



USAID
FROM THE AMERICAN PEOPLE

OFFICE OF INSPECTOR GENERAL

AUDIT OF USAID's EFFECTIVENESS IN COMPLYING WITH TIAHRT VOLUNTARY FAMILY PLANNING REQUIREMENTS

AUDIT REPORT NO. 9-000-08-005-P
February 8, 2008

Washington, DC



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FROM THE AMERICAN PEOPLE

Office of Inspector General

February 8, 2008

MEMORANDUM

TO: GH/PRH, Director, Scott R. Radloff
M/OAA, Director, Maureen Shauket

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

SUBJECT: Audit of USAID's Effectiveness in Complying with Tiahrt Voluntary Family Planning Requirements (Report No. 9-000-08-005-P)

This memorandum transmits our final report on the subject audit. We have carefully considered your comments on the draft report and have included them in their entirety in appendix II.

This report contains six recommendations intended to strengthen controls and procedures related to (1) ensuring that regular financial and compliance audits cover whether or not partners have violated the Tiahrt amendment; (2) communicating the amendment's requirements to family planning partners; and (3) preparing missions to investigate, remedy, and report potential violations. Based on your comments and the documentation you provided, final action has been taken on recommendations 1, 3, 4, 5, and 6, and a management decision has been reached on recommendation 2.

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

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SUMMARY OF RESULTS

This audit report summarizes the results of three Office of Inspector General audits conducted at selected USAID missions¹ and fieldwork performed at USAID's headquarters in Washington, DC. Appendix III lists the three mission-level audit reports. Appendix IV presents a summary of audit recommendations included in the three reports.

The audit objective was to determine whether USAID has effectively implemented controls and procedures to help ensure that USAID and its implementing partners comply with the Tiahrt amendment requirements (see appendix V).² To answer this objective, the Office of the Inspector General addressed whether or not (1) USAID or its partners had violated the Tiahrt amendment; (2) USAID had communicated the Tiahrt amendment's requirements to its partners; (3) USAID had improved controls and procedures in response to the Tiahrt amendment violations that arose in Guatemala; and (4) USAID had put in place procedures to investigate, remedy, and report on violations (see page 3).

With exceptions, USAID headquarters and the three missions audited had effectively implemented controls and procedures to help ensure that USAID and its implementing partners complied with Tiahrt amendment requirements. We concluded that the efforts of USAID/Ethiopia and USAID/Bolivia were effective, and the efforts of USAID's Washington headquarters and USAID/Mali were partially effective (see page 4).

Beyond the two violations USAID reported to Congress in fiscal year 2006, the audits found no evidence of additional Tiahrt amendment violations (see page 5). However, the missions and headquarters had mixed performance in communicating Tiahrt amendment requirements to family planning partners (see pages 6–7). Headquarters instituted improvements to controls and procedures in response to the weaknesses found in Guatemala (see page 11). Headquarters showed initiative in training mission and partner personnel, and in assessing country programs to provide useful reviews, identify weaknesses, and make many recommendations to help prevent violations (see page 7). However, it was still sharing its lessons learned with the three missions when audit work was begun in those locations, so their responses were mixed (see page 11). Also, the three missions we audited had not implemented procedures to investigate, remedy, and report violations when the fieldwork for each mission audit began (see page 13).

Therefore, USAID should strengthen controls and procedures related to the following: (1) ensuring that regular financial and compliance audits cover whether or not partners have violated the amendment, (2) communicating the amendment's requirements to family planning partners, and (3) preparing missions to investigate, remedy, and report potential violations. This report includes six recommendations to strengthen the controls and procedures used by USAID and its implementing partners to comply with the Tiahrt amendment's requirements (see pages 6, 8, 10, 11, and 14).

Appendix II contains the management comments.

¹ Mission programs audited were in Bolivia, Mali, and Ethiopia.

² The Tiahrt amendment legislated specific requirements for USAID's family planning projects. The requirements address free and informed choice related to family planning assistance.

BACKGROUND

USAID's Bureau for Global Health, Office of Population and Reproductive Health provides support to more than 50 country programs for family planning throughout the world, and provides technical assistance and training to missions and performs country program assessments. USAID's family planning programs help couples determine the number and spacing of their children, reduce unintended pregnancies, promote maternal and child health, and stabilize world population. USAID's policy for family planning assistance is to support the principles of voluntarism and informed choice.

The Tiahrt amendment, first enacted in the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (Public Law No. 105-277), reaffirmed and elaborated on standards for voluntary family planning service delivery projects to protect individual clients receiving family planning services. It required that voluntary family planning projects comply with five requirements, which are detailed in appendix V.

In fiscal year 2006, USAID twice reported violations of the amendment to the Committee on Appropriations of the House of Representatives. The violations were the Agency's second and third reported since the amendment was first enacted into law. In May 2006, the Agency reported that requirements 1 and 2(B) (see page 31) were violated by a USAID-supported family planning partner in Guatemala. In July 2006, USAID notified the committee that requirement 1 was violated in two local government units implementing USAID-supported family planning activities in the Philippines.

USAID's Administrator is required to report to Congress within 60 days after the Administrator determines a violation has occurred. However, USAID/Guatemala took 9 months to notify USAID/Washington of the suspected violations in Guatemala and another 2 months for USAID/Washington to notify the committee that violations had occurred. In the committee's view, this amount of time to report to Congress was "not acceptable."³

As a result of the violations in Guatemala and the delay in reporting them, the committee requested that USAID report to it on the Office of Inspector General's audit findings and actions taken.⁴ The committee also requested that USAID report on actions taken to ensure that the requirements related to family planning be explicitly communicated to all implementing partners, and it suggested that USAID and its missions both investigate and remedy violations with dispatch and ensure that violations are communicated to both Agency officials and Congress.

Following the report of the Philippine violation and further demonstrating congressional interest in USAID's compliance with the amendment, Congressmen Tiahrt and Smith requested a meeting in December 2006 with the Administrator to discuss what USAID was doing to avoid future violations. In written communications, Congressman Tiahrt made

³ House Report 109-486, *Foreign Operations, Export Financing, and Related Programs Appropriations Bill, 2007 (unenacted)*.

⁴ *Audit of Compliance with the Tiahrt Amendment under USAID/Guatemala's Cooperative Agreements with the Family Welfare Association of Guatemala (APROFAM)*, audit report 1-520-06-007-P, issued August 21, 2006.

several requests of USAID. These requests touched on matters such as improving the quality of training to include examples of prohibited practices, and strengthening mission accountability and procedures to ensure full compliance with requirements.

AUDIT OBJECTIVE

This audit was intended to be responsive to congressional interest in the Guatemala Tiahrt amendment violations and USAID actions to help ensure compliance with the Tiahrt amendment's requirements. This audit incorporates the results of the three mission audits and fieldwork performed at USAID headquarters to answer the following question:

- Has USAID effectively implemented controls and procedures to help ensure that USAID and its implementing partners are complying with the Tiahrt amendment requirements?

To answer the audit objective, the auditors addressed the following four questions:

- Have USAID or its partners violated the Tiahrt amendment?
- Has USAID communicated the Tiahrt amendment's requirements to its family planning partners?
- Has USAID, in response to the issues that arose in Guatemala, implemented controls and procedures that improve compliance?
- Has USAID implemented procedures to investigate, remedy, and report on violations?

Please refer to appendix I for details of this audit's scope and methodology.

AUDIT FINDINGS

Has USAID effectively implemented controls and procedures to help ensure that USAID and its implementing partners are complying with the Tiahrt amendment requirements?

With exceptions, USAID headquarters and the three missions audited had effectively implemented controls and procedures to help ensure that USAID and its implementing partners are complying with the Tiahrt amendment requirements. We concluded that the efforts of USAID/Ethiopia and USAID/Bolivia were effective, and the efforts of USAID's Washington headquarters and USAID/Mali were partially effective.

A significant result is that none of the audits' fieldwork identified any indications of Tiahrt amendment violations. The audits did not find any evidence of unlawful practices, such as the denial of benefits or the use of prohibited numerical targets or quotas. In fact, the audits found instances of effective communication of comprehensible information about the benefits and risks of family planning methods that clients selected, as specifically required by the Tiahrt amendment. For example, in Mali, a country with an adult illiteracy rate of approximately 80 percent, community health volunteers verbally communicated information on the contraceptive method selected and provided visual guidance to demonstrate its proper use.

USAID's Washington headquarters had an effective process to investigate, remedy, and report violations. Its country program assessments have provided useful in-depth reviews, identified family planning program weaknesses, and made numerous recommendations to remedy such issues. In at least one case, a potential Tiahrt amendment violation was averted because of such a review.

Nevertheless, USAID's Bureau for Global Health, Office of Population and Reproductive Health (PRH) could make improvements beyond those recommended in the mission audits. Specifically, PRH should: develop improved guidance for auditors testing whether or not partners have violated the amendment, improve policies and communication of the amendment's requirements to family planning partners, and provide guidance to missions so that they are prepared to respond to potential violations.

Specific findings and recommendations related to PRH and an issue related to Agencywide controls and procedures are contained in this report. Positive matters as well as areas needing improvement are presented in detail in the discussions of the four clarifying questions that all four audit teams used to answer the overall audit objective.

Have USAID or its partners violated the Tiahrt amendment?

The audit teams found no evidence at USAID's Washington headquarters, or in Bolivia, Ethiopia, or Mali that USAID or its partners had violated any requirement of the Tiahrt amendment. In May 2006, USAID informed Congress of violations by one of USAID's family planning partners in Guatemala. In July 2006, USAID reported to Congress that violations had occurred in 2 of the approximately 1,500 local government units implementing family planning activities in the Philippines with USAID support. These two violations were USAID's second and third violations reported since the amendment was enacted in 1998. In both cases, USAID indicated that it had taken action to ensure that the identified violations have been remedied. Both reports met statutory reporting requirements relative to timeliness.

Nevertheless, PRH could help improve a key control related to detecting whether or not USAID or its partners violated the amendment. If used, provisions of Office of Management and Budget (OMB) Circular A-133 audits could provide improved assurance that violations have not occurred.

The Bureau for Global Health Could Help Improve A-133 Audits of Family Planning Partners

Summary: OMB Circular A-133 audits of USAID family planning partners did not consistently check for compliance with the Tiahrt amendment. A-133 auditors are required to make determinations of auditee compliance, but this may not have occurred because they lacked USAID-provided guidance in the A-133 Compliance Supplement to assist in their testing for Tiahrt amendment compliance. Accordingly, the effectiveness of these audits, as controls for identifying Tiahrt amendment violations, was reduced.

Testing USAID family planning partner compliance with the requirements of the Tiahrt amendment in conjunction with OMB Circular A-133 audits was inconsistent. Reviews of two of five A-133 audits of family planning partners identified instances in which no testing for Tiahrt amendment compliance was performed. In the instances in which such testing was performed, the extent of testing varied significantly.

OMB Circular A-133 sets the standards for Federal agencies in the audit of U.S.-based nonprofit organizations that receive Federal awards. The Circular's provision E.500 (d)(1) requires that the auditor shall determine whether the auditee has complied with laws, regulations, and the provisions of grant agreements that may have a direct effect on each of its major programs. The Tiahrt amendment requirements have such a direct effect because they require that funds shall be made available only to voluntary family planning projects that comply with the amendment's five requirements. The Circular's provision E.500 (d)(2) asserts that the principal compliance requirements applicable to most Federal programs and the compliance requirements of the largest Federal programs be included in the Compliance Supplement.

The extent of A-133 audit testing for compliance of USAID family planning partners with the Tiaht amendment varied because USAID did not provide Compliance Supplement guidance about any family planning requirements, audit objectives, or suggested audit procedures for determining compliance. The requirements could be included as part of a USAID Compliance Supplement chapter devoted to family planning programs. Compliance reviews, in conjunction with A-133 audits of USAID recipients, may continue to be inconsistently performed until USAID provides auditors with Compliance Supplement guidance about which areas should be reviewed. One auditor from a firm contacted during the course of this audit, which had performed no testing of Tiaht amendment compliance in a recent A-133 audit of a USAID family planning partner, suggested that if USAID wanted the provisions to be tested, guidance should be added to the Compliance Supplement.

If Compliance Supplement guidance on the amendment is provided, violations of the requirements may be detected in the process of the A-133 audit work. Also, the A-133 audit's existing mechanism to detect material noncompliances, such as Tiaht amendment violations, could be better utilized. Finally, by providing auditors with information about the requirements as they pertain to USAID family planning programs, as well as audit objectives and suggested audit procedures for determining compliance with these requirements, USAID will signal that compliance with Tiaht amendment's requirements is sufficiently important for auditors to review.

Assembling a Compliance Supplement chapter that includes the amendment's requirements will likely be a collaborative effort. The Bureau for Global Health's Office of Population and Reproductive Health has expertise about the amendment, because it trains missions and partner organizations about the requirements. USAID's Office of Acquisition and Assistance assists the Agency with Compliance Supplement submissions to OMB. Accordingly, the Office of Inspector General is making the following recommendation:

Recommendation No. 1: We recommend that USAID's director of the Bureau for Global Health, Office of Population and Reproductive Health in coordination with USAID's Office of Acquisition and Assistance request that the Office of Management and Budget include the Tiaht amendment's requirements in a Compliance Supplement chapter.

Has USAID communicated the Tiaht amendment's requirements to its family planning partners?

Headquarters and mission communication of the requirements to partners was mixed. For example, USAID/Ethiopia communicated the Tiaht amendment's requirements to its family planning partner, Pathfinder International, whose implementers in Ethiopia were observed to be knowledgeable of the requirements. On the other hand, USAID/Mali did not communicate the requirements effectively. Furthermore, some implementers were unfamiliar with even basic concepts of the requirements. Additionally, some partner agreements were deficient in their communication of the amendment's requirements. Audit recommendations to address the deficiencies identified at USAID/Mali and USAID/Bolivia are included in appendix IV.

At USAID's Washington headquarters, the Office of Population and Reproductive Health (PRH) demonstrated initiative in its training and communication efforts regarding the specifics of the amendment requirements. PRH provided detailed annual guidance to missions and partner organizations, in the form of teleconferences, to reinforce the requirements. These annual teleconferences involved reviewing requirements and providing guidance on implementing and monitoring program compliance. The meetings also addressed mission and partner questions and concerns.

PRH has taken steps to update training to missions and partner organizations about the requirements. PRH updates its training materials on a continual basis, and offers an online e-learning course. In addition, to monitor where the training sessions are performed, identify the missions and partners involved in the instruction, and determine how many attend these sessions, PRH tracks participation of mission and implementing partners in its training on U.S. statutory and policy requirements, including the Tiaht amendment.

Nevertheless, the following three sections discuss deficiencies in the consistency and implementation of certain USAID regulations.

USAID's Contracting Regulations Regarding the Tiaht Amendment Provisions Need Updating

Summary: USAID regulations pertaining to the inclusion of the Tiaht amendment standard provision in family planning contracts were inconsistent and outdated. Inclusion of the provision in family planning agreements is a primary control for putting USAID family planning partners on notice about the requirements, and for enforcing them, so the relevant regulations should be unambiguous. There has also been congressional interest in this matter, but USAID has not yet updated or corrected the deficiencies in the regulations. By relying on inconsistent and outdated regulations, USAID contracting officers may omit the standard provision in contracts, and family planning partners, uninformed of and not bound to abide by Tiaht amendment's requirements, may violate them.

USAID's regulations regarding inclusion of the Tiaht amendment standard provision in grants and cooperative agreements for family planning activities were up to date. However, USAID's regulations relative to the standard provision for contracts were inconsistent and outdated. At least two different required versions of voluntary family planning standard provisions existed in USAID's regulations for contracts, and neither included the amendment requirements for new awards.

One version, required by USAID Acquisition Regulation, subpart 752.7016, was the "Family Planning and Population Assistance Activities" (August 1986). The Acquisition Regulation required this clause in all contracts involving any aspect of family planning or population activities. That clause contained none of the text of the amendment, which was not surprising since the August 1986 clause predated the amendment by about 12 years.

Another version was required by USAID's Contract Information Bulletin 99-06 (Bulletin 99-06). Bulletin 99-06 required the inclusion of a clause entitled "Voluntary Population Activities" (March 1999). The March 1999 clause incorporated the amendment requirements, and Bulletin 99-06 said the March 1999 clause replaced the August 1986 clause. However, the clause set forth in Bulletin 99-06 was ostensibly valid only for agreements using fiscal year 1999 funding.

Congress has made it apparent that it wants compliance with the provisions of the amendment because the amendment has appeared in appropriation language every year since its introduction in 1998. Additionally, in the wake of the violations in Guatemala, the Committee on Appropriations of the House of Representatives suggested that USAID should take further action to ensure that requirements related to family planning are explicitly communicated to all implementing partners.

Inclusion of the amendment language in family planning agreements is one of the primary controls for putting USAID family planning partners on notice about the amendment requirements and for enforcing these requirements. Accordingly, USAID's regulations for the inclusion of the amendment language in family planning agreements should be unambiguous. However, the regulations relating to contracts were inconsistent and outdated because Agency officials have not yet updated or corrected the deficiencies in the regulations.

USAID's inconsistent and outdated regulations relative to the inclusion of the amendment standard provision in contracts for family planning activities were confusing and have caused USAID contracting officers to omit Tiaht amendment requirements from family planning contracts. Three family planning contracts in Bolivia did not include the requirements because of confusion about USAID's regulations. Some family planning contracts in Washington similarly lacked the requirements (see next section).

By omitting the standard provision containing the requirements from family planning contracts, family planning partners are not contractually put on notice about the requirements. This omission would be problematic for enforcing the requirements if a violation occurred.

Accordingly, the Office of Inspector General is making the following recommendation to improve the clarity of the Agency's contracting regulations related to Tiaht amendment requirements:

Recommendation No. 2: We recommend that the director of the Office of Acquisition and Assistance in coordination with the Bureau for Global Health, Office of Population and Reproductive Health, and the Office of General Counsel amend the Agency's regulations requiring Tiaht amendment language in family planning contracts so that consistent, coherent, and current policies will exist for family planning contracts.

Three Family Planning Contracts Contained an Obsolete Clause Instead of Tiaht Amendment Provisions

Summary: USAID's Bulletin 99-06 required that the March 1999 standard provision be included in contracts for any aspect of voluntary family planning activities. However, three contracts among PRH's 56 centrally managed grants, cooperative agreements, and contracts included an obsolete family planning provision. This occurred because USAID provided inconsistent and confusing guidance. The omission of the correct provision would make it difficult to enforce Tiaht amendment requirements if a violation by the contractor were identified, and the inclusion of the obsolete provision is not useful for enforcing the requirements.

Bulletin 99-06 stated that the Tiaht amendment standard provision, "Voluntary Population Activities" discussed above, must be included in contracts "involving any aspect of voluntary family planning activities." Bulletin 99-06 also indicated that the March 1999 clause replaces "Family Planning and Population Assistance Activities," the August 1986 clause.

However, three contracts (see Table 1) within PRH's 56 centrally managed agreements supporting family planning activities did not include the standard provision, "Voluntary Population Activities" (March 1999). Instead, they included the obsolete provision, "Family Planning and Population Assistance Activities" (August 1986).

Table 1. PRH Contracts With the Obsolete Family Planning Provision

	Title	Contract No.
1.	Data for Decision Making/Links Media (task order 4) ⁵	GHS-I-04-03-00037-00
2.	Pfizer Global Pharmaceuticals — (Depo-Provera)	GPO-C-00-04-00025-00
3.	Organon — (Megestron, 3-month injectable)	GPO-C-00-05-00031-00

The three awards did not contain the required March 1999 standard provision because USAID's regulations requiring the inclusion of the standard provision were inconsistent and may have caused confusion.

The omission of the standard provisions would make it difficult for PRH to enforce the amendment's requirements should a violation by the contractor be identified.⁶ The standard provision puts partners on notice of the requirements and includes them as a condition of the agreement. However, the inclusion of the obsolete provision, which did not reference the requirements, was not useful for enforcing the requirements. Accordingly, the Office of Inspector General is making the following recommendation to correct the three agreements:

⁵ This award is a task order. Neither it nor its "base agreement" included the amendment standard provision, "Voluntary Population Activities" (March 1999).

⁶ We did not assess the risk that any of the three contractors might violate the amendment.

Recommendation No. 3: We recommend that the director of the Office of Acquisition and Assistance amend contracts GHS-I-04-03-00037-00, GPO-C-00-04-00025-00, and GPO-C-00-05-00031-00 either to include the current Tiaht amendment standard provision or to remove the obsolete provision.

Some Family Planning Agreements Did Not Include Tiaht Amendment Provisions

Summary: None of PRH’s four participating agency service agreements related to family planning included the requirements of the Tiaht amendment. Inclusion of these requirements in family planning agreements is one of PRH’s primary controls for putting USAID family planning partners on notice about the requirements and for enforcing them. Because USAID regulations did not require inclusion of the requirements in awards of this type, they were not included in the four awards. Not including the requirements in awards could be problematic for enforcing the requirements and does not assist in communicating them to those carrying out the Agency’s family planning programs.

As shown below, none of PRH’s four participating agency service agreements⁷ (see Table 2) related to family planning included Tiaht amendment requirements.

Table 2. PRH Participating Agency Service Agreements Without Tiaht Amendment Requirements

	Title	Service Agreement No.
1.	Triumph Technologies	PHN-P-00-03-00001
2.	BuCen (SCILS)	HRN-P-00-97-00016-00
3.	CDC (used to be CLM, 3038.01 FPLM/CDC)	HRN-P-00-97-00014-00
4.	TAACS — HHA/OGHA/PASA	HFM-P-00-01-00022-00

According to Office of Acquisition and Assistance, PRH, and General Counsel staff, USAID regulation Bulletin 99-06, covering the inclusion of the amendment requirements in family planning awards, did not require that participating agency service agreements include the Tiaht amendment standard provision. However, in practice, the specific requirements of Bulletin 99-06 were not the sole determinant as to whether the standard provision was included in a PRH family planning award. For example, the nature of the family planning activities covered by an agreement played a role in determining whether the standard provision was included. Inclusion of the standard provision is one of PRH’s primary controls for putting USAID family planning partners on notice about the amendment’s requirements and for enforcing them. The standard provision was not

⁷ According to Automated Directives System 306.3.2.2, participating agency service agreements are agreements with other Federal agencies for specific services or support. The services or support may be either (1) activity-specific services tied to a specific goal to be performed within a definite time or (2) continuing general professional support services that have a broad objective, but no specific readily measurable tasks to be accomplished within a set time.

included in the four participating agency service agreements because USAID policy does not require that it be included.

A blanket exclusion of Tiahrt amendment requirements from family planning awards, based on whether or not the award was a participating agency service agreement, discouraged any assessment of whether including the amendment's provisions would be appropriate. Additionally, omitting the standard provision from family planning awards would be problematic for enforcing the amendment's requirements if a violation occurred, and did not assist in communicating the requirements to those carrying out the Agency's family planning programs. Accordingly, the Office of Inspector General is making the following recommendations:

Recommendation No. 4: We recommend that the director of the Office of Acquisition and Assistance in coordination with the Bureau for Global Health, Office of Population and Reproductive Health, and the Office of General Counsel review participating agency service agreements PHN-P-00-03-00001, HRN-P-00-97-00016-00, HRNP-00-97-00014-00, and HFM-P-00-01-00022-00 to determine whether the Tiahrt amendment's requirements apply to them and amend the awards to include the Tiahrt amendment standard provision, where appropriate.

Recommendation No. 5: We recommend that the director of the Office of Acquisition and Assistance in coordination with the Bureau for Global Health, Office of Population and Reproductive Health, and the Office of General Counsel review and revise, where appropriate, the current policy of exempting participating agency service agreements from the requirements of the Tiahrt amendment.

Has USAID, in response to the issues that arose in Guatemala, implemented controls and procedures that improve compliance?

PRH has, in response to the issues that arose in Guatemala, incorporated lessons learned into its own compliance related controls and procedures. These include PRH's communications, training materials, and assistance provided to missions. PRH made one such communication to missions with family planning programs a month after the violations were reported to Congress, although that communication did not identify itself as being associated with the violations. Because of its training cycle and the timeframe in which the Tiahrt amendment violations in Guatemala were reported, missions in Bolivia, Ethiopia, and Mali were still receiving guidance when audit fieldwork was begun, so their responses were mixed. The audits discovered instances where the missions had taken action to address issues similar to those associated with the Guatemala violations. However, there were other instances where the controls needed strengthening, and where necessary, these earlier audits made recommendations to strengthen mission monitoring. Recommendations were made to both USAID/Bolivia and USAID/Mali to strengthen monitoring for compliance with the amendment.

Has USAID implemented procedures to investigate, remedy, and report violations?

PRH had an effective process for responding to violations. However, the audits in Bolivia, Ethiopia, and Mali found that none of these missions had, at the start of these audits, developed procedures to investigate, remedy, and report violations.

With the assistance of others, PRH performed assessments in countries with family planning programs, based on requests or specific reports of noncompliance that it received from missions. Guatemala's assessment was the only country program assessment performed where there initially appeared to be a violation. In fiscal year 2006, teams performed assessments in five countries (Guatemala, India, Pakistan, Rwanda, and the Philippines) based on requests submitted to PRH by the respective missions.

In all five cases, the assessment teams issued recommendations to resolve issues identified. In the assessment report on Pakistan, the team issued 11 such recommendations to strengthen the country's family planning program and to mitigate vulnerabilities. As an indication of the effectiveness of these assessments, the assessment team helped avert at least one violation in Pakistan.

Assessments also confirmed the violations in Guatemala and the Philippines. Following confirmation of the two violations, the Administrator reported them to Congress within 60 days as required by the Tiahrt amendment legislation.

While the work of the assessment teams has been useful, a key flaw existed in the lack of procedures on the part of missions with family planning programs. This point is well illustrated by the 9 months it took the mission in Guatemala to notify headquarters that there were indications of a violation, compared with headquarters' 2-month response in assessing and reporting the violation. Accordingly, the Office of Inspector General is making a recommendation to PRH to issue guidance worldwide on developing procedures to investigate, remedy, and report Tiahrt violations. This is discussed in the following section.

Missions Need Procedures to Investigate, Remedy, and Report Violations

Summary: At the start of this audit, the missions audited did not have procedures to investigate, report, and remedy Tiahrt amendment violations. The Committee on Appropriations of the House of Representatives indicated that it wanted USAID to investigate and remedy violations and report violations quickly. However, USAID has not requested that missions develop such procedures. This could result in slow investigation, remedy, and reporting of a violation.

When this audit began, USAID/Bolivia, USAID/Ethiopia, and USAID/Mali had not yet developed procedures to investigate, report, and remedy violations.⁸ Similarly, USAID/Guatemala did not have such procedures in place when its violations were identified, although an Office of Inspector General audit recommendation prompted the mission to improve its Tiahrt reporting procedures. Consequently, all four missions audited had not developed procedures to investigate, report, and remedy violations until an audit was performed.

The amendment requires that within 60 days after the date on which the Administrator determines that a single violation of requirements 1, 2, 3, or 5 has occurred, or, in the case of requirement 4 (see page 31), a pattern or practice of violations has occurred, the Administrator must submit to Congress a report containing a description of such violation and the corrective action taken by the Agency.

As discussed, the violations in Guatemala were discovered by USAID/Guatemala in June 2005. Although the mission acted immediately to remedy the situation, it took the mission 9 months to notify USAID/Washington of the violations. Even though the Administrator notified Congress within the required timeframe of 60 days of its determination of the violations, Congress was not notified of the violations in Guatemala until May 2006, almost a year after the violations occurred. Subsequent violations in the Philippines were reported in a more timely manner.

Following the slow response in reporting the Guatemala violations, the Committee on Appropriations of the House of Representatives communicated an expectation that USAID and its missions investigate and remedy violations and ensure that all violations are reported in a timely manner. The committee expected USAID to ensure that requirements related to family planning are communicated explicitly to all implementing partners and that violations are quickly investigated, remedied, and communicated to both Agency officials and Congress.

Historically, reports of violations and indications that violations may have occurred have been rare. PRH and General Counsel staff indicated that the Guatemala violations were a unique instance in which there were strong indications that a violation had occurred. The Philippine assessment, which uncovered violations in that country, was not prompted by such strong indications. Because violations and indications of violations are relatively rare, missions did not, without an Office of Inspector General audit, devise procedures to investigate, remedy, and report violations, and headquarters did not direct missions to develop such procedures.

Because indications of violations can arise with little notice, it is important that all missions with family planning programs be prepared to respond quickly so as to avoid a repeat of the delays in reporting that occurred in Guatemala. USAID policy⁹ states that missions are often in the best position to review the circumstances surrounding allegations of violations. Similarly, as in Guatemala, missions are well placed to remedy

⁸ Subsequently, USAID/Mali developed procedures to investigate, remedy, and report violations, based on guidance provided by USAID/Washington, and incorporated them into a new mission order. During the course of the audit, USAID/Bolivia implemented additional procedures for investigating, remedying, and reporting violations.

⁹ "Guidance for implementing the 'Tiahrt' Requirements for Voluntary Family Planning Projects" (April 1999) found at: www.usaid.gov/our_work/global_health/pop/voluntarism.html.

violations and report indications of a violation. Not having mission procedures to investigate, remedy, and report violations could, in the worst case, result in a violation not being investigated, reported, or remedied. Therefore, the Office of Inspector General is making the following recommendation:

Recommendation No. 6: We recommend that the director of the Bureau for Global Health, Office of Population and Reproductive Health issue guidance to every USAID mission with a family planning program to develop procedures to investigate, remedy, and report Tiahrt amendment violations.

EVALUATION OF MANAGEMENT COMMENTS

In its response to our draft report, Bureau for Global Health, Office of Population and Reproductive Health and Office of Acquisitions and Assistance management (management) agreed with all six recommendations. Management also described the actions it has taken to address the recommendations. Those comments and our evaluation of them are summarized below.

In response to recommendation 1, which recommends the inclusion of the Tiaht amendment requirements in a Compliance Supplement, management responded that it had done so and provided documentation that it had sent such a Compliance Supplement chapter to the Office of Management and Budget on November 6, 2007. Based on management's response, we consider that a final action has been reached on this recommendation.

For recommendation 2, which recommends the amending of USAID regulations covering the inclusion of Tiaht amendment language in family planning contracts, management indicated that an acquisition and assistance policy directive would be issued in February 2008 to USAID contracting and agreement offices about applicable changes to policy. On this basis, management requested that the recommendation be closed. However, we note that (1) agreement with the recommendation, (2) a "firm plan" regarding corrective actions, and (3) a target date for the completion actions are sufficient for a management decision, not final action. Accordingly, we consider that a management decision has been reached on this recommendation.

In response to recommendation 3, which recommends the amending of three family planning contracts, management indicated that two of the contracts had expired and, therefore, were not modified. Management provided documentation that it had amended the third award, GPO-C-00-04-00025-00. Based on management's response, we consider that a final action has been reached on this recommendation.

In response to recommendation 4, which recommends the review and possible modification of four participating agency service agreements, management reported that it determined that the Tiaht amendment provisions are applicable to one of the awards, and it provided documentation that it had modified that agreement to include the provisions. Based on management's response, we consider that a final action has been reached on this recommendation.

In response to recommendation 5, which recommends a review and possible revision of USAID policy relative to participating agency service agreements and the Tiaht amendment, management reported on two formats for implementing interagency agreements. Management concluded that participating agency service agreements generally do not implement family planning services, but noted another type of agreement that potentially could. Management suggested that it would coordinate the revision of the Agency's Automated Directives System to require the inclusion of family planning provisions, including the Tiaht requirements, into the latter type of agreements

that anticipate family planning activities. Based on management's response, we consider that a final action has been reached on this recommendation.

In response to recommendation 6, which recommends that guidance be issued to missions with family planning programs about developing procedures to investigate, remedy, and report violations, management indicated and provided documentation that it had provided such guidance to all missions on November 16, 2007. Based on management's response, we consider that a final action has been reached on this recommendation.

In addition to the above, management also provided supplementary comments concerning our draft report. All of the supplementary comments were considered in the preparation of the final audit report. Appendix II contains management comments in their entirety.

SCOPE AND METHODOLOGY

Scope

The Office of Inspector General conducted this audit in accordance with generally accepted Government auditing standards to determine if USAID has effectively implemented controls and procedures to help ensure that USAID and its implementing partners comply with the Tiahrt amendment requirements.

Audit fieldwork was conducted at USAID's headquarters in Washington, DC, and at sites of three judgmentally selected mission programs¹⁰ between August 21, 2006, and September 18, 2007. The Bureau for Global Health's Office of Population and Reproductive Health (PRH) supports family planning programs in more than 50 countries, about 40 percent of which are in Africa. The audit covered the period from October 1, 2005, through September 30, 2006, but in cases where documents from that period were not yet available, such as Office of Management and Budget Circular A-133 audit reports on USAID family planning partners, we considered documents from prior periods.

Audit work entailed reviews of family planning agreements and policies pertaining to them; partners and partner service delivery sites and their policies and procedures; and PRH's records of training, communications, and country program assessments. For the mission audits, 36 health facilities in Bolivia, 26 in Ethiopia, and 22 in Mali were visited. Generally, because of numbers and volumes involved, sampling was performed on a judgmental basis. Some examples of such sampling include site visits, PRH training of missions, and the individual missions selected for audit. We also conducted interviews of family planning, contracting, legal, congressional liaison, and non-USAID audit personnel.

We identified and assessed internal controls related to ensuring compliance with the provisions of the Tiahrt amendment. Specifically, we reviewed internal controls related to the (1) communication of the Tiahrt amendment's requirements to USAID and partner employees; (2) improvements in response to the Guatemala violation; (3) monitoring; and (4) investigating, remedying, and reporting of violations and potential violations.

Methodology

To answer the audit objective, we addressed the following four clarifying questions:

1. Have USAID or its partners violated the amendment?
2. Has USAID communicated the amendment's requirements to its family planning partners?
3. Has USAID, in response to the problems that arose in Guatemala, implemented controls and procedures to improve compliance?
4. Has USAID implemented procedures to investigate, remedy, and report violations?

¹⁰ The missions audited were in Bolivia, Mali, and Ethiopia.

The four questions were useful in conducting the audit because they created a logical structure for the fieldwork steps, promoted unity of format for reporting and, most important, are questions which we believe are responsive to House Report 109-486.¹¹

To answer the first question, we conducted inquiries to identify reported violations, unreported violations, and indications of violations in required audits. Audit teams visited partner sites where they conducted interviews and inspected facilities to identify any indications of a violation.

For the second question, we reviewed communications and training provided to mission and partner staff to see if they communicated the amendment's requirements. We evaluated family planning agreements to determine whether they notified partners of the requirements in accordance with USAID policy, and the assistance provided by USAID's contractor, Management Systems International,¹² was also reviewed.

For the third question, we sought to assess training, controls, and procedures implemented in response to the issues identified in the Office of Inspector General's report on Tiahrt amendment violations in Guatemala.¹³ We assumed that the Committee on Appropriations of the House of Representatives' emphasis on the results of the Office of Inspector General's audit of the Guatemala violation would have prompted Agency action to both communicate these issues to other missions with family planning programs, and that controls and procedures would be implemented to address similar vulnerabilities at other locations. In instances where communications, training, controls, and procedures were not explicitly linked to the Guatemala issues, audit teams assessed existing controls and procedures to address their sufficiency. For example, we determined if training covered the identified issues, even if it was not specifically linked to the Guatemala violations.

Finally, for the fourth question, we identified and assessed PRH and mission policies to investigate, remedy, and report violations. Again, since the committee characterized the timeliness of USAID/Guatemala and USAID reporting of the Tiahrt violations in Guatemala as "not acceptable" and the committee specifically directed "USAID and its missions to both investigate and remedy violations with dispatch and to ensure that all violations are reported in a timely fashion," we assumed that missions with family planning programs would have developed and implemented procedures to investigate, remedy, and report violations.

We resolved to render a positive answer to the audit objective if audit fieldwork prompted favorable conclusions for all four clarifying questions and a negative answer to the objective if all four were negative. Additionally, if we found any indications of conditions in violation of the Tiahrt amendment, such a finding would have resulted in an adverse

¹¹ House Report 109-486, *Foreign Operations, Export Financing, and Related Programs Appropriations Bill, 2007 (unenacted)*.

¹² The Bureau for Global Health manages a contract with Management Systems International that provides technical assistance to missions to develop stronger, more systematic monitoring systems and to assess and address family planning compliance issues.

¹³ *Audit of Compliance with the Tiahrt Amendment under USAID/Guatemala's Cooperative Agreements with the Family Welfare Association of Guatemala (APROFAM)*, audit report 1-520-06-007-P, issued August 21, 2006.

conclusion relative to the overall audit objective. If fieldwork provided a mix of answers and/or positive answers with qualifications, we used judgment in determining the impact of the findings in concluding the overall answer.

For this report's audit recommendations, in order to determine if a problem area was part of a widespread problem deserving an Agencywide solution, we set the materiality threshold that a problem needed to be found in all locations audited. For those where a problem area was identified in only one or two locations, we resolved that these were localized issues and would not merit a broad audit recommendation.

MANAGEMENT COMMENTS

MEMORANDUM

To: IG/A/PA, Director, Steven H. Bernstein

From: GH/PRH, Director, Scott R. Radloff
M/OAA, Maureen A. Shauket

Subject: Comments on Draft Audit Report Regarding USAID's Effectiveness in Complying with the Tiahrt Amendment

Date: December 20, 2007

The Bureau for Global Health's Office of Population and Reproductive Health (GH/PRH) and the Bureau for Management's Office of Acquisition and Assistance (M/OAA) wish to thank the Inspector General for the opportunity to review the draft audit report and provide commentary regarding its findings and recommendations. The overall nature of the IG audit and the ensuing report is comprehensive, and we appreciate the thoughtfulness with which the IG addressed the questions relating to GH/PRH's and M/OAA's effectiveness in complying with the Tiahrt Amendment.

GH/PRH and M/OAA also wish to thank the Regional Inspectors General that conducted related Tiahrt audits of the family planning programs in USAID/Bolivia, USAID/Ethiopia, and USAID/Mali as part of this overall audit effort. USAID appreciates the thoughtfulness of those audit findings and recommendations, and commends the efforts of USAID/Bolivia, USAID/Ethiopia, and USAID/Mali to address and close all of the recommendations made in those reports.

Finally, GH/PRH and M/OAA note that we take compliance with all family planning requirements, including the Tiahrt Amendment, very seriously. We appreciate the findings and recommendations of the Inspector General and the opportunity to strengthen even further our Agency's monitoring and compliance activities. The comments provided here are made in the hope that additional complementary details and input will further enhance the quality of the audit findings and document GH/PRH's and M/OAA's responses to its recommendations.

General Comments:

USAID takes compliance with the U.S. statutory and policy requirements on family planning very seriously. GH/PRH continually updates and strengthens its compliance efforts on an ongoing basis, including addressing control and procedure weaknesses identified as a result of violations, such as the Tiahrt violation that occurred in Guatemala in 2006. In FY 2006, these efforts resulted in enhanced training and guidance for Missions that directly addressed the circumstances of the Guatemala violation and the control and procedure weaknesses identified there. These efforts have continued throughout FY 2007 and FY 2008 as well. USAID would like to take this opportunity to highlight many of the actions it has taken to strengthen controls and procedures relating to monitoring and compliance that are not specifically mentioned in the audit report.

- E-Learning Module on Family Planning Requirements. In May 2007, GH/PRH launched an online learning tool to help train USAID and partner staff on the family planning requirements, including the Tiahrt Amendment. Among other things, the module includes a lengthy discussion of the Tiahrt Amendment, the Tiahrt violations, and compliance monitoring activities. Since May 2007, approximately 1,002 USAID and outside individuals have taken the E-Learning course.
- Training of USAID and Partner Staff. GH/PRH carefully tracks its live trainings on the family planning requirements, including the Tiahrt Amendment. During FY 2006 and following the Guatemala violation, GH/PRH trained 307 USAID and partner staff, focusing in particular on training with partners to improve communication and understanding by our implementers. Staff from M/OAA participated in these training sessions. These trainings directly addressed several control and procedure weaknesses identified in Guatemala. Between November 16, 2005 and August 2, 2007, GH/PRH has trained 940 USAID and partner staff.
- Updated Training Presentation. GH/PRH routinely updates its training presentation to reflect new lessons learned. Following the Tiahrt violation in Guatemala and other events, the training presentation was updated in September 2006 and again in December 2006, to better emphasize the Tiahrt Amendment and compliance monitoring. Among other things, new slides discussed the details of Tiahrt violations and presented monitoring activities that directly addressed the control and procedure weaknesses identified in Guatemala.
- Direct Support to Missions. GH/PRH conducts compliance calls with Missions that support family planning activities and provides workshops to improve monitoring for compliance. Since March 2005, we have conducted 48 calls to all Missions that support family planning programs throughout the world. Mission contracting officers regularly participate in these compliance calls. In addition, GH/PRH provides technical assistance trips at the request of USAID Missions. Among other topics, these activities focus on Tiahrt-related issues, including the importance of reporting violations to Congress, as well as specific compliance monitoring activities that directly address the control and procedure weaknesses identified in Guatemala (e.g., review agreements for proper clauses, conduct routine monitoring, discuss compliance with partners).

Specific Comments:

GH/PRH also requests particular consideration of the following suggested modifications to the draft audit report.

- On page 2 (first paragraph, last sentence), the report refers to the principle of “volunteerism.” Please change this reference to “voluntarism,” which is one of the principles that governs USAID family planning assistance.
- On page 7 (second paragraph, third sentence), the report states, “GH/PRH tracks participation in training on U.S. statutory and policy requirements, including the Tiahrt Amendment, by mission and implementing partner staff.” The current organization of the sentence implies that GH/PRH tracks trainings conducted by missions and implementing partners, when GH/PRH only tracks the training it conducts for mission and implementing partners. Please revise the sentence to read, “GH/PRH tracks participation of mission and implementing partners in its trainings on U.S. statutory and policy requirements, including the Tiahrt Amendment.”
- On page 7 (text box), the report states that “There has also been Congressional interest in this matter, but USAID has not made it a high priority to update or correct the deficiencies in the regulations.” Please revise this sentence to read, “There has also been Congressional interest in this matter, but USAID has not yet updated or corrected the deficiencies in the regulations.” We make this request because the facts and circumstances relating to why the Agency has not yet updated its regulations are not within the scope of the audit and have not been determined.
- On page 8 (third paragraph, last sentence), the report states that, “However, the regulations relating to contracts were inconsistent and outdated because Agency officials had not placed a high priority on updating and correcting them.” Please revise the sentence to read, “The regulations relating to contracts, however, are inconsistent and outdated.” We make this request because the facts and circumstances relating to why the Agency has not yet updated its regulations are not within the scope of the audit and have not been determined.
- On page 8 (fourth paragraph, last sentence), the report states that “Similar omissions were in the family planning contracts in Washington.” It appears there is a word missing in this sentence, since omissions cannot be “in the FP contracts.” Please revise this sentence to read, “Similar omissions were found in family planning contracts in Washington.”
- On page 9, (summary paragraph, first sentence) the report refers to “Three of 56 GH/PRH family planning contracts.” GH/PRH does not have 56 contracts but rather 56 grants, cooperative agreements, and contracts, among which 3 contracts did not contain the proper clauses. Please change this sentence to “Three contracts among GH/PRH’s 56 centrally-managed grants, cooperative agreements, and contracts,” as appears in the first sentence of the next paragraph.
- On page 17 (third paragraph, last sentence) the report refers to “USAID’s contractor, Management Systems International.” GH/PRH suggests including a footnote that states “GH manages a contract with Management Systems International that provides technical assistance to Missions to develop stronger, more systematic monitoring systems and to

assess and address family planning compliance issues.” This footnote will provide additional detail about the role of MSI in ensuring compliance with the family planning requirements.

- On page 17 (first paragraph, first sentence), the report refers to House Report 109-486 without any further explanation concerning the background or context of the Report. Please repeat the footnote regarding the House Report, which initially appears on page 2, in order to provide additional context on the report and to ensure consistent referencing.
- On page 17 (fifth paragraph, second sentence), the report describes the Committee’s characterization of “USAID/Guatemala and USAID reporting of Tiahrt violations in Guatemala as ‘not acceptable.’” This characterization refers to the timeliness of the reporting by USAID/Guatemala and USAID. For consistent reference, please change this sentence to match the previous reference on page 2 (paragraph 4, last sentence), which describes the “amount of time to report to Congress” as “not acceptable.”

After careful review of the IG draft audit report, GH/PRH and M/OAA agree with the six audit recommendations. We have implemented a variety of actions suggested by the audit in order to strengthen internal management and controls for these important issues and for the closure of the recommendations. These actions are fully described in detail below.

Recommendation No. 1

We recommend that the Director of the Bureau for Global Health, Office of Population and Reproductive Health in coordination with the Office of Acquisition and Assistance request that the Office of Management and Budget include the Tiahrt Amendment's requirements in a Compliance Supplement chapter.

Based on this recommendation, GH/PRH developed a Compliance Supplement chapter submission. This compliance supplement chapter was submitted to M/OAA and then sent on to the Office of Management and Budget (OMB) on November 6, 2007. Documentation of GH/PRH's Compliance Supplement chapter submission to OMB is attached as Appendix A.

Based on GH/PRH's management decision and supporting documentation, GH requests that this recommendation be closed upon issuance of the final audit report.

Recommendation No. 2

We recommend that the Director of the Office of Acquisition and Assistance in coordination with USAID's Bureau for Global Health, Office of Population and Reproductive Health, and the Office of General Counsel amend the Agency's regulations requiring Tiahrt amendment language in family planning contracts so that consistent, coherent, and current policies will exist for family planning contracts.

M/OAA agrees with this recommendation and is working with USAID's Office of General Counsel (GC) and GH/PRH to amend the Agency's family planning acquisition clauses. The Agency recognizes the importance of communicating the Tiahrt requirements to partners through standard provisions and clauses inserted into grants, cooperative agreements, and contracts. As noted in the audit, the Agency's regulations relating to Tiahrt requirements for assistance instruments are fully current, since M/OAA included them in the Agency's internal regulations, the Automated Directives Systems (ADS).

For both assistance and acquisition instruments, the Tiahrt requirements were first implemented in 1999 through a Contract Information Bulletin (CIB 99-06). The Agency utilizes CIBs (now known as Acquisition and Assistance Policy Directives, or AAPDs) to quickly inform USAID's contracting and agreement officers about changes to policy while the Agency updates its formal regulations. Until CIBs/AAPDs are replaced by changes to the Agency's formal regulations, they remain in effect and contracting/agreement officers are required to include all clauses and standard provisions set forth in CIBs/AAPDs in agreements.

Following issuance of CIB 99-06, the Agency sought to update its regulations to include the Tiahrt requirements. As the IG reported, for assistance instruments (i.e., grants and cooperative agreements), USAID has completed this update. The Agency made additional minor changes to the family planning clauses for assistance instruments in June 2006, which are reflected in the current ADS.

To update the family planning clauses for acquisition instruments, M/OAA will issue a new AAPD by February 29, 2008, to advise Contracting Officers (COs) of the updated acquisition clause and clarify when it is required in acquisition solicitations and awards. This AAPD will replace the existing CIB 99-06 and will be effective immediately upon issuance. The update to the regulations as required under this recommendation will be effected through the issuance of this AAPD. As stated above, AAPDs are routinely issued when it is necessary to implement timely changes prior to formal amendment of agency procurement regulations and policy, and are officially considered a part of the ADS.

While the AAPD will effectively implement the required revisions, M/OAA also intends to initiate rulemaking procedures to formally amend the U.S. Agency for International Development Acquisition Regulation (AIDAR) to reflect the Tiahrt Amendment requirements in clauses applicable to acquisition instruments.

On this basis, M/OAA requests that this recommendation be closed upon issuance of the Acquisition and Assistance Policy Directive (AAPD) by February 29, 2008.

Recommendation No. 3

We recommend that the Director of the Office of Acquisition and Assistance amend contracts GHS-I-04-03-00037-00, GPO-C-00-04-00025-00, and GPO-C-00-05-00031-00 either to include the current Tiahrt amendment standard provision or to remove the obsolete provision.

M/OAA agrees with the recommendation and has modified contract GPO-C-00-04-00025-00 (Pfizer) to include the updated Tiahrt Amendment clause. This contract was modified on November 15, 2007 and a copy of the modification is included as Appendix B. Contracts GHS-I-04-03-00037-00 and GPO-C-00-05-00031-00 expired on October 7, 2006 and August 9, 2007, respectively, and therefore were not modified.

On this basis, M/OAA requests that this recommendation be closed upon issuance of the final audit report.

Recommendation No. 4

We recommend that the Director of the Office of Acquisition and Assistance in coordination with USAID's Bureau for Global Health, Office of Population and Reproductive Health, and the Office of General Counsel review Participating Agency Service Agreements PHN-P-00-03-00001, HRN-P-00-97-00016-00, HRNP-00-97-00014-00, and HFM-P-00-01-00022-00 to determine whether the Tiahrt amendment's requirements apply to them and amend the awards to include the Tiahrt amendment standard provision, where appropriate.

M/OAA, in coordination with GC and GH/PRH, reviewed the four Participating Agency Service Agreements (PASAs) referenced in the draft report. M/OAA, in conjunction with GC and GH/PRH, has determined that the Tiahrt requirements are not applicable to three of the agreements listed in the report, specifically PHN-P-00-03-00001, HRN-P-00-97-00016-00 and HFM-P-00-01-00022-00. These agreements are staffing mechanisms that enable USAID to access staff expertise from other federal Agencies and do not include support for family planning service delivery projects. Therefore, M/OAA has determined that because the Tiahrt requirements do not apply to these three PASAs, no modification to these agreements is necessary.

M/OAA, in conjunction with GC and GH/PRH, has determined that the Tiahrt requirements are applicable to the fourth agreement (HRN-P-00-97-00014-00) because it does support family planning service delivery projects for which USAID provides assistance. This PASA was modified on October 30, 2007 and a copy of this modification is attached as Appendix C.

On this basis, M/OAA requests that this recommendation be closed upon issuance of the final audit report.

Recommendation No. 5

We recommend that the Director of the Office of Acquisition and Assistance in coordination with USAID's Bureau for Global Health, Office of Population and Reproductive Health, and the Office of General Counsel review and revise, where appropriate, the current policy of exempting Participating Agency Service Agreements from the requirements of the Tiahrt amendment.

USAID may use various formats for implementing interagency agreements, which include Participating Agency Service Agreements (PASAs) and Participating Agency Program Agreements (PAPAs). PASAs and PAPAs are geared to different kinds of relationships between USAID and the other agency. PASAs contemplate services performed by the other agency directly for USAID or on USAID's behalf; these are frequently considered Agency staffing mechanisms and generally do not implement family planning activities. PAPAs are most likely to be used where the other agency is implementing a defined program with relatively little day-to-day direction or supervision from USAID. Although it is rare for PAPAs to contemplate family planning activities, M/OAA, in conjunction with GH/PRH and GC, recognizes that such agreements could potentially include family planning activities to which the Tiahrt Amendment would be applicable.

M/OAA will coordinate with GC and GH/PRH to revise Automated Directives System (ADS) Chapter 306 "Interagency Agreements," which provides policy for PAPAs. The revision will require the inclusion of family planning provisions, to include the Tiahrt requirements, into PAPAs that anticipate family planning activities. This revision will require coordination between the three offices as well as agency clearances in accordance with the requirements of ADS Chapter 501. The planned issuance date for the revised chapter is June 2008. A General Notice advising the agency of the revised chapter will also be issued at that time.

Due to the extended timeframe for issuance of this policy revision, M/OAA requests that this recommendation be closed upon issuance of the final audit report. M/OAA will advise the Management Bureau when the revised PAPA guidance has been issued.

Recommendation No. 6

We recommend that the Director of the Bureau for Global Health, Office of Population and Reproductive Health issue guidance to every USAID mission with a family planning program to develop procedures to investigate, remedy, and report Tiahrt Amendment violations.

GH/PRH agrees with this recommendation and sent guidance on developing procedures to investigate, correct and report violations to all Missions with family planning programs on

November 16, 2007. Documentation of GH/PRH's issuance of this guidance to every USAID mission is attached as Appendix D.

On this basis, GH/PRH requests that this recommendation be closed upon issuance of the final audit report.

AUDIT REPORTS ISSUED

The following three audit reports were issued as a part of the audits of USAID's controls over the Tiahrt voluntary family planning requirements. They are available at USAID's Web site at http://www.usaid.gov/oig/public/aud_usaid.htm.

- (1) Report No. 1-511-07-004-P, *Audit of USAID/Bolivia's Effectiveness in Complying with Tiahrt Requirements*, December 26, 2006
- (2) Report No. 4-663-07-007-P, *Audit of USAID/Ethiopia's Effectiveness in Complying with the Tiahrt Requirements*, June 29, 2007
- (3) Report No. 7-688-07-003-P, *Audit of USAID/Mali's Effectiveness in Complying with Tiahrt Voluntary Family Planning Requirements*, August 14, 2007

RECOMMENDATIONS TO MISSIONS AUDITED

Table 3: Recommendations by Report

Mission	Recommendation	Status
Bolivia	We recommend that USAID/Bolivia review all awards that include any aspect of voluntary family planning for inclusion of the appropriate Tiaht amendment standard provision and amend as necessary.	Recommendation Implemented
Bolivia	We recommend that USAID/Bolivia establish a plan to ensure that future awards include the Tiaht requirements.	Recommendation Implemented
Bolivia	We recommend that USAID/Bolivia implement additional controls and procedures identified in this audit report to improve monitoring and compliance with the requirements of the Tiaht amendment.	Recommendation Implemented
Ethiopia	No recommendations made	Not Applicable
Mali	We recommend that USAID/Mali reevaluate the effectiveness of its current training and presentation methods for partners and revise them, emphasizing the importance of all Tiaht amendment requirements.	Recommendation Implemented
Mali	We recommend that USAID/Mali require its family planning partners to communicate Tiaht amendment requirements to their field staff and subpartners at all levels, and to service providers and community health volunteers.	Recommendation Implemented
Mali	We recommend that USAID/Mali require its family planning partners to review, and amend if necessary, all subagreements that contain any aspect of voluntary family planning for inclusion of the current “Voluntary Population Activities” provision and obtain evidence from its partners that all of the relevant subagreements have been amended.	Recommendation Implemented

Mission	Recommendation	Status
Mali	We recommend that USAID/Mali revise its site visit checklist to incorporate verification of compliance with all Tiahrt amendment requirements and require all Health Team members to use the revised checklist during site visits.	Recommendation Implemented
Mali	We recommend that USAID/Mali create a schedule of site visits to be conducted of each partner implementing family planning activities in the field, so that each partner's project is visited and monitored for Tiahrt amendment compliance at least once a year.	Recommendation Implemented
Mali	We recommend that USAID/Mali develop procedures to investigate, remedy, and report Tiahrt amendment violations and communicate these procedures to its family planning partners.	Recommendation Implemented

TIAHRT AMENDMENT REQUIREMENTS

Voluntary family planning projects subject to the Tiahrt amendment shall meet the following requirements:

(1) Service providers or referral agents in the project shall not implement or be subject to quotas, or other numerical targets, of total number of births, number of family planning acceptors, or acceptors of a particular method of family planning (this provision shall not be construed to include the use of quantitative estimates or indicators for budgeting and planning purposes),

(2) the project shall not include payment of incentives, bribes, gratuities, or financial reward to (A) an individual in exchange for becoming a family planning acceptor, or (B) program personnel for achieving a numerical target or quota of total number of births, number of family planning acceptors, or acceptors of a particular method of family planning,

(3) the project shall not deny any right or benefit, including the right of access to participate in any program of general welfare or the right of access to health care, as a consequence of any individual's decision not to accept family planning services,

(4) the project shall provide family planning acceptors comprehensible information on the health benefits and risks of the method chosen, including those conditions that might render the use of the method inadvisable and those adverse side effects known to be consequent to the use of the method,

(5) the project shall ensure that experimental contraceptive drugs and devices and medical procedures are provided only in the context of a scientific study in which participants are advised of potential risks and benefits;

and, not less than 60 days after the date on which the Administrator of the United States Agency for International Development determines that there has been a violation of the requirements contained in paragraphs (1), (2), (3), or (5) of this proviso, or a pattern or practice of violations of the requirements contained in paragraph (4) of this proviso, the Administrator shall submit to the Committee on International Relations and the Committee on Appropriations of the House of Representatives and to the Committee on Foreign Relations and the Committee on Appropriations of the Senate, a report containing a description of such violation and the corrective action taken by the Agency.

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