West Bank and Gaza: USAID Did Not Document Its Deliberative Process for Identifying and Assessing Risks in Programming

Audit

OFFICE OF INSPECTOR GENERAL
U.S. Agency for International Development

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TO: USAID/West Bank and Gaza, Acting Mission Director, Jessica Zaman

FROM: Middle East and Eastern Europe Regional Office, Audit Director, Louis Duncan, Jr. /s/

SUBJECT: West Bank and Gaza: USAID Did Not Document Its Deliberative Process for Identifying and Assessing Risks in Programming

This memorandum transmits our final audit report. Our audit objective was to determine the extent to which USAID/West Bank and Gaza identified and assessed risks after the resumption of funding and related programming. In finalizing the report, we considered your comments on the draft and included them in their entirety, excluding attachments, in Appendix B.

The report contains one recommendation to improve the mission's process of identifying and assessing risks in its programming. After reviewing the information you provided in response to the draft report, we consider this recommendation closed.

We appreciate the assistance you and your staff provided to us during this audit.

Contents

Introduction

USAID officially opened its mission for West Bank and Gaza in 1994. It currently has two offices in Israel: Jerusalem and Tel Aviv. USAID/West Bank and Gaza (USAID/WBG) programs support the West Bank and Gaza in achieving the overarching goal of partnering with the Palestinian people to promote prosperity, peace, and opportunities for the next generation. However, USAID/WBG continues to face several constraints in implementing programs, such as movement restrictions and security concerns due to violence. In addition, the Taylor Force Act, enacted in March 2018, placed legal restrictions on U.S. assistance directly benefitting the Palestinian Authority (PA).[1] Another example that highlights the historical legal complexities on foreign assistance in the region is the Anti-Terrorism Clarification Act of 2018. Although this act was amended in December 2019, the PA stated it would not accept assistance after January 31, 2019, because of its concerns about the Anti-Terrorism Clarification Act of 2018. The act states that defendants accused of acts of terrorism in civil action who are also recipients of foreign assistance are subject to U.S. lawsuits.[2,3]

In addition to these challenges, USAID/WBG faced funding swings over the years. As Figure 1 shows, obligated funding ranged from $286 million in fiscal year (FY) 2017, down to approximately $18 million in FY 2020. Although the U.S. administration at the time ended all programmatic assistance in FY 2019 due to changing priorities, previously appropriated amounts were obligated in FY 2019-2020. In FY 2021, the subsequent administration announced it would resume funding. Consequently, USAID obligations to West Bank and Gaza increased to $122 million by FY 2021 and to $152 million by the end of FY 2022.

Figure 1. FY 2017-2022 USAID Funding to West Bank and Gaza (Obligated funds in millions)

Source: OIG-generated using data from ForeignAssistance.gov

Given the challenges in providing foreign assistance in the West Bank and Gaza, coupled with the increase in funding during FY 2021, OIG initiated an audit to determine the extent to which USAID/WBG identified and assessed risks after the resumption of funding and related programming.

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[1] Public Law 115-141 states that Economic Support Funds may only be made available for assistance in West Bank and Gaza for activities directly benefitting the Palestinian Authority under certain conditions that are discussed in this report's finding focused on legal risks.

[2] U.S. Government Accountability Office, *West Bank and Gaza Aid: Should Funding Resume, Increased Oversight of Sub-awardee Compliance with USAID's Antiterrorism Policies and Procedures May Reduce Risks* (GAO-21-332), March 29, 2021.

[3] Anti-Terrorism Clarification Act of 2018.

To answer this objective, we reviewed how the mission followed two applicable elements of risk management: identification and assessment, as outlined in a U.S. Government Accountability Office (GAO) report about Enterprise Risk Management (ERM) standards.[4]

Accordingly, we reviewed applicable policies and guidance associated with ERM that USAID/WBG is required to use in identifying and assessing risks to achieve the mission's objectives. We reviewed available documentation provided by USAID/WBG to determine the extent to which the mission followed Agency ERM guidance during its risk identification and assessment process when completing its risk profiles[5] for FY 2021 and FY 2022. We interviewed key officials involved in the ERM process from the mission's Program Office, Office of Financial Management, Executive Office, and various technical offices. We also interviewed other stakeholders, including officials from the USAID Bureau for Humanitarian Assistance, the U.S. Department of State, implementing partners,[6] and four other donors familiar with risks associated with providing foreign assistance to West Bank and Gaza. Our audit period covered January 2021 to June 2022. We conducted our work in accordance with generally accepted government auditing standards. Appendix A provides more detail on our scope and methodology.

Summary

We found that USAID/WBG followed Agency guidance in identifying and assessing risks after the resumption of funding and programing intended to meet the mission's goal of partnering with the Palestinian people to promote prosperity, peace, and opportunities for the next generation. Specifically, the mission identified and reported programmatic, human capital, and reputational risks in FY 2021 and FY 2022. However, USAID/WBG did not identify risks for categories related to security, legal, fiduciary, or information technology. The mission did not document the deliberative process—including assumptions made and methodologies used—when identifying and assessing risks to include in the risk profiles. As a result, the mission did not reap the benefits of a more transparent and documented process that ensured all key stakeholders were involved in analyzing all available data.

We made one recommendation to update the mission order to include documentation of the deliberative process supporting USAID/WBG's risk assessment and the mission agreed with our recommendation.

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[4] These are two of the "essential elements for an agency to carry out ERM effectively" in accordance with the standards set forth in Office of Management and Budget (OMB) Circular A-123 (July 2016), according to Government Accountability Office, *Enterprise Risk Management: Selected Agencies' Experiences Illustrate Good Practices in Managing Risk* (GAO-17-63), December 2016.

[5] According to the FY 2021 Risk Profile Implementation Guidance, the risk profiles are collected from across the missions and bureaus to identify cross-sectional risks that are repeated across the missions and significant enough to escalate to the attention of Agency leadership.

[6] USAID Automated Directives System Glossary defines an implementing partner as "an organization or individual with which/whom the Agency collaborates to achieve mutually agreed upon objectives and to secure participation of ultimate customers. Partners include host-country governments, private voluntary organizations, indigenous and international non-governmental organizations (NGOs), universities, other U.S. Government Agencies and Departments, the United Nations and other multilateral organizations, professional and business associations, and private businesses and individuals."

Background

According to a 2022 Congressional Research Service report, the current structure of Palestinian governing entities dates to 1994. In that year, Israel agreed with the Palestinian Liberation Organization (PLO) to permit the PA to exercise limited rule over Gaza and specified areas of the West Bank, subject to overarching Israeli military administration that dates to the 1967 Arab-Israeli War also known as the Six-Day War.[7] Since 2007, Hamas—a U.S.-designated terrorist organization[8]—has had de-facto rule and security control over Gaza, making the security, political, and humanitarian situation there fraught with danger. The PA still exercises limited rule over specified areas of the West Bank.[9]

The U.S. government suspended funding for West Bank and Gaza in 2019 because the previous U.S. administration redirected the funds elsewhere due to changing priorities.[10] The current U.S. administration resumed funding in 2021 due to the urgent need for humanitarian assistance in the West Bank and Gaza.[11] When USAID resumed funding, West Bank and Gaza had a combined estimated population of 5.3 million as of December 2021. Of those, 1.8 million people needed food assistance.[12] USAID provided $110.9 million to West Bank and Gaza from FY 2021 through FY 2022. The funding for assistance activities specific to Gaza was $28.8 million; funding specific for activities in West Bank was $9.7 million, and funding for activities for both West Bank and Gaza was $72.4 million. Figure 2 shows the location of Jerusalem and Tel Aviv from where USAID/WBG offices administer assistance to West Bank and Gaza.

Figure 2. USAID Administers Assistance to West Bank and Gaza From Israel

Source: Map created by OIG using data from the U.S. Department of State's international boundaries, the Israel Local Council Boundaries, and CIA's World Factbook. The depiction and use of boundaries and geographic names used on this map do not imply official endorsement or acceptance by the U.S. government.

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[7] Congressional Research Service, "The Palestinians: Background and U.S. Relations," October 27, 2022.
[8] Ibid.
[9] Ibid.
[10] GAO, *West Bank and Gaza Aid: Should Funding Resume, Increased Oversight of Sub-awardee Compliance with USAID's Antiterrorism Policies and Procedures May Reduce Risks* (GAO-21-332), March 29, 2021.
[11] USAID Press Release, "United States Announces Humanitarian Assistance for the People of the West Bank and Gaza," March 25, 2021.
[12] USAID, "West Bank and Gaza – Complex Emergency," July 20, 2022.

Long-Standing Challenges of Implementing Assistance to West Bank and Gaza

Movement restrictions, access impediments, and violence are well-known challenges that increase risk in delivering assistance to West Bank and Gaza.

- Movement Restrictions: Both the West Bank and Gaza face socioeconomic challenges due to Government of Israel (GoI) movement and access restrictions.[13] According to USAID, "As of June 2022, an estimated 2.1 million Palestinians in Gaza remained affected by movement restrictions initially intensified by Israeli authorities in 2007."[14] The GoI has declared restrictions to areas on the land and coastal borders of Gaza, claiming that Hamas has used these areas to carry out attacks against Israel and smuggle weapons. With the GoI classifying Gaza as an "enemy territory" under Israeli law,[15] restrictions imposed by the GoI, according to USAID:

  > continue to limit Palestinians' access to medical treatment, education, and economic opportunities. The restrictions also undermine Gaza's economy, driving high unemployment rates—among the highest in the world, with nearly 47 percent of Gazans unemployed during the January-to-March period 2022.[16]

- *Access Impediments*: The GoI imposed restrictions on the entry of certain goods into Gaza and on Palestinians' access to agricultural land and fishing water in Gaza[17] because, according to the GoI, Hamas has tried to carry out terrorist activities by sea.[18]

- *Violence*: During 2021, per a State Department human rights report, nearly 170 incidents of violence were reported against health care infrastructure or the obstruction of health care in West Bank and Gaza.[19] Also, the Department of State's 2021 human rights report on West Bank and Gaza noted that human rights groups reported Hamas targeting civilians.[20]

USAID OIG has identified and reported on these challenges in previous reports. For example, USAID OIG issued reports in 2011 and 2016 that identified restrictions on movement and impediments to access.[21] A 2021 GAO report also emphasized the importance of addressing the risk of subawardee noncompliance with USAID's antiterrorism policies and procedures for USAID/WBG programs.[22]

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[13] Congressional Research Service, "The Palestinians: Background and U.S. Relations," October 27, 2022.
[14] USAID, "West Bank and Gaza – Complex Emergency," July 20, 2022.
[15] Department of State, "West Bank and Gaza Strip 2021 Human Rights Report," 2021.
[16] USAID, "West Bank and Gaza – Complex Emergency," July 20, 2022.
[17] Ibid.
[18] Department of State, "West Bank and Gaza Strip 2021 Human Rights Report."
[19] USAID, "West Bank and Gaza – Complex Emergency," July 20, 2022.
[20] Department of State, "West Bank and Gaza Strip 2021 Human Rights Report."
[21] USAID OIG, *Audit of USAID/West Bank and Gaza Construction Programs* (8-294-16-001-P), February 22, 2016, and USAID OIG, *Audit of USAID/West Bank and Gaza's Infrastructure Needs Program 1: Selected Water Task Orders* (6-294-11-008-P), June 30, 2011.
[22] GAO, *West Bank and Gaza Aid: Should Funding Resume, Increased Oversight of Sub-awardee Compliance with USAID's Antiterrorism Policies and Procedures May Reduce Risks* (GAO-21-332), March 29, 2021.

USAID/WBG's Framework for Identifying and Assessing Risk and Developing Risk Profiles

In FY 2016, the U.S. Office of Management and Budget issued requirements for all U.S. agencies to implement an ERM process effective as of FY 2017.[23] The goal of the ERM process is not necessarily to avoid all risk, but to take advantage of opportunities while reducing or mitigating threats to maximize the Agency's probability of achieving its goal.

To help agency units such as USAID/WBG identify and assess risk,[24] the Management Bureau's Office of the Chief Financial Officer (M/CFO) provides Agency ERM guidance.[25] This guidance includes several key documents, such as the *USAID Enterprise Risk Management: Risk Profile Implementation Guidance for Fiscal Year FY 2021* and *for FY 2022*, USAID's *Facilitating the ERM Risk Profile Exercise: An Illustrative Approach and Facilitation Tips*, USAID's Automated Directives System (ADS) 596mab, and the *USAID Risk Appetite Statement*. According to ADS 596mab, the mission's Management Committee on Risk and Internal Control (MCRIC) is the governing body that provides instructions and final decisions on the risk identification and assessment process.[26]

According to USAID/WBG officials, the mission's Office of Financial Management (OFM) is responsible for coordinating all aspects of the ERM process for the mission. The OFM role includes organizing meetings with the mission's offices to discuss ERM processes, coordinating the semi-annual MCRIC meetings, drafting and editing the mission's ERM risk profiles, and obtaining clearance on ERM risk profiles from MCRIC members.

The final product of the ERM exercise is the mission risk profile that is guided by the seven risk categories identified in USAID's Risk Assessment Statement. The assessment impacts the mission's strategic objectives. USAID/WBG creates and submits the profile to USAID's Bureau for the Middle East (ME) on an annual basis. The risks ME identifies are part of the Administrator's Statement of Assurance that "attests the Agency provides reasonable assurance USAID's internal controls over operations were operating effectively."

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[23] Per the OMB A-123, the ERM implementation requirements started in FY 2017.
[24] USAID's "Risk Appetite Statement-June 2018" explains:
> Per OMB Circular A-123, "risk" is defined as the "effect of uncertainty on [an Agency's] objectives." This definition is quite different than the everyday use of the word "risk": it is not necessarily positive or negative. Rather, it includes factors that could threaten or enhance the likelihood of achieving this set of objectives. Using this neutral definition of risk emphasizes the importance of a continual weighing of cost and benefit.

[25] Per USAID's "Risk Appetite Statement, June 2018," Enterprise Risk Management "is a holistic, agency-wide approach to risk management that emphasizes addressing the full spectrum of risks and managing their combined impact an interrelated risk portfolio, rather than examining risks in silos."
[26] ADS 596mab, Section 6, "Governance Charter for Enterprise Risk Management and Internal Control at USAID," August 2017.

USAID/West Bank and Gaza Followed Agency Guidance in Identifying and Assessing Risks After the Resumption of Funding and Programming, but Did Not Document Its Deliberative Process

We found that USAID/WBG followed Agency guidance to identify and assess risk associated with the resumption of funding and programing. These risks were reported in the mission's risk profiles in FY 2021 and FY 2022. However, the mission did not document the deliberative process—including assumptions made and methodologies used when identifying and assessing risks or how its internal control system could operate effectively in the absence of identifying and responding to risk, as required by Federal guidance.

USAID/WBG's ERM Process Complied With Guidance and Identified and Assessed Three Risk Categories

USAID/WBG identified and assessed risks after the resumption of funding and programming in compliance with Agency guidance, according to responses to our questionnaire, interviews, and review of available documentation. Specifically, the mission identified risks in three areas: programmatic, human capital, and reputational. USAID/WBG did not identify risks for categories related to security, legal, fiduciary, or information technology.

Federal guidance notes that a key aspect of a federal agency's internal controls is the implementation of ERM. Per USAID's ERM guidance, ERM and internal controls work together to achieve strategic, operational, reporting, and compliance objectives.[27] USAID policy requires missions to submit an annual risk profile.[28] Missions use the risk profile to identify and analyze risks, including by assessing the likelihood of the risk occurring. To help missions prepare the risk profile, USAID created a 2018 Risk Appetite Statement that provides guidance to missions on how to evaluate risk using seven risk categories: programmatic, reputational, fiduciary, legal, security, human capital, and information technology. The seven categories are there as a guide, and USAID does not require missions to identify them all.

Because there can be many potential risks to consider, USAID ERM implementation guidance advises condensing the number of risks down to the 20 percent of risk that could have 80 percent of impact on the achievement of its key goals and objectives. And even though missions may be tracking many risks at any time, they only need to report about five to seven key risks to their bureaus.[29] To oversee this process at the mission level, USAID policy requires each mission to establish its own governance structure and rules of engagement overseen by a MCRIC.[30]

In accordance with USAID guidance, USAID/WBG formed a MCRIC that oversaw the mission's annual ERM risk profile and developed a risk profile for FYs 2021 and 2022. The MCRIC

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[27] USAID, "Enterprise Risk Management FY 2021 Risk Profile Implementation Guidance," February 2021.
[28] ADS 596mab, Section 6, "Governance Charter for Enterprise Risk Management and Internal Control at USAID."
[29] USAID, "Enterprise Risk Management FY 2021 Risk Profile Implementation Guidance."
[30] ADS 596mab, Section 6, "Governance Charter for Enterprise Risk Management and Internal Control at USAID."

consisted of mission staff from various offices. OFM took responsibility for coordinating the ERM process for the mission. It organized meetings with other mission offices to discuss ERM processes, coordinated the semi-annual MCRIC meetings, drafted and edited the mission's ERM risk profiles, and obtained clearance on ERM risk profiles from MCRIC members.

According to responses from the MCRIC, the committee sought input from various sources, including staff, other donors, implementing partners, and the U.S. State Department. The committee held discussions to identify and assess risk. The process ended with a final MCRIC meeting and MCRIC's approval of the ERM risk profile.

The FY 2021 and 2022 ERM risk profiles for each year identified and assessed risks in three of the seven risk categories. Table 1 provides definitions of the categories as per USAID's risk appetite statement and identifies the ones included and excluded in USAID/WBG's risk profiles. Although the mission's FY 2021 profile identified programmatic and human capital risks and the FY 2022 risk profile had programmatic and reputational risks, USAID/WBG did not identify risks for categories related to security, legal, fiduciary, or information technology in either year.

Table 1. FY 2021-2022 USAID West Bank and Gaza Risk Profiles Covered Three of Seven Risk Categories

FY 2021 Risk Profile	FY 2022 Risk Profile
Programmatic: Events or circumstances that could potentially improve or undermine the effectiveness of USAID's development or humanitarian assistance.	
1. If USAID/WBG funds continue to be on hold, then the mission will not be able to realize this objective through its own programs. However, other donors continue their Humanitarian Assistance support which potentially addresses some range of the mission's targets.	1. If programs are implemented in a non-permissive environment (Gaza), then USG staff may not have direct oversight of activities and the mission's oversight may not be sufficient.
2. If USAID/WBG funds continue to be significantly lower than historical levels, especially with the greater needs related to COVID-19 impacts, then the mission's ability to satisfy expectations/interests of external stakeholders will be limited, and the mission's ability to engage substantially on emerging needs/priorities will also be limited.	2. If the Ukraine War lasts for a prolonged period and the cost of commodities continues to increase (particularly construction materials and humanitarian assistance food items), then inflation may negatively impact projects' deliverables.
Reputational: Events or circumstances that could potentially improve or compromise USAID's standing or credibility with Congress, the interagency, the American public, host-country governments, multilateral institutions, implementing partners, beneficiaries, or other stakeholders.	
Not reported in FY 2021 risk profile.	3. If the Palestinian people resist programs implemented by USAID because they do not perceive that they directly benefit from the programs, then the mission may experience significantly less participation from the Palestinian people which makes it difficult to fully achieve their goals.

FY 2021 Risk Profile	FY 2022 Risk Profile
Human Capital: Events or circumstances that could potentially improve or compromise the capacity, productivity, hiring, or retention of our employees.	
3. If COVID-19 Israeli and Palestinian Authority local restrictions significantly impact mission or Implementing Partner daily activities, then the effectiveness of our programs may be limited.	Not reported in the FY 2022 risk profile.
Security: Circumstances or events that could potentially improve or compromise the security of USAID staff, partners, information, funding, or facilities.	
Not reported in the FY 2021 risk profile.	Not reported in the FY 2022 risk profile.
Legal: Events or circumstances that could potentially improve or compromise compliance with law, regulation, Executive Order, or other legal requirements.	
Not reported in the FY 2021 risk profile.	Not reported in the FY 2022 risk profile.
Fiduciary: Events or circumstances that could potentially result in fraud, waste, loss, or unauthorized use of U.S. Government funds, property, or other assets. It also refers to conflicts of interest that could adversely affect the accountability of U.S. taxpayer dollars, or the realization of development or humanitarian outcomes.	
Not reported in the FY 2021 risk profile.	Not reported in the FY 2022 risk profile.
Information Technology: Events or circumstances that could potentially improve or compromise the processing, security, stability, capacity, performance, or resilience of information technology.	
Not reported in the FY 2021 risk profile.	Not reported in the FY 2022 risk profile.

Source: Definitions are from *U.S. Agency for International Development Risk Appetite Statement (June 2018)*. Identified risks and content are from USAID/WBG risk profiles for FY 2021 and 2022.

USAID/WBG Did Not Document Its Deliberations Showing Why Some Risks Were Excluded and Dropped Across the Years

USAID/WBG documented input from some of the external stakeholders such as implementing partners and the joint State Department and USAID Assistance Working Group; and sought input from mission staff. However, we noted that USAID/WBG did not document the reasons for excluding risks under the categories of legal, security, fiduciary, and information technology (IT) in its profiles. Further, because USAID/WBG did not document its deliberative process, it could not provide evidence of why the MCRIC did not consider these well-known risks. Additionally, there is limited documentation of the MCRIC's analysis of input from stakeholders who identified additional risk areas. Finally, when the MCRIC decided to drop a risk from one year to next, there is no documented reason for the change.

Risk Profiles Did Not Include Some Known Risks to Agency Programs

Identifying, assessing, and reporting risk are key components of ERM. ERM is a key component of an effective internal control system ensuring that program objectives are achieved. For this internal control system to operate effectively, GAO's *Standards for Internal Control in the Federal Government* state: "Documentation is required for the effective design, implementation, and operating effectiveness of an entity's internal control system."[31] Moreover, Principle 7 states that management's lack of response to risk could cause deficiencies in the internal control system.[32] Therefore, management documents its determination to support the rationale of how an entity's internal control system could operate effectively in the absence of identifying, analyzing, and responding to risk.[33]

Without documentation of the deliberative process—including assumptions made and methodology used when identifying and assessing risk—USAID/WBG could not support why it did not include legal, security, fiduciary, or IT risks in its risk profiles. USAID's risk appetite guidance lists these risk categories, but the Agency does not require missions to identify risks in all of them. Nonetheless, legal, security, fiduciary, and IT risks are common threats to USAID programs; and security and legal risks are well known in the West Bank and Gaza context.

- *Legal Risk*: In March 2021, when the administration ended the moratorium on aid to West Bank and Gaza, the administration stressed that funding would comply with the Taylor Force Act enacted in March 2018. This act prohibits Economic Support Funds from being spent on assistance that directly benefits the PA unless certain conditions are met.[34] According to mission officials, adhering to the act also limits their options in the types of programming they can implement in the West Bank because the PA cannot receive a direct benefit if it has not met the required conditions of the act. As a result, mission officials noted that they review awards for these key legal changes before issuance using a pre-obligation checklist.

- *Security Risk*: Another widely known risk is security in the region due to armed conflict or periods of unrest. Aside from the obvious risk of potential harm to USAID/WBG implementing partners' staff, during these times, the crossing between Gaza and Israel may be closed, thus impeding the ability of implementing partners to carry out USAID projects

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[31] GAO, *Standards for Internal Control in the Federal Government,* September 2014.
[32] Ibid.
[33] Ibid.
[34] Public Law 115-141 states:
> Economic Support Funds may only be made available for assistance in West Bank and Gaza for activities directly supporting the Palestinian Authority if the Secretary of State certifies that the Palestinian Authority, the Palestinian Liberation Organization, or any successor or associated organization (1) are taking steps to end acts of violence against Israeli and United States citizens; (2) have terminated payments for action of terrorism perpetrated against Israeli or United States citizens; (3) have revoked any law, etc. that authorizes or implements a system of compensation for imprisoned individuals based on the sentence or period of incarceration; and (4) are publicly condemning acts of violence and are investigating or cooperating with investigations into such acts.

in Gaza. For example, during the GoI and Hamas conflict in May 2021, the Israel border crossing with Gaza was closed, preventing humanitarian workers from accessing Gaza.[35]

There was no supporting documentation for justifying why known legal and security risks were not included in the mission's risk profiles. When we asked why the mission did not include legal or security risks in its profiles, officials said that they were not required to report on every risk category unless there was a need to do so. The officials noted that during the various meetings and discussions held, MCRIC participants did not identify any risks under these categories. Furthermore, a mission official pointed out that such risks are managed as part of their day-to-day activities. That is, mission personnel discuss daily requirements associated with movement restrictions, congressional holds, and obtaining visas and permits. Officials also noted that there was a "security" aspect reported under programmatic risk regarding programs implemented in a non-permissive environment. As a result, they said that they focused on other risks that do not receive such daily attention.

A mission official also noted that the mission operates in a legally complex environment and as such, does not compromise compliance with laws, such as the Taylor Force Act. Nonetheless, without documentation of a deliberative process, the mission could not support, and we could not verify, its rationale to exclude legal risk from its FY 2021 and FY 2022 risk profiles.

Other Stakeholders Identified Additional Risks That USAID/WBG Did Not Report

While USAID/WBG identified some risks for FY 2021 and FY 2022 profiles, we noted that other stakeholders identified additional risks that the mission did not report.[36] For example:

- *Visas and Permits.* Three USAID/WBG implementing partners we interviewed noted that additional rules on visas and permits for staff would negatively impact program implementation in terms of decreased timeliness and increased costs. A mission official noted that to enter West Bank and Gaza, implementing partners' staff needed to enter Israel first, so that Israeli authorities could issue the entry visas. Staff must also obtain permits from the GoI to cross the borders into West Bank and into Gaza. It is notable that USAID OIG audit reports in 2011 and 2016 reported on access impediments pertaining to obtaining visas for staff to enter from Israel and permits to move goods into West Bank and Gaza from Israel.[37]

- *Local Implementing Partners.* Officials from three bilateral donors and one international organization donor we interviewed noted that local civil society organizations (CSOs) and nongovernmental organizations are at risk of being designated as terrorist organizations by the GoI. An official from the international donor we interviewed noted that the GoI recently designated some CSOs as terrorist organizations. He noted that this caused some country donors to be reluctant to use them. Furthermore, an official with a country donor

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[35] Department of State, *West Bank and Gaza Strip 2021 Human Rights Report.*
[36] Per GAO's best practices guide, ERM programs should incorporate feedback from internal and external stakeholders because their insights can aid agencies to identify and better manage risks.
[37] USAID OIG, *Audit of USAID/West Bank and Gaza Construction Programs* (8-294-16-001-P), February 22, 2016, and OIG, *Audit of USAID/West Bank and Gaza's Infrastructure Needs Program 1: Selected Water Task Orders* (6-294-11-008-P), June 30, 2011.

noted that to avoid this risk, the country preferred to use multilateral organizations to implement its programs.[38] A USAID/WBG official said that such restrictions reduce the number of potential partners available to the mission.

In addition, in contrast to the number of risks USAID/WBG identified, officials with one of the country donor organizations we interviewed provided us with a more robust listing of risks that it identified and assessed. This list identified 17 risks related to restricted access in/out of Gaza, insufficient staffing, and deteriorating security impeding post operations.

USAID/WBG officials explained to us why the mission did not include these risks in its profile. For example, USAID/WBG officials said that they did not include access restrictions in the mission's risk profiles because they believed USAID is better positioned to deal with these risks due to it having a better relationship with the GoI. However, in the absence of documentation, the mission could not support, and we could not independently verify, that these discussions had been part of the deliberative process to complete the annual assessment.

Reasons for Dropping Risks From Year to Year Were Not Documented

Because USAID/WBG did not document the deliberative process, it is also unclear how decisions were made to drop risks from one year to the next. For example, there was no record of the risk of potential congressional holds, which was reported in FY 2020 and FY 2021 but was not reported in FY 2022, even though the mission was aware of the potential for Congress to withhold funding.[39] Also, there was no record of why the impact of Israeli and PA COVID-19 restrictions reported in the FY 2021 ERM risk profile did not show up in the FY 2022 ERM risk profile. These local restrictions can cause delays in implementing USAID programs. Even though a mission official noted that these risks were considered minimal at the time, there was no documentation of any discussions related to these topics. Therefore, it was unclear how decisions were made to drop these risks.

Regarding the lack of documentation supporting their analysis, mission officials noted there is no requirement to document or maintain pre-decisional discussions about possible risks because the mission risk profile is the only required document. Mission officials also noted a lack of consensus on the process for determining which risks to include. For example, USAID/WBG officials said that MCRIC members had differing interpretations about M/CFO guidance on what risks to report and how to report risks. Some of the interpretations were:

- Risks previously reported need not be reported again even if they continue to exist.

- Risks that the mission determined cannot be mitigated should not be documented. For example, several mission officials we interviewed said that the programmatic risk relating to the difficulty in obtaining visas and permits for humanitarian organizations is a cost of doing business in West Bank and Gaza. As a result, this risk was not in the ERM risk profile.

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[38] Multilateral organizations, including United Nations agencies, obtain their funding from multiple governments and spend it on projects in various countries. The World Health Organization is an example.

[39] Per www.congress.gov, a hold is "a request by a Senator to his or her party leader to delay floor action on a measure (e.g., bill) or matter (e.g., nomination), to be consulted on its disposition, and/or an indication that he or she would object to a unanimous consent request to consider said item of business or otherwise delay or obstruct consideration."

The lack of current guidance at the mission also contributed to the differing interpretations of the process. The mission has not updated its mission order that covers the mission's procedures and responsibilities for internal control issues in over 20 years. As a result, the mission order does not describe how the mission intends to implement the Agency's 2017 guidance regarding ERM.[40]

Without documenting how the MCRIC made decisions, USAID/WBG may miss out on having a collective and memorialized documentary record to inform subsequent analysis and decisions for use in identifying, assessing, and responding to risks in the future. Documenting discussions and the analysis that resulted in a certain ERM risk profile is vital given the uncertainty of funding in the region. Additionally, with U.S. direct hires unable to enter Gaza to monitor projects, and legal restrictions that apply to assistance that directly benefits the PA in the West Bank, maintaining a historical record of the discussion of risks affords the mission the additional knowledge and explanations it needs to determine whether to reprogram funding or accept the risks. This record could help inform future mission personnel managing funding and programs.

Furthermore, if the mission continues to not document its assumptions and methodologies for determining risks annually, it may miss opportunities to develop measures to mitigate recurring risks and to revise programs accordingly in response to identified risks. As a result, USAID/WBG programs may not be able to meet beneficiaries' expectations and program objectives, including meeting the overarching goal of partnering with the Palestinian people to promote prosperity, peace, and opportunities for the next generation.

Conclusion

USAID/WBG faces many challenges in managing foreign assistance for West Bank and Gaza. These challenges include security risks due to the Israeli-Palestinian conflict that has resulted in closed borders and legal challenges that place constraints in use of mission funding unless certain conditions are met. A deliberative process that documents from year to year how the mission determines the risks to accept and others that must always be addressed is important in the ever-changing context that includes both well-known risks and new ones. Documenting deliberations as part of the annual ERM exercise would help USAID/WBG reap the benefits of a more transparent process to aid staff and other stakeholders in understanding the reasoning behind what the mission is identifying and assessing annually—and in this case, particularly when U.S. funding to West Bank and Gaza is reduced and then suddenly sees an increase.

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[40] ERM implementation requirements began in FY 2017, according to ADS 596mab, "Governance Charter for Enterprise Risk Management and Internal Control at USAID."

Recommendation

We recommend that USAID/West Bank and Gaza take the following action:

1. Update its mission order covering procedures and responsibilities for internal control issues to include a requirement to document a deliberative process that provides information about the assumptions made and methodologies used in identifying and assessing what risks will be included in annual risk profile submissions.

OIG Response to Agency Comments

We provided our draft report to USAID/WBG on June 28, 2023. On August 21, 2023, we received the Agency's response, which is included as Appendix B of this report. Moreover, we reviewed the technical comments the Agency included in its response and considered and incorporated them as appropriate.

The report included one recommendation, which the mission agreed with, and we acknowledge the management decision on it. In particular, USAID/WBG developed a new mission order that met the intent of the recommendation and outlines requirements to document its deliberative process for enterprise risk management—including the need to document the assessment of major risk categories and the rationale for dropping risks reported in the prior period. Therefore, we consider this recommendation closed.

Appendix A. Scope and Methodology

We conducted our work from February 2022 through June 2023 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 based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Our audit objective was to determine the extent to which USAID/WBG addressed risks after the resumption of funding and related programming. To answer this objective, we reviewed how the mission followed two applicable elements of risk management: identification and assessment of risk as outlined in ERM standards, which guide agencies in effectively managing their missions.

In planning and performing the audit, we gained an understanding and assessed internal controls that were significant to the audit objective. Specifically, we designed and conducted procedures related to the five components of internal control as defined by GAO.[41] These are the Control Environment, Risk Assessment, Control Activities, Information and Communication, and Monitoring.

In addressing the objective, our audit techniques included interviews and review and analysis of USAID/WBG reports, processes, and strategies. We did not seek to determine whether USAID/WBG's implementation of program activities was successful. We relied on documentary evidence along with testimonial evidence from USAID officials to support our findings, results, and conclusions. We did not rely on computer-processed Agency data to answer the audit objective because we did not identify any sources necessary to support our audit conclusions.

Our audit period from January 2021 to June 2022 ensured we included the FY 2021 and 2022 Risk Profiles that the Agency requires the mission to submit each spring. To address our audit objective, we reviewed applicable policies and guidance associated with ERM that USAID/WBG is required to use in identifying and assessing risks to achieving program objectives. We reviewed available documentation provided by USAID/WBG, including the related mission order, to document the extent to which the mission followed ERM guidance during its risk identification and assessment process when completing its ERM Profiles for FY 2021 and FY 2022. We also corresponded with USAID's Bureau for Middle East officials to identify their level of involvement in USAID/WBG's ERM process.

To further our understanding of the process at the mission, we prepared a questionnaire to determine the extent to which USAID/WBG complied with the applicable ERM guidance. The questionnaire was also designed to document how the ERM process informed mission planning and strategy, and what communications were received about the resumption of funding. In its response, the mission reported on how its ERM process followed Agency guidance, and informed mission planning and strategy; and when and how the mission received notification of the resumption of funding.

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[41] GAO, *Standards for Internal Control in the Federal Government* (GAO-14-704G), September 2014.

We conducted 10 interviews with officials responsible for the mission risk management process for USAID/WBG, including its Front Office, Executive Office, Technical Office, Office of Financial Management, Program Office, and Office of Contract Management, to corroborate the mission's written responses to our initial questionnaire, gather further evidence regarding the ERM process USAID/WBG followed, and identify any gaps. We did not conduct any site visits because we conducted interviews virtually in answering the audit objective from our Regional Office in Frankfurt, Germany.

To gain a better understanding of the challenges and risks faced by other stakeholders in the region while implementing assistance programs in West Bank and Gaza and to identify potential key risks not documented by USAID/WBG, we interviewed four representatives from various country and international donors and the U.S. Department of State that the mission identified as stakeholders with whom they worked on a regular basis. During our interviews with these stakeholders, they identified two additional country donors that had operations in West Bank and Gaza. During our interviews, we confirmed that all stakeholders had operations in West Bank and Gaza and were able to provide additional risk context for the region. In addition, we judgmentally selected three of nine USAID/WBG implementing partners to interview that received funding within the scope of the audit based on location of program implementation, coverage of development objectives, and award amount. Although we cannot project the results of testing conducted on the nine selected stakeholders to the population of all stakeholders, we determined that our method for selecting these stakeholders was appropriate for our audit objectives and that the selection would generate valid, reliable evidence for our audit findings and conclusions.

Appendix B. Agency Comments

MEMORANDUM

To: Middle East and Eastern Europe Regional Office, Audit Director, Louis Duncan, Jr.

From: USAID/West Bank and Gaza, Acting Mission Director, Jessica Zaman /S/

Date: August 21, 2023

Subject: Management Comments to Respond to the Draft Audit Report Produced by the
           Office of Inspector General (OIG) Titled, West Bank and Gaza: USAID Did Not
           Document Its Deliberative Process for Identifying and Assessing Risks in Programming
           (Task No. 88160122, Audit Report No. 8-294-23-003-P)

The U.S. Agency for International Development (USAID) would like to thank the Office of
Inspector General (OIG) for the opportunity to provide comments on the subject draft report.
The Agency agrees with the recommendation included in the report and has already taken the
required corrective action to address it.

Overall, we are pleased that OIG found that "USAID/WBG followed Agency guidance in
identifying and assessing risks after the resumption of funding and programming intended to
meet the Mission's goal of partnering with the Palestinian people to promote prosperity, peace,
and opportunities for the next generation." While we agree with the audit recommendation,
the Mission would like to document the following points to provide more context to the
readers of the audit report, address some disconnects between language used in the report and
Agency policy, and identify content and conclusions which are not relevant or fully
substantiated, and therefore could cause confusion to an external audience:

1. The audit title "West Bank and Gaza: USAID Did Not Document Its Deliberative Process for
Identifying and Assessing Risks in Programming" could be misleading because the requirements,
processes, and risk mitigation for programming funds exceed what is captured in the Enterprise
Risk Management (ERM) exercise. Regarding ERM, which was the focus of this audit, the
Mission provided documentation that supports the existence of multiple meetings to discuss
risks, that risks were reported, and that an Agency-developed template was utilized for
assessing risks based on the likelihood and impact of each risk.

2. OIG stated in several places that outside stakeholders identified additional risks that the Mission did not report. According to ADS 596mad, the U.S. Agency for International Development Risk Appetite Statement (RAS), "an agency's objectives and the context in which it operates should inform its risk appetite." The Mission should not be expected to report risks identified by either outside parties that are less familiar with its operating environment or other donors. In the case of the latter, depending on their portfolios, other donors have different challenges and processes/resources for addressing these challenges, deal with different implementing partners and beneficiaries, and have different relationships with the relevant stakeholders. As a matter of process, the Mission engages with external stakeholders as part of risk management (depending on the activity and operating context), however, identifying the specific risks to report is ultimately the Management Council on Risk and Internal Control's (MCRIC) decision.

3. OIG said in its report that "[t]here was no supporting documentation for justifying why known legal and security risks were not included in the Mission's risk profiles." The Mission believes that OIG has mischaracterized when reporting risk is required. For example, according to the relevant policy (ADS 596mad), legal risks are "events or circumstances that could potentially improve or compromise compliance with law, regulation or Executive Orders, enforcement of contractual agreements, U.S. Government ethics requirements, and/or other sources of legal or regulatory actions." Instead of OIG identifying an event or circumstance that could potentially improve or compromise compliance with law, regulation, etc., OIG has generally described laws with which the Mission must and does comply to show that the Mission operates in a legally complex environment.

4. Similar to other USAID missions, ERM is not USAID/WBG's only management tool for identifying and managing risks, especially as related to programs. As such, based on the audit work conducted, the Mission does not believe that a conclusion such as the one on page 13: "As a result, USAID WBG programs may not be able to meet beneficiaries' expectations and program objectives, etc." was fully substantiated.

5. The report states in the Summary section on page 2 that "As a result, the Mission did not reap the benefits of a more transparent and documented process that ensured all key stakeholders were involved in analyzing all available data." As shown to OIG during the audit fieldwork, the process was fully transparent where representatives from all offices in the Mission participated in the ERM exercise.

6. Page 4 of the report mentions that "A 2021 GAO report also emphasized the importance of addressing the risk of subawardee noncompliance with USAID's antiterrorism policies and procedures for USAID/WBG programs." The Mission believes that this statement is unrelated to the preceding paragraphs on access restrictions and violence. In addition, OIG failed to mention that the Mission took corrective actions and the recommendations under the referenced report were closed as confirmed by GAO to the Mission on April 30, 2022.

7. While the draft report notes that in "FY 2021, the subsequent administration announced it would resume funding," resumption of assistance was first a Congressional decision. Congress directed that $75 million be provided in bilateral ESF assistance for Palestinians in the West Bank and Gaza for fiscal year (FY) 2020, subject to certain conditions.

COMMENTS BY THE U.S. AGENCY FOR INTERNATIONAL DEVELOPMENT (USAID) ON THE REPORT RELEASED BY THE USAID OFFICE OF THE INSPECTOR GENERAL (OIG) TITLED, WEST BANK AND GAZA: USAID DID NOT DOCUMENT ITS DELIBERATIVE PROCESS FOR IDENTIFYING AND ASSESSING RISKS IN PROGRAMMING (Task No. 88160122)

Please find below the management comments from the U.S. Agency for International Development (USAID) on the draft report produced by the Office of the USAID Inspector General (OIG), which contains one recommendation for USAID:

Recommendation 1: *We recommend that USAID/West Bank and Gaza take the following action:*

1. Update its mission order covering procedures and responsibilities for internal control issues to include a requirement to document a deliberative process that provides information about the assumptions made and methodologies used in identifying and assessing what risks will be included in annual risk profile submissions.

- **Management Comments:** The Mission agrees with the recommendation on the need to update its outdated Management Control and Review Committee (MCRC) Mission Order. As such, the Mission developed a new Mission Order dated July 19, 2023, which replaces its outdated Mission Order. The new Mission Order outlines the Mission's procedures and responsibilities for the management of internal control issues as well as different requirements to document the Mission's deliberative process for enterprise risk management. The new requirements include the need to: 1) document the assessment of each of the Agency's major risk categories regardless of whether certain categories result in reportable risks, 2) document all the Mission's MCRIC meetings and the proceedings, and 3) document the rationale for dropping risks reported in the prior period. Please refer to Attachment 1 for the updated Mission Order No. 23-2.

- **Target Completion Date:** Request Closure upon issuance of the Final Report.

In view of the above, we request that OIG close this recommendation upon issuance of the final report.

Appendix C. Major Contributors to This Report

Members of the audit team include:

Louis Duncan, Jr., Audit Director

David Thomanek, Audit Director

David Clark, Assistant Director

Andrian Smith, Lead Auditor

Amr Adel, Auditor

Shaun Ali, Auditor

The audit team would also like to acknowledge contributions from Wangui Kiundi, Kaitlin O'Hara, and Shannon Turner.

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