all financial and program data and making the report to Congress.

F would assist in the dissemination of the policy guidance and help to clarify the policy coordination role of DCHA/DG for victims of torture funding. That role would involve the provision of technical guidance to the field on victims of torture programming, coordinating Agency reporting requirements for the funding, and tracking and monitoring the use of such funds.

In addition, F would continue to be ready to assist any bureau/office seeking to get information from the field or bureaus. It would be the responsibility of DCHA/DG to inform F when the efforts they have made to get required information are unsuccessful and what steps they had taken before contacting F.

Recommendation No. 2: We recommend that the Director of the Office of Democracy and Governance and the Director of Program Management for the Bureau for Foreign Assistance revise and make publicly available the existing Victims of Torture Fund guidelines and that missions are notified, upon receipt of funds, to adhere to these guidelines when implementing Victims of Torture Fund activities.

DCHA/DG and F concur with the need to make policy guidance more easily available and will work together to revise the current guidance, and better publicize the revised guidance so that bureaus and missions can easily find the information and know whom to contact for further guidance. Revised policy guidance will be made available in an easily accessible place by August 31, 2010.

However, to the extent that DCHA is the bureau to which F has allotted victims of torture funding, F is not party to the further allowance of the funds to the field. DCHA/DG agrees that before it allows victims of torture funding to the field, it will have worked closely with affected missions to ensure that the missions have access to the policy guidance, that programs are mutually agreed upon and are based on the policy guidance. DCHA/DG further agrees to notify the relevant regional bureau, and F as necessary, should a program be deemed as not adhering to the policy guidance. DCHA/DG will work with the bureau and mission to resolve issues and problems.

Please let us know if you have any questions about F and USAID's plan for implementing the draft audit recommendations. We thank you for the opportunity to have discussed the findings and appreciate the fact that we will be able to issue enhanced guidance that should lead to improved programming of assistance to victims of torture.

Sincerely,

/s/

James E. Painter
Director of Program Management
Office of the Director of U.S.
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/s/

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