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FOREIGN ASSISTANCE

Measures to Prevent Inadvertent Payments to Terrorists under Palestinian Aid Programs Have Been Strengthened, but Some Weaknesses Remain



GAO

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Highlights of [GAO-09-622](#), a report to congressional committees

Why GAO Did This Study

The U.S. government is one of the largest donors to Palestinians. It provided nearly \$575 million in assistance in fiscal year 2008. This assistance is provided through the U.S. Agency for International Development (USAID) and through contributions to international organizations, primarily the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA). The Department of State (State) oversees U.S. contributions to UNRWA. To help ensure that U.S. funds for these programs are not provided to individuals or entities engaged in terrorist activities, USAID and State must comply with restrictions under U.S. law. GAO was asked to (1) assess the extent to which USAID has complied with its antiterrorism policies and procedures and (2) assess State's and UNRWA's policies and procedures to support conformance with U.S. statutory conditions. GAO reviewed U.S. and UNRWA documents; interviewed USAID, State, and UNRWA officials; and conducted fieldwork in Israel, Jerusalem, and Jordan.

What GAO Recommends

To strengthen compliance, GAO recommends that the Administrator of USAID improve monitoring of subawards. GAO also recommends that the Secretary of State consider taking additional steps to oversee UNRWA's conformance with U.S. conditions on funding. USAID, State, and UNRWA said they are taking actions to implement GAO's recommendations.

View [GAO-09-622](#) or [key components](#). For more information, contact Thomas Melito at (202) 512-9601 or melitot@gao.gov.

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Measures to Prevent Inadvertent Payments to Terrorists under Palestinian Aid Programs Have Been Strengthened, but Some Weaknesses Remain

What GAO Found

USAID strengthened its antiterrorism policies and procedures and complied with them in making new prime awards, but had weaknesses related to compliance at the subaward level. ("Prime awardee" refers to an organization that directly receives USAID funding to implement projects. "Subawardee" refers to an organization that receives funding from prime awardees.) USAID strengthened its policies and procedures in response to our 2006 recommendations by, for example, strengthening its vetting process, which involves investigating a person or entity for links to terrorism. Since 2006, USAID has instituted new procedures to monitor prime awardee compliance with antiterrorism requirements, which have allowed it to take some actions to address areas of concern. The agency has hired a specialist who reviews prime awardees' subaward files for compliance with its antiterrorism policies. All 32 new prime awards made by USAID in fiscal year 2008 included all applicable clauses. USAID obtained the applicable antiterrorism certifications and conducted required vetting for all applicable new prime awards. For a random sample of fiscal year 2008 subawards, applicable antiterrorism certifications were obtained and vetting was conducted. However, an estimated 17 percent of subawards had insufficient evidence to assess compliance related to mandatory clauses. For the remaining subawards, an estimated 5 percent did not contain the mandatory clauses at the time of the award. GAO also found limitations in the agency's monitoring of subawards for inclusion of mandatory clauses.

Since 2003, State and UNRWA have strengthened policies and procedures to conform with conditions on U.S. contributions to UNRWA, but weaknesses remain. Section 301(c) of the Foreign Assistance Act of 1961, as amended, prohibits U.S. contributions to UNRWA except on the condition that UNRWA take all possible measures to assure that no part of the U.S. contribution shall be used to furnish assistance to, among others, any refugee who has engaged in any act of terrorism. UNRWA has agreed to conform to conditions on U.S. contributions, but State has not established criteria to determine whether UNRWA's actions are consistent with this agreement. While State has not defined the key term "all possible measures" or defined nonconformance, it has strengthened some policies and procedures to oversee UNRWA's conformance. UNRWA has strengthened policies and procedures to promote neutrality of its beneficiaries, staff, contractors, and facilities that cover a broader range of conduct than covered in section 301(c). UNRWA reported denying approximately 110 applications for cash assistance to refugees since July 2006, because the agency found the refugees' behavior was inconsistent with UN neutrality or restrictions related to section 301(c). However, limitations exist. UNRWA said it has screened all staff, contractor, and beneficiary names against a UN Security Council list of potential terrorists and found no matches. However, the list does not include Hamas and Hezbollah, which the United States has designated as foreign terrorist organizations. Finally, internal UNRWA audits do not assess controls for all cash assistance programs or whether contracts contain antiterrorism clauses.

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Abbreviations

OFAC	U.S. Department of Treasury's Office of Foreign Assets Control
OSO	Operation Support Officer
PRM	State Department Bureau of Population, Refugees and Migration
PSU	Program Support Unit
PVS	Partner Vetting System
State	U.S. Department of State
the mission	USAID Mission to the West Bank and Gaza
UN	United Nations
UN 1267 list	Al-Qaida and Taliban Sanctions Committee Consolidated List
UNRWA	United Nations Relief and Works Agency for Palestine Refugees in the Near East
USAID	U.S. Agency for International Development

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Congressional Committees

For decades, the United States has played a leading role in efforts to resolve the Israeli-Palestinian conflict. Since 1948, Palestinians in the West Bank, Gaza, and neighboring countries have received education, economic revitalization, health services, and infrastructure assistance. The U.S. government is one of the largest donors to Palestinians. It provided nearly \$575 million in assistance in fiscal year 2008. This assistance is mainly provided bilaterally, through the U.S. Agency for International Development (USAID), and multilaterally, through contributions to international organizations, primarily the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA). The Department of State (State) oversees U.S. contributions to UNRWA. The bilateral and multilateral aid programs differ substantially in their methods of providing assistance. For example, while USAID relies heavily on contractors¹ to implement projects that improve the welfare of Palestinians, such as building water distribution networks, UNRWA hires nearly 30,000 employees to directly provide social and humanitarian services, such as education and health care. To help ensure that U.S. funds for these programs are not provided to individuals or entities engaged in terrorist activities, USAID and State must comply with restrictions under U.S. law when providing funds for Palestinian assistance programs.

The Consolidated Appropriations Act of 2008² directs the Comptroller General to conduct an audit and an investigation of the treatment, handling, and uses of all funds for the bilateral West Bank and Gaza Program in fiscal year 2008 under the Economic Support Fund, including an assessment of the extent to which this program has complied with the

¹Throughout this report, we use the term “prime awardee” to refer to an organization that directly receives USAID contracts, grants, or cooperative agreements to implement U.S. assistance projects. “Subawardee” refers to an organization that receives subcontracts or subgrants from prime awardees for work on U.S. assistance projects.

²Consolidated Appropriations Act of 2008, Pub.Law No. 110-161, Dec. 26, 2007.

requirements attached to these funds in this legislation.³ In addition, House Report 110-197⁴ directs GAO to assess UNRWA's compliance with conditions required by law on U.S. contributions to UNRWA, particularly UNRWA's cash assistance program. In response to previous mandates, we assessed UNRWA's actions to implement section 301(c) of the Foreign Assistance Act of 1961, as amended, in 2003⁵ and USAID's compliance in 2006.⁶ We made no recommendations in our 2003 report. USAID implemented four recommendations from our 2006 report, which were intended to strengthen USAID efforts to help ensure that U.S. assistance to the West Bank and Gaza does not support terrorist activities. For example, as we recommended, USAID clarified how its antiterrorism policies and procedures would be applied to certain types of assistance instruments.

In response to the appropriations act and the House report, as well as a request from the House Foreign Affairs Committee and its Subcommittee on the Middle East and South Asia, we (1) assessed the extent to which USAID has complied with its policies and procedures to help ensure that its programs do not provide support to entities or individuals associated with terrorism in the West Bank and Gaza, and (2) assessed State's and UNRWA's policies and procedures to support conformance with U.S. statutory conditions placed on contributions provided to UNRWA to prohibit funding of terrorist-related activities.

To address the first objective, we analyzed key documents and data provided by USAID and interviewed USAID and prime awardee officials in Jerusalem, Tel Aviv, and Washington, D.C. We also analyzed (1) all 32 new prime awards made by USAID in fiscal year 2008 using Economic Support Funds and (2) a random sample of 144 out of 2,620 subaward agreements

³This report addresses the extent to which USAID has applied its policies and procedures to new awards funded through the Economic Support Fund in the West Bank and Gaza Program for fiscal year 2008. A separate GAO review will address additional issues regarding the treatment, handling, and uses of all funds for the bilateral West Bank and Gaza Program in fiscal year 2008.

⁴*State, Foreign Operations, and Related Program Appropriations Bill*. 110th Cong., 1st sess. (June 18, 2007).

⁵See GAO, *Department of State (State) and United Nations Relief and Works Agency (UNRWA) Actions to Implement Section 301(c) of the Foreign Assistance Act of 1961*, [GAO-04-276R](#) (Washington, D.C.: Nov. 17, 2003).

⁶See GAO, *Foreign Assistance: Recent Improvements Made, but USAID Should Do More to Help Ensure Aid Is Not Provided for Terrorist Activities in West Bank and Gaza*, [GAO-06-1062R](#) (Washington, D.C.: Sept. 29, 2006).

that USAID identified for us as made by prime awardees in fiscal year 2008. We assessed both prime awards and subawards against the requirements stipulated by USAID to help ensure compliance with U.S. legal requirements prohibiting support for terrorist-related activities. To address the second objective, we analyzed key documents and data provided by State and UNRWA; interviewed State officials in Jerusalem and Washington, D.C.; interviewed UNRWA officials; and observed UNRWA programs in Jordan and the West Bank.

We conducted this performance audit from August 2008 to May 2009 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. (App. I provides a detailed discussion of our objectives, scope, and methodology.)

Results in Brief

We found that USAID strengthened its antiterrorism policies and procedures and complied with them when making new prime awards, but had weaknesses related to compliance at the subaward level. In response to our 2006 recommendation, USAID strengthened its antiterrorism policies and procedures by clarifying how each would apply to certain types of assistance instruments and by strengthening its vetting process, which involves investigating a person or entity for links to terrorism. Since our 2006 report, USAID has also instituted new procedures to monitor prime awardee compliance with antiterrorism requirements, which have allowed it to identify and take some actions to address areas of concern we found. For example, the agency has hired a compliance specialist who reviews prime awardees' subaward files for compliance with its antiterrorism policies. All 32 new prime awards made by USAID in fiscal year 2008 included all applicable clauses. In addition, USAID obtained the antiterrorism certifications, where applicable, and conducted required vetting for all applicable new prime awards. We also found that USAID vetted all the appropriate officials, when required, for our sampled subawards. For our random sample of 144 fiscal year 2008 subawards, applicable antiterrorism certifications were obtained and vetting was conducted. However, regarding mandatory clauses, we estimated that insufficient evidence exists to assess compliance for approximately 17 percent of the fiscal year 2008 subawards USAID identified. For the estimated 83 percent of subawards with sufficient evidence to assess compliance, we estimated that approximately 5 percent had weaknesses related to the inclusion of mandatory clauses while the remaining 95 percent

did not. We also found limitations in how the agency monitors prime awardee compliance with requirements related to the inclusion of mandatory clauses in subawards.

Since our 2003 report, State and UNRWA have strengthened policies and procedures to conform with conditions on U.S. contributions to UNRWA, but weaknesses remain. Section 301(c) of the Foreign Assistance Act of 1961, as amended, prohibits U.S. contributions to UNRWA except on the condition that UNRWA take all possible measures to assure that no part of the U.S. contribution shall be used to furnish assistance to, among others, any refugee who has engaged in any act of terrorism. While UNRWA has agreed to conform to conditions on U.S. contributions, State has not established criteria to determine whether UNRWA's actions are consistent with this agreement. For example, State has not defined the key term "all possible measures" or defined what would constitute nonconformance. Nevertheless, State has strengthened some policies and procedures to oversee UNRWA's conformance with conditions on U.S. contributions. UNRWA has also implemented and strengthened policies and procedures to promote neutrality of its beneficiaries, staff, contractors, and facilities that cover a broader range of conduct than covered in section 301(c). UNRWA reported denying approximately 110 applications for discretionary cash assistance to refugees since July 2006, because the agency found the refugees' behavior was inconsistent with UN neutrality or restrictions related to section 301(c). However, we found limitations in some of UNRWA's efforts. For example, UNRWA told us it has screened all staff, contractor, and beneficiary names against a UN Security Council list of potential terrorists and found no matches. However, the list is restricted to individuals and entities affiliated with Al-Qaida and the Taliban and thus does not specifically include major regional groups, such as Hamas and Hezbollah, which the United States has designated as foreign terrorist organizations. Finally, we found that internal audits of UNRWA do not assess whether contracts contain required antiterrorism clauses or assess controls for UNRWA's overall cash assistance program.

To strengthen compliance with USAID policies and procedures at the subaward level, we recommend that the Administrator of USAID take action to help ensure that prime awardees comply with USAID requirements to include mandatory clauses in subawards. In addition, to help ensure that assistance is not inadvertently provided to terrorists, we recommend that the Secretary of State consider taking additional steps to oversee UNRWA's conformance with U.S. conditions on funding, such as (1) establishing criteria to evaluate UNRWA's efforts; (2) screening the names of UNRWA contractors against lists of individuals and entities of

concern to the United States; and (3) monitoring UNRWA's commitment that future internal audits would assess UNRWA's compliance with its neutrality and antiterrorism policies for contractors as well as internal controls for cash assistance.

USAID, State, and UNRWA provided written comments on a draft of this report, which are reprinted in appendices IV, V, and VI. USAID, State, and UNRWA outlined actions they intend to take to implement our recommendations. USAID stated that our work contributed positively to the continuous improvement and strengthening of USAID West Bank and Gaza mission's compliance with antiterrorism policies and procedures. However, USAID disagreed with our finding that insufficient evidence was present to assess a significant percentage of fiscal year 2008 subawards. We maintain that evidence was insufficient because the only references to the purchase orders that were included on the mandatory clauses were individual handwritten annotations. It was not clear who made the annotations and when those annotations were made. State is undertaking actions to address all three parts of our recommendation, but noted that it will need to address the resource implications of two of these. State expressed some concern about the resources required to undertake effective screening and noted that conducting additional internal audits would result in additional costs to UNRWA. UNRWA made a commitment that future internal UNRWA audits would assess the agency's compliance with its neutrality and antiterrorism policies for contractors and internal controls for cash assistance.

Background

The U.S. government has provided assistance to Palestinians both bilaterally and multilaterally for several decades. USAID is the agency primarily responsible for implementing the bilateral aid program, while State oversees annual contributions to international organizations, primarily to UNRWA, for the multilateral program. The focus, size, and intent of the bilateral and multilateral programs differ. Table 1 compares the main characteristics of the two programs.

Table 1: Key Features of USAID and UNRWA Programs for Assistance to Palestinians

	USAID	UNRWA
Fiscal year 2008 U.S. funding	\$389.5 million appropriated in Economic Support Funds to provide assistance to the West Bank and Gaza. This includes about \$900,000 that was obligated to the World Food Program to provide food for families in Gaza.	State contributed about \$185 million to UNRWA—nearly \$171 million from the Migration and Refugee Assistance account and \$14 million from the Emergency Refugee and Migration Assistance Fund.
Focus of program	<p>Strengthens Palestinian institutions and invests in projects that improve the health and welfare of the Palestinian people. Projects include funds to</p> <ul style="list-style-type: none"> provide technical assistance to Palestinian health institutions, improve water infrastructure in the West Bank, and provide immediate employment opportunities through the construction of small-scale infrastructure. <p>Provided over \$3.3 million in cash assistance to about 6,000 recipients, mainly for scholarships and tuition, in fiscal year 2008, according to USAID estimates.</p>	<p>Directly provides social services and humanitarian support to Palestinian refugees.</p> <p>UNRWA's 2008 program budget was allocated as follows:</p> <ul style="list-style-type: none"> 52 percent for education services, 19 percent for health, 13 percent for support services, 9 percent for relief and social services, 5 percent for infrastructure and camp improvement, and 2 percent for microfinance and microenterprise. <p>UNRWA reported it spent \$88.8 million for cash assistance to refugees from January 2006 through December 2008—\$36.2 million for cash subsidies for food and selective cash assistance from its General Fund and \$52.6 million in emergency cash assistance from its Emergency Appeal.</p>
Program implementation	Contractors and grantees implement programs.	<p>UNRWA directly implements most programs and relies minimally on contractors to provide supplies and equipment.</p> <p>The majority of UNRWA staff are directly involved in providing services, for example, as doctors, teachers, social workers or sanitation laborers. Staff costs account for much of the agency's regular budget.</p>
Location and size of organization	USAID Mission to the West Bank and Gaza (the mission), located in Tel Aviv, Israel, manages programs. According to USAID officials, the mission is staffed by 137 individuals including Foreign Service Nationals.	UNRWA headquarters are in Gaza and Amman, Jordan. UNRWA employs nearly 30,000 staff. About 90 percent of these staff are locally-recruited Palestinian refugees. UNRWA also employs 183 international staff.
Location and funding of projects and services	Mainly the West Bank; USAID used only a small percentage of funds for assistance activities in Gaza.	<p>UNRWA's 2008 to 2009 regular budget for operations was allocated among field offices as follows:</p> <ul style="list-style-type: none"> 31 percent in Gaza 22 percent in Jordan 17 percent in the West Bank 13 percent in Lebanon 9 percent in Syria 8 percent in UNRWA headquarters, Amman and Gaza

Source: GAO analysis of USAID and UNRWA documents and estimated funding amounts for cash assistance.

Notes:

UNRWA has two primary sources of funding: (1) the General Fund, which is funded through voluntary contributions to UNRWA's regular budget annually, and (2) the Emergency Appeal, which is funded through an appeal by UNRWA's Commissioner-General to donors for emergency funding in response to a crisis in a particular UNRWA field area of operations. The United States does not currently limit contributions to UNRWA's General Fund to specific purposes. However, as of July 2007, State said it placed limitations on all its contributions to UNRWA's Emergency Appeal for West Bank and Gaza so that no U.S. funds are to be used for UNRWA's emergency cash assistance activities in West Bank and Gaza.

According to the mission, none of the scholarship or tuition funds were provided to the recipients. All assistance was provided directly to the relevant school on their behalf.

To help ensure that U.S. funds for these programs are not provided to individuals or entities engaged in terrorist activities, State and USAID must comply with restrictions under U.S. law when providing funds for Palestinian assistance programs. For the bilateral aid program, section 657(b) of the Consolidated Appropriations Act of 2008 states the following:

“Prior to the obligation of funds appropriated by this Act under the heading ‘Economic Support Fund’ for assistance for the West Bank and Gaza, the Secretary of State shall take all appropriate steps to ensure that such assistance is not provided to or through any individual, private or government entity, or educational institution that the Secretary knows or has reason to believe advocates, plans, sponsors, engages in, or has engaged in, terrorist activity nor, with respect to private entities or educational institutions, those that have as a principal officer of the entity’s governing board or governing board of trustees any individual that has been determined to be involved in, or advocating terrorist activity or determined to be a member of a designated foreign terrorist organization. The Secretary of State shall, as appropriate, establish procedures specifying the steps to be taken in carrying out this subsection and shall terminate assistance to any individual, entity, or educational institution which she has determined to be involved in or advocating terrorist activity.”

In addition, the act states:

“None of the funds appropriated under title II through V of this Act for assistance under the West Bank and Gaza program may be made available for the purpose of recognizing or otherwise honoring individuals who commit, or have committed, acts of terrorism.”⁷

The Secretary of State has deferred to USAID, the implementing agency, to ensure compliance with these and similar provisions. The USAID Mission to the West Bank and Gaza (the mission) developed Mission Order 21, which outlines USAID’s procedures to help ensure that its assistance

⁷Section 657(c)(1), Consolidated Appropriations Act of 2008, PL 110-161, Dec. 26, 2007.

program does not inadvertently provide support to entities or individuals associated with terrorism, in accordance with U.S. law.⁸ Mission Order 21 establishes, among others, the following requirements:

- All solicitations and awards for contracts, grants, and subagreements must contain the *antiterrorism clause*. This clause reminds award recipients that they must comply with U.S. executive orders and laws prohibiting transactions with terrorists, and the provision of resources and support to individuals or organizations associated with terrorism. UN agencies that receive USAID funds must include a separate clause.
- All U.S. and non-U.S. organizations must sign the *antiterrorism certification* before being awarded a grant or cooperative agreement to certify that the organization does not provide material support or resources for terrorism. This certification recommends that the recipient follow certain steps to comply with its obligation, including (1) screening against the U.S. Department of Treasury’s Office of Foreign Assets Control (OFAC) list⁹ and the UN Security Council’s Al-Qaida and Taliban Sanctions Committee Consolidated List (UN 1267 list)¹⁰ before providing any material support or resources to an individual or entity and (2)

⁸Mission Order 21 cites several legal authorities for its antiterrorism procedures. These include (1) Executive Order 13224 (Sept. 23, 2001), which blocks property and prohibits transactions with persons who commit, threaten to commit, or support terrorism; (2) sections 2339A and 2339B of Title 18 of the U.S. Code which prohibit the provision of material support or resources for terrorist acts or to designated foreign terrorist organizations; and (3) Executive Orders 12947 (Jan. 23, 1995) and 13099 (Aug. 20, 1998) which prohibit transactions with terrorists who threaten to disrupt the Middle East peace process. Mission Order 21 also includes provisions of special relevance to the USAID Mission in the West Bank and Gaza in Section 559 of the Foreign Operations Export Financing and Related Programs Appropriations Act, 2006 (Pub. Law No. 109-102). Similar provisions have appeared in subsequent appropriations acts, including the Consolidated Appropriations Act of 2008.

⁹The list of individuals and entities subject to economic and trade sanctions based on U.S. foreign policy and national security goals is formally called the Specially Designated Nationals and Blocked Persons list and commonly referred to as the OFAC list. OFAC publishes the list as part of its efforts to administer and enforce U.S. sanctions programs.

¹⁰The UN Security Council’s “Consolidated List established and maintained by the 1267 Committee with respect to Al-Qaida, Usama bin Laden, and the Taliban and other individuals, groups, undertakings and entities associated with them” is referred to as the UN 1267 list. The Security Council’s Al-Qaida and Taliban Sanctions Committee established the list pursuant to paragraph 6 of Security Council resolution 1267 (Oct. 15, 1999) and the committee oversees governments’ implementation of the three sanctions measures (assets freeze, travel ban, and arms embargo) imposed by the Security Council on individuals and entities on the list.

implementing reasonable monitoring and oversight procedures to safeguard against assistance being diverted to support terrorist activity.

- All contracts, subcontracts, grants, cooperative agreements, and subgrants must contain the clause restricting facility names, known as the *naming clause*. This clause states, among other things, that no assistance shall be provided under this contract or agreement for any school, community center or other facility that is named after any person or group that has advocated, sponsored, or committed acts of terrorism.
- Certain individuals and organizations need to be *vett*ed, which involves checking recipients' names and other identifying information against databases and other information sources to determine if they have links to terrorism.

For UNRWA, section 301(c) of the Foreign Assistance Act of 1961, as amended, states the following:

“No contributions by the United States shall be made to the United Nations Relief and Works Agency for Palestinian Refugees in the Near East except on the condition that the United Nations Relief and Works Agency takes all possible measures to assure that no part of the United States contribution shall be used to furnish assistance to any refugee who is receiving military training as a member of the so-called Palestinian Liberation Army or any other guerrilla type organization or who has engaged in any act of terrorism.”¹¹

This clause is commonly referred to as “section 301(c).”

State is responsible for implementing section 301(c) and, in that capacity, oversees U.S. contributions to UNRWA. UNRWA beneficiaries include Palestinian refugees and a limited number of individuals displaced by the 1967 Arab-Israel conflict. According to UNRWA, most of the displaced individuals are in Jordan.

UNRWA's Beneficiaries

UNRWA's beneficiaries include 4.6 million individuals who have registered with UNRWA for refugee status. Under UNRWA's operational definition, Palestinian refugees are individuals

- whose normal place of residence was Palestine between June 1946 and May 1948,
- who lost both their homes and means of livelihood as a result of the 1948 Arab-Israeli conflict, or
- who are descendants through the male line of individuals who became refugees in 1948.

UNRWA also provides health and education services to individuals displaced by the 1967 Arab-Israeli conflict.

¹¹22 U.S.C. § 2221(c).

USAID Strengthened Its Antiterrorism Policies and Procedures and Complied with Them in Making New Prime Awards, but Has Weaknesses in Compliance at the Subaward Level

Since 2006, USAID has strengthened its antiterrorism policies and procedures to help ensure that assistance is not inadvertently provided to terrorists. USAID complied with its strengthened policies and procedures when issuing new prime awards in fiscal year 2008. Although USAID's new monthly reporting system was intended, in part, to improve compliance at the subaward level, we found that it did not provide sufficient information for us to assess compliance.

USAID Strengthened Its Antiterrorism Policies and Procedures

USAID Strengthened Its Antiterrorism Policies and Procedures by Clarifying How They Apply to Each Assistance Agreement

In response to our 2006 recommendation, USAID strengthened its antiterrorism policies and procedures—as outlined in Mission Order 21—to help ensure that assistance is not inadvertently provided to terrorists by clarifying how those policies and procedures would be applied to each type of assistance instrument. Although USAID had established antiterrorism provisions that apply to contracts, cooperative agreements, and grants, we reported in 2006 that it had not clearly articulated how antiterrorism provisions apply to other types of assistance instruments, such as purchase orders.¹² We recommended that USAID develop policies and procedures to address how each of its antiterrorism provisions apply to other types of assistance instruments. In its October 3, 2007, revision to Mission Order 21, USAID strengthened its antiterrorism policies and procedures by listing which clauses and certifications would apply to each type of assistance instrument—thereby responding to our 2006 recommendation. For example, the antiterrorism certification now clearly applies to grants made under contracts. In addition, USAID clarified that

¹²[GAO-06-1062R](#). These other types of assistance instruments include consulting agreements, letters of understanding, memorandums of understanding, and purchase orders.

instruments that can function as contracts, such as purchase orders, are subject to the same policies as contracts.

USAID Strengthened Its Vetting Process

USAID strengthened its vetting process in response to a 2006 GAO recommendation that the mission's vetting management database promote data reliability, satisfy technical documentation requirements, and meet all applicable security requirements. This recommendation was based on our finding that the mission did not routinely collect or verify detailed identifying information—such as date and place of birth—needed to fully vet individuals. We also identified weaknesses in the mission's unclassified database, which was designed to record and track vetting results. For example, few safeguards were in place to control access to the information stored in the database. In response to our recommendation and findings, the following were completed:

- In December 2006, USAID instituted a new strengthened vetting system, called the Partner Vetting System. This system uses U.S. law enforcement and intelligence databases to vet the names of individuals that it receives from the mission. It also requires additional information for individuals being screened, such as the individual's government-issued photo identification number and type (e.g., passport and passport number). Access to the system is limited to certain individuals who may have different levels of access to information in the system. For example, the clerks who enter vetting information do not have the same level of access as the contracting officer who makes the award.
- USAID placed a U.S. citizen with a security clearance in charge of the office responsible for maintaining the vetting system, thereby enabling sensitive derogatory information on potential awardees to be shared with the mission. Derogatory information indicates that vetted organizations or individuals appear to have links with terrorism.
- USAID conducted additional vetting at the U.S. consulate in Jerusalem for organizations receiving cash or in-kind assistance, which serves as another review to help ensure that funds are not inadvertently given to terrorists.

According to USAID officials and prime awardees we spoke with, these improvements have strengthened controls over the system and decreased vetting time from about 9 months to as little as 1 to 2 weeks.

USAID Enhanced Monitoring Efforts to Provide More Timely Information on Compliance

In 2008, USAID enhanced its efforts to monitor prime awardee compliance with applicable Mission Order 21 requirements by commissioning an additional compliance audit, hiring a compliance specialist to conduct recurring compliance reviews, and requiring that prime awardees address

noncompliance findings. USAID commissioned an additional compliance audit by contracting with an independent auditing firm to review 15 prime awardees' compliance with Mission Order 21 during the period from June 1, 2006, through January 31, 2008. The audits examined 1,094 subawards and found 70 total weaknesses; 62 awards contained at least 1 weakness and 5 of those awards contained multiple weaknesses. Thirty-eight of the 70 weaknesses were related to mandatory clauses, 13 were related to vetting approval, and 4 were related to vetting procedures. The audit also found 15 monthly reporting weaknesses. According to USAID officials, where appropriate, prime awardees took actions to address the identified weaknesses. They also said that, in response to these findings, mandatory clauses were inserted into subawards when necessary, and required vetting was conducted and each subawardee passed vetting. This one-time audit provided additional feedback to USAID on the 15 prime awardees' compliance beyond the existing feedback provided through the annual Regional Inspector General audits.¹³

Building on the one-time additional compliance audit, USAID further enhanced its oversight of prime awardees' efforts to comply with their Mission Order 21-related requirements by hiring, in 2008, a compliance specialist. This specialist is responsible for conducting recurring compliance reviews of prime awardees' subaward activities. Previously, USAID only examined prime awardee compliance with these requirements as part of periodic contract and compliance audits conducted under the direction of the Regional Inspector General. According to USAID officials, the compliance specialist's reviews allow USAID to monitor compliance on a more timely basis than can be done with the annual USAID Regional Inspector General audits. In July 2008 the compliance specialist began conducting periodic site visits to prime awardee locations to review records related to the subawards made under USAID contracts and assistance agreements to determine whether they complied with Mission Order 21. According to the mission, the compliance specialist's review

¹³Since 2003, annual appropriation acts have required the Administrator of USAID to ensure that audits of all contractors and grantees, and significant subcontractors and subgrantees, under the West Bank and Gaza Program, are conducted on at least an annual basis. In furtherance of this requirement, the USAID Inspector General has implemented a program to audit these entities annually. USAID's Regional Inspector General must, according to its own policies, audit the prime awardees and significant subawardees every fiscal year. While a single awardee may receive multiple prime awards for services, only one of those prime awards is audited each fiscal year. The Regional Inspector General has defined significant subawards as those that have a cumulative cost of \$300,000 or higher per fiscal year.

includes inspecting documents related to each subaward contract or agreement to confirm that (1) the prime awardee had received evidence from USAID that required preaward vetting had occurred and the subawardee was eligible; (2) each subaward contract or agreement had related mandatory clauses; and (3) where applicable, the prime awardee had obtained from subawardees a signed and dated antiterrorism certification prior to making the subaward. In addition, the mission stated that, whenever possible, the compliance specialist reviews the prime awardees' records of subaward activity to determine whether all required subawards were included in the monthly subaward reports. The compliance specialist uses a standardized checklist to determine whether an award is compliant with Mission Order 21.

The compliance specialist found problems with some prime awardees' compliance with Mission Order 21 and their monthly reports, most of which, according to the mission, have been resolved. In his first draft summary report, the compliance specialist reviewed 2,883 subawards issued by 32 prime awardees for compliance with Mission Order 21. The specialist discovered 26 instances where the subaward did not include the naming clause, 13 where the subaward did not include the antiterrorism clause, and 2 where the antiterrorism certification was not signed prior to the award being made. The compliance specialist also found 5 instances of noncompliance with Mission Order 21's vetting policies. In one of those instances, for example, USAID disallowed the costs submitted by the prime awardee because the prime awardee issued the subaward without obtaining vetting approval. The mission said the subawardees were subsequently vetted and cleared in the remaining four cases. According to the mission, awardees have since resolved most instances of noncompliance found by the reviewer. The remaining instances were not corrected because the award had already expired or had been cancelled by the prime awardee. Additionally, the compliance specialist found 66 instances where prime awardees had not correctly reported their subawards in their monthly reports to USAID.

**USAID Complied with Its
Strengthened
Antiterrorism Policies and
Procedures at the Prime
Award Level**

USAID Included All Applicable Clauses in All New Prime Awards Made in Fiscal Year 2008 and Obtained Required Certifications

Mission Order 21 requires the USAID Mission to vet the following:

- All prime awardee and subawardee non-U.S. organizations or individuals (16 years old or older) proposed for a contract or subcontract above \$25,000.
- All prime awardee and subawardee non-U.S. organizations or individuals (16 years old or older) proposed to receive cash or in-kind assistance under a cooperative agreement, grant, or subcontract.
- All non-U.S. individuals (16 years old or older) who receive USAID-financed training, study tours or invitational travel in the United States or third countries or who receive training in the West Bank/Gaza lasting more than 5 consecutive work days.
- All entities or specifically identified persons (16 years old or older) who directly receive other forms of cash or in-kind assistance, with the following exceptions (these thresholds apply to a single award and are not cumulative):
 - individuals who receive jobs under employment generation activities,
 - individuals who receive assistance of \$1,000 or less,
 - organizations that receive assistance of \$2,500 or less,
 - households that receive micro-enterprise loans or assistance of \$5,000 or less, and
 - vendors of goods or services acquired by USAID contractors and grantees in the ordinary course of business for their own use.

Even if vetting would not otherwise be required under these rules, vetting will be conducted whenever there is reason to believe that the beneficiary of assistance or the vendor of goods or services commits, attempts to commit, advocates, facilitates, or participates in terrorist acts, or has done so in the past.

We found that all 32 new prime awards made by USAID in fiscal year 2008 contained the appropriate mandatory clauses—the antiterrorism and naming clauses—and, where applicable, USAID had obtained the advanced antiterrorism certifications,¹⁴ as required under Mission Order 21. The antiterrorism clause reminds award recipients that they must comply with U.S. executive orders and laws prohibiting transactions with terrorists and the provision of resources and support to individuals or organizations associated with terrorism. The naming clause states that no assistance shall be provided under this contract or agreement for any school, community center, or other facility that is named after any person or group that has advocated, sponsored, or committed acts of terrorism.¹⁵ USAID officials said there are relatively few situations where the United States is providing assistance to the West Bank and Gaza that involves naming buildings or structures. The antiterrorism certification requires that all U.S. and non-U.S. organizations must certify, before being awarded a grant or cooperative agreement, that the organization does not provide material support or resources for terrorism.

¹⁴The three prime awardees required to submit antiterrorism certifications had signed the certifications prior to the date of the award, as required.

¹⁵USAID may approve assistance to such a facility only if it determines that the purpose and practical effect of such assistance will not be to provide recognition to such a person or group.

**USAID Vetted All Applicable
New Prime Awards Made in
Fiscal Year 2008**

USAID vetted the appropriate officials for all four new prime awards made in fiscal year 2008 that required vetting according to Mission Order 21.¹⁶ In addition, USAID officials said they vetted, in fiscal year 2008, 1,239 individuals in compliance with Mission Order 21 before they received USAID assistance for scholarships, microenterprise loans, and direct cash assistance.

In establishing requirements for whom to vet, a USAID official said the mission has weighed the costs of vetting, the risks of not vetting, and the need to meet its foreign assistance goals. According to this official, the mission does not vet U.S. organizations or citizens who receive assistance due to U.S. privacy law concerns. In addition, U.S. organizations and citizens are subject to U.S. criminal statutes. This USAID official said that they set certain criteria and dollar thresholds that govern whether or not vetting is required. For example, USAID only conducts vetting at the prime and subaward levels and only vets key individuals associated with the applicable non-U.S. organization. As a result, employees of non-U.S. organizations who are not key individuals are not vetted. USAID also does not vet non-U.S. organizations and individuals that receive contracts unless the cumulative value of the contracts received in a 12-month period exceeds \$25,000. (See app. II for additional information on the vetting process.)

**USAID's New Monthly
Subaward Reporting
System Did Not Provide
Sufficient Information for
Us to Assess Compliance**

**USAID Instituted a New
Monthly Subaward Reporting
System**

USAID instituted a new monthly reporting system in response to a prior GAO recommendation. In 2006, GAO recommended that USAID develop a review and reporting system to help ensure prime awardees comply with the requirements related to subaward vetting, certifications, and mandatory clauses. In response, USAID instituted, as part of its plan to assess compliance, a monthly reporting requirement under which prime awardees (1) submit information on new subawards they have made

¹⁶These four new prime awards required vetting because they were awarded to non-U.S. organizations for amounts greater than \$25,000.

(including the subawardee name and subaward type and value) and copies of required mandatory clauses and antiterrorism certifications, and (2) indicate whether the required subaward vetting took place prior to the award. The prime awardees are to send the mission a spreadsheet listing the required information for each subaward, as well as copies of the related supporting documentation. The USAID clerk who receives the information inputs the amount of each program-related subaward into the Partner Vetting System (PVS). This allows the mission to track the cumulative amount of contracts awarded to any single awardee to ensure that vetting occurs when required.

Subawards Met Vetting Requirements and Subawardees Provided Required Antiterrorism Certifications

For each of the 51 subawards from our random sample of 95 subawards made to non-U.S. organizations and individuals that required preaward vetting, the PVS showed that USAID vetted and approved each subawardee prior to the date of the subaward.¹⁷ In addition, for each of the 35 subawards below the \$25,000 threshold the PVS included the subawardee's name and the amount of the subaward. This information supports the Mission Order 21 requirement to vet a subawardee when the cumulative amount given to that subawardee exceeds \$25,000. We also found that prime awardees obtained the signed antiterrorism certification for all six subawards that required this certification.¹⁸ As required, each certification was dated prior to the subaward date.

Insufficient Evidence to Assess Subaward Compliance with Requirements Related to Mandatory Clauses

Based on our random stratified sample, we estimate that 17 percent, plus or minus 7 percentage points, of all fiscal year 2008 subawards identified by USAID did not contain sufficient evidence to determine whether the mandatory clauses were included in the subaward at the time the subaward

¹⁷We evaluated a random sample of 144 subawards for compliance with applicable requirements from Mission Order 21. In selecting our random sample, we selected two random subsamples—one consisting of 49 U.S. organizations and individuals and another consisting of 95 non-U.S. organizations and individuals—because the vetting requirements are only applicable to non-U.S. organizations. Of the 95 non-U.S. organizations, 9 were exempt from the vetting requirements, 51 were subject to pre-award vetting because the amount of the award exceeded \$25,000, and the remaining 35 were for amounts below the \$25,000 vetting threshold.

¹⁸Our sample included 14 grants, six of which were made to nongovernmental organizations and thus were required to have an antiterrorism certification, according to Mission Order 21. The remaining eight grants were made to either individuals or governmental entities and thus did not require an antiterrorism certification.

was made.¹⁹ In conducting our review, we found that the reported information, including the subaward information and related documentation reported monthly to USAID by prime awardees, did not include sufficient evidence to enable us to reasonably conclude whether or not the prime awardee had met the requirement to include the mandatory clauses in the subaward at the time the subaward was made.

The monthly reported information was often insufficient because prime awardees are only required by USAID to provide copies of the mandatory clauses and are not required to include within the mandatory clauses specific references to the subaward, such as the subaward number and date, or to have the subawardee sign and date the clauses. In many instances, the copies of the mandatory clauses provided by prime awardees did not contain information identifying the applicable subaward or otherwise clearly show that the clauses were included in the subawards at the time they were made. Therefore, we asked USAID to provide us with copies of the complete subaward documents for each of our 144 randomly selected subawards. However, even with the copies of actual subaward documents provided by USAID, we could not determine whether the mandatory clauses were included at the time the subaward was made for many of the subawards in our sample.

We based our estimate that approximately 17 percent of all fiscal year 2008 subawards USAID had identified did not contain sufficient evidence to assess compliance on 40 subawards from our random sample. All 40 involved purchase orders issued by 1 prime awardee. For each of the 40 subawards, we found that the information USAID provided was not sufficient to assess compliance because the purchase order documents did not contain the mandatory clauses or include a specific reference to them even though the October 2007 revisions to Mission Order 21 required that the

¹⁹We conducted a probability sample of new subawards, stratified by either U.S. or non-U.S. subawardees. With a probability sample, each subaward in the population had a non-zero probability of being included, and that probability could be computed for any member. Each sample element selected was subsequently weighted in the analysis to account statistically for all the members of the population. The result of the sample can be projected to the population from which it was selected. Because our sample selection was based on random selections, it was only one of a large number of samples that might have been drawn. Since each sample could have provided different estimates, we express our confidence in the precision of our particular sample's result as a 95 percent confidence interval (e.g., plus or minus 7 percentage points). This is the interval that would contain the actual population value for 95 percent of the samples we could have drawn. As a result, we are 95 percent confident that each of the confidence intervals included within this report will include the true values in the study population.

mandatory clauses be included in each contract or grant agreement, including purchase orders. The information provided by USAID consisted of a discrete purchase order and separate additional pages containing the mandatory clauses. However, the only references to the purchase orders that were included on the copies of the mandatory clauses were individual handwritten annotations. It was not clear who made the annotations and when they were made. USAID officials said they believe the subaward information they provided was sufficient to determine compliance because the prime awardee provided USAID with copies of the separate purchase order and mandatory clauses attached together. However, we found several instances in which copies of the same mandatory clauses were provided to us as support for different purchase orders in our subaward sample even though these clauses were signed and dated with dates that were not consistent with the dates of the individual subawards.²⁰ As a result, we could not reasonably conclude whether or not the prime awardee complied with the requirement to include the mandatory clauses as part of the 40 subawards at the time they were made. To clearly establish at the time of the subaward that subawardees agreed to the mandatory clauses when the mandatory clauses are not included within a subaward, we believe that

- each applicable contract (including purchase orders) or agreement should include a direct and specific reference to the existence and applicability of the separate mandatory clauses, and
- each set of related but separate mandatory clauses should include within the clauses specific and direct reference to the contract (including purchase orders) or agreement.

Some Prime Awardees Did Not Comply with Mandatory Clause Requirements when They Made Subawards

Based on our random stratified sample, we estimate that about 83 percent, plus or minus 7 percentage points, of all fiscal year 2008 USAID-identified subawards contain sufficient evidence to assess compliance.²¹ There were 104 subawards in our random sample for which we obtained sufficient documentation to determine whether the prime awardees complied with requirements related to mandatory clauses. We concluded, based on this

²⁰USAID provided us 6 sets of annotated mandatory clauses for a total of 14 separate subawards.

²¹This estimate was weighted to reflect the fact that we selected 49 out of a total of 101 U.S. subawards and 95 out of a total of 2,519 non-U.S. subawards. See appendix I for more information on our methodology.

documentation, that some prime awardees did not always comply with requirements by including mandatory clauses in subaward files at the time they made the subaward. We estimate that for 95 percent, plus or minus 4 percentage points, of those subawards with sufficient information to assess compliance, prime awardees included the mandatory clauses at the time the subaward was made, and, thus were in compliance with Mission Order 21. However, based on the evidence provided to us, we estimate that for 5 percent, plus or minus 4 percentage points, of subawards with sufficient information to assess compliance, the prime awardee did not include the mandatory clauses at the time the subawards were made.

For 14 of the 104 sampled subawards with sufficient information, the evidence provided by USAID established that the prime awardee did not include the required mandatory clauses in each applicable subaward at the time the subaward was made. For 2 of the 14 subawards, the prime awardees later modified the subaward to incorporate the mandatory clauses. For another 8 of the 14 subawards, the prime awardee subsequently obtained the subawardee's acknowledgement that the mandatory clauses were applicable to the subaward by having the subawardee sign and date the mandatory clauses. For 3 other subawards, while the prime awardee made some efforts to incorporate the required mandatory clauses, the required clauses were not included in each applicable subaward prior to the completion of work. For the remaining subaward, the subaward was already completed when the prime awardee noted that the subaward did not include the required mandatory clauses.

State and UNRWA Have Strengthened Policies and Procedures to Determine Whether UNRWA's Actions Are Consistent with Its Agreement to Conform with Conditions for Receiving U.S. Funds, but Weaknesses Remain

UNRWA has agreed with State to take steps to conform with the condition on U.S. contributions set forth in section 301(c) of the Foreign Assistance Act of 1961, as amended, and report to State on its efforts semiannually. However, State has not established criteria to determine whether UNRWA is in conformance with conditions on U.S. funds, though it has strengthened some oversight procedures. UNRWA has strengthened policies and procedures intended to conform with the conditions on U.S. contributions, but we found some weaknesses in UNRWA's efforts, such as screening only against a UN terrorist list, in accordance with UN policy, and in internal audits of UNRWA operations.

UNRWA Has Agreed to Conform with Conditions on U.S. Contributions through Agreements with State

Since late 2006, UNRWA and State have signed 3 annual Frameworks for Cooperation and more than 10 letters confirming UNRWA's commitment to conform with the condition on U.S. contributions provided in section 301(c) prior to receiving U.S. funds. In accepting U.S. government funding, UNRWA certifies that it is taking all possible measures to ensure that no part of the United States contribution is being used to furnish assistance to, among others, any refugee who has engaged in any act of terrorism. Under the Framework for Cooperation, which is renewed annually and signed by both State and UNRWA, UNRWA commits to, among other things, (1) conform with the condition in section 301(c) and (2) report every 6 months on actions it has taken to ensure conformance with the condition in section 301(c). UNRWA agrees to similar terms and conditions in U.S. contribution letters before receiving U.S. funds. Since October 2006, UNRWA has submitted five semiannual reports to State, which describe the agency's actions to enforce rules and regulations on staff and beneficiary behavior; monitor UNRWA facilities in the West Bank and Gaza; and screen names of individuals and entities who receive UNRWA funding against a UN terrorist list.

According to UNRWA officials, the policies and procedures UNRWA established to implement the UN principles of neutrality and impartiality and the goals of the International Convention for the Suppression of the

Financing of Terrorism support UNRWA's conformance with U.S. conditions. State officials also told us they agreed that UNRWA's efforts to ensure neutrality are consistent with and support UNRWA's efforts to meet the condition for receiving U.S. contributions under section 301(c). Under the UN principles of neutrality and impartiality, UNRWA staff and other personnel should neither seek nor accept instructions from any government or other authority external to UNRWA. This ensures that staff and other personnel are not involved in conduct that is inconsistent with the independence and impartiality required by their status as international civil servants or service providers to the UN. UNRWA officials said UN neutrality is compatible with section 301(c) funding conditions. According to UNRWA, a staff member's involvement in a militant group or terrorist activities would be clearly contrary to UNRWA's staff regulations and rules and would certainly result in termination. In requiring that staff, third parties, and facilities be neutral, UNRWA proscribes a range of conduct broader than the conduct described in section 301(c). According to UNRWA rules, staff member involvement in activities such as running for political office in an election or making public political statements would result in disciplinary action, including termination. Although UNRWA does not require beneficiaries to be politically neutral to receive assistance, the agency promotes neutrality within the refugee camps and refuses assistance to refugees involved in inappropriate behavior, including section 301(c)-related activities. UNRWA defines terrorism according to the 1999 International Convention for the Suppression of Financing of Terrorism.²²

²²The International Convention for the Suppression of the Financing of Terrorism defines an offense under the convention to include an offense within the scope of and as defined in any of the nine treaties listed in the annex to the convention, as well as any other act intended to cause death or serious bodily injury to a civilian or any other person not taking an active part in the hostilities in a situation of armed conflict, when the purpose of such act is to intimidate a population or compel a government or international organization to do or abstain from doing any act. International Convention for the Suppression of the Financing of Terrorism, U.N. Doc A/RES/54/109 (Dec. 9, 1999).

State Has Not Established Criteria to Determine UNRWA's Conformance with Conditions on U.S. Funds but Has Strengthened Some Oversight Procedures

State Has Not Established Criteria to Determine UNRWA's Conformance with Conditions on U.S. Funds

State reported that it has contributed nearly \$340 million to UNRWA in the last 2 fiscal years, but State has not established written criteria to determine whether UNRWA's efforts are consistent with the section 301(c) conditions that UNRWA has agreed to for receiving U.S. funds. Aside from the assessments by State of whether to continue funding UNRWA,²³ State officials said that they have not developed any written criteria to analyze UNRWA's semiannual reports and have not assessed UNRWA's efforts against such criteria to determine conformance. For example, State has not defined what would constitute nonconformance or developed written definitions of key terms, including "all possible measures"—a concern we also raised in 2003²⁴—that would help serve as criteria for analyzing UNRWA's semiannual reports. In addition, we found that State did not have several important UNRWA policy documents, which officials could use to help form criteria for their evaluation of UNRWA's conformance, such as UNRWA instructions for providing relief and social services (including cash assistance) to refugees and the agency's assessment of high-risk areas.

State officials said they consider UNRWA to be in conformance with its commitment to adhere to section 301(c) based on State's ongoing review of UNRWA's activities and reports through written communications and

²³State reported that continued U.S. funding for UNRWA is contingent upon State's conclusion that UNRWA continues to take the steps required to meet the conditions required by section 301(c). As part of State's formal financial approval processes, State's Office of the Legal Adviser closely reviews all spending plans, taking section 301(c) and other legal requirements into consideration; these spending plans are cleared by all relevant bureaus with interests in the funding, with final approval by the Director of Foreign Assistance. Each contribution to UNRWA is approved by the Assistant Secretary of State's Bureau of Population, Refugees and Migration (PRM) based on a written paper that includes a section reviewing UNRWA's conformance with the condition required by section 301(c). However, we found that this written paper is not an evaluation or determination of UNRWA's conformance with conditions in section 301(c).

²⁴[GAO-04-276R](#).

discussions with UNRWA officials. State officials told us that, to be consistent with section 301(c), they must affirm that State has an internal level of confidence that UNRWA has taken all possible measures to ensure that terrorists are not receiving assistance, such as having procedures in place and taking measures to respond to issues that arise. State officials said that they undertake immediate reviews of any information or allegations of possible concern. State officials told us that their reviews consist of an evaluation of information received from UNRWA and other sources about the allegations or questions arising from a review of the semiannual reports. State officials also note that they regularly follow up, when necessary, on what investigations and disciplinary actions UNRWA undertakes. For example, when an allegation arose that UNRWA had employed a member of Islamic Jihad, State contacted UNRWA to determine how UNRWA handled the allegation. According to State, UNRWA reported that its investigation into the matter resulted in the termination of the employee's direct supervisors.

State Has Strengthened Some Policies and Procedures to Oversee UNRWA's Conformance with U.S. Conditions

Despite the absence of a written evaluation by State of UNRWA's conformance with U.S. conditions, we found that State has strengthened some policies and procedures to oversee UNRWA's conformance with conditions on U.S. funds. In 2003, we reported that State had not defined "terrorism" for the purpose of implementing section 301(c),²⁵ but State has since concurred with UNRWA in its use of the definition of terrorism contained in the International Convention for the Suppression of the Financing of Terrorism. In addition, State reported that since we began our review it has introduced several new policies and procedures to improve oversight by enhancing communication with UNRWA on section 301(c). For example, State officials revised the job description of the Regional Refugee Coordinator responsible for UNRWA to specifically include additional roles and responsibilities for monitoring and reporting on section 301(c) conformance. Also, since we began our review, State has developed additional formal communication procedures to communicate with UNRWA on section 301(c) issues. Specifically, State has introduced the following procedures:

- Monthly senior-level conversations between State's Bureau of Population, Refugees and Migration (PRM) and UNRWA on section 301(c) and other priority issues. State told us that senior State officials began meeting with UNRWA in October 2008 to specifically discuss section 301(c)-related

²⁵GAO-04-276R.

issues, including a recent meeting with the Director of UNRWA's Gaza field office.

- Bimonthly meetings between the Regional Refugee Coordinator and the U.S.-funded Operation Support Officers (OSO) for the West Bank and Gaza who inspect UNRWA facilities, as well as other relevant officials, to discuss section 301(c) issues.
- Meetings between PRM Washington, D.C., staff and West Bank and Gaza OSOs to discuss section 301(c) issues during monitoring visits to the region. State officials reported that the Regional Refugee Coordinator and senior State officials from headquarters have met with West Bank and Gaza OSOs six times from November 2008 to April 2009.
- An exchange of letters between State and UNRWA when incidents that are potentially related to section 301(c) occur. State recently communicated with UNRWA in a formal letter regarding issues in its most recent semiannual compliance report.

In response to a suggestion we made during our review, State is currently assessing the technical feasibility and resources involved in identifying UNRWA contractors and funding recipients that may be on the U.S. Department of Treasury's Office of Foreign Assets Control (OFAC) list of individuals and entities subject to U.S. sanctions, as well as consulting internally in order to determine whether and how it would undertake such an effort. We discussed with State the feasibility of screening the names of UNRWA contractors and funding recipients against the OFAC list to determine whether UNRWA funds are going to individuals and entities of concern to the United States. As we noted earlier, USAID recommends that all U.S. and non-U.S. organizations that sign the antiterrorism certification consider following steps that include screening names against the OFAC list before providing any material support or resources to an individual or entity. UNRWA declined a past request by State to screen names against the OFAC list on the grounds that doing so contradicts UN policy.²⁶ When we compared a list of about 15,000 contractors UNRWA paid between 2002 and 2009 to the OFAC list, we found no perfect matches

²⁶In responding to a U.S. request that UN agencies vet prospective and current arrangements against the OFAC list, the UN Legal Counsel told State in a January 2006 letter that it would not be appropriate for the UN to establish a verification regime that uses a list developed by one member state, such as the OFAC list.

but did find a few possible matches.²⁷ One of these possible matches was a telecommunications contractor UNRWA paid between 2002 and March 2009, which OFAC placed on its list in July 2008 for reasons related to allegations of corruption. State officials said they would need to discuss with UNRWA what the agency would do with any information regarding such possible matches, given the UN's practice of using a UN terrorist list rather than lists provided by individual UN member governments. UNRWA officials told us that if they are notified of potential matches, they would use the information as a trigger to conduct their own investigation into the matter in accordance with their existing procedures. According to UNRWA officials, this is in keeping with UNRWA's practice, which is to take seriously and pursue any credible information it receives regarding the possible violation of UN neutrality and impartiality principles.

UNRWA Has Strengthened Policies and Procedures Intended to Conform with U.S. Conditions on Contributions, but Limitations Exist

UNRWA Reported Denying Refugees Benefits, Including Cash Assistance, Due to Inappropriate Conduct

UNRWA reported denying approximately 110 applications for discretionary cash assistance to refugees since July 2006 because agency investigations found the refugees' behavior was inconsistent with UN neutrality or restrictions related to section 301(c).²⁸ For example, UNRWA reportedly refused burial, rehousing, and other cash assistance to refugees

²⁷UNRWA provided us with a list of roughly 20,000 contractors it paid between 2002 and 2009. We narrowed the list to about 15,000 contractors by, among other things, eliminating any record that only contained 1 part of an individual's name. We used a relatively basic methodology to identify potential matches. We did not find any perfect matches, since a perfect match between the two lists would require the records in each list to be identically matched, and we found that names in the two lists varied in the number of name parts, the translation of Arabic names to English, spelling, and the type of demographic information included. An example of a possible match would be when we found names in both lists that were similar but were spelled differently. Determining with greater confidence whether other names are a likely match requires additional research and more advanced procedures. See appendix I for more information on our methodology.

²⁸UNRWA reported that it plans to submit additional information to State on any denials of requests for assistance arising from the Israeli "Operation Cast Lead" in the Gaza Strip from December 27, 2008 to January 19, 2009, in its semiannual compliance report covering the period from January 2009 to June 2009.

following its investigations into the death of beneficiaries or their spouses as a result of Israeli military incursions and operations, including targeted killings, home demolitions, or workshop damage from shelling by Israeli military authorities. According to UNRWA officials, such incidents are triggers for an UNRWA investigation to determine whether individuals were involved in inappropriate behavior and the potential denial of benefits. In addition, UNRWA reported that it has denied cash assistance for burial expenses to families of beneficiaries it found were killed by an explosion while allegedly preparing an explosive device, as well as refused cash assistance for post-surgery social care to an individual involved in such an explosion. In more than 100 other cases, UNRWA reported that it refused cash assistance to individuals whose homes were demolished or for burial of family members killed in the Israeli operations. The agency reported that it conducted field investigations following these Israeli operations, but could not find clear evidence that the individuals concerned had engaged in an act of terrorism or other inappropriate behavior. However, the agency reported that it denied assistance in these cases based on other reasons it identified in its investigations, including failure to meet some eligibility criteria, competing priorities, or insufficient resources.

UNRWA officials reported that it applies policies and procedures on assistance to refugees that further the agency's conformance with section 301(c) conditions. However, they also said that UNRWA provides assistance in the context of its humanitarian mandate, meaning that agency policy is generally not to deny education or primary healthcare benefits. For example, UNRWA officials told us that the child of a refugee who was denied benefits because of section 301(c)-related behavior would not be disqualified from attending an UNRWA school. Similarly, the family of such an individual would remain eligible for medical services at an UNRWA health clinic. In some exceptional cases, officials stated that UNRWA would not provide education benefits to a refugee. For example, UNRWA told us the agency would deny vocational training benefits to a young adult UNRWA found to be involved in inappropriate behavior.

UNRWA Reported Disciplining and Terminating Staff Due to Behavior Inconsistent with Agency Policies

UNRWA reported investigating more than 30 cases since October 2006 relating to staff activities that were political or otherwise inconsistent with UN neutrality and taking disciplinary action, including termination, against 7 UNRWA staff as a result of these investigations. UNRWA also reported that four terminated staff members filed appeals with the Joint Appeals Board, of which UNRWA's Commissioner-General dismissed two and two remain ongoing. For example, in the last two years, UNRWA reportedly terminated a staff member's employment immediately upon his release

from Israeli detention for conspiring to kidnap an Israeli security officer. UNRWA also reported that it terminated staff members for political activity found to be inconsistent with the independence and impartiality expected of UNRWA staff.²⁹ UNRWA officials also indicated that they denied benefits to the families of staff members who were found, through investigations, to have been involved in inappropriate behavior. For example, after the agency conducted an investigation into the matter, UNRWA reportedly denied benefits, including pension benefits, to the family of a staff member who was identified by Israeli authorities as a militant and was killed by an Israeli military strike. UNRWA reported that it also terminated two other staff members for management failures in this case.

UNRWA has implemented several policies to promote staff behavior that supports UN neutrality. For example, the UNRWA Organizational Development plan introduced additional training to improve staff knowledge on UN privileges and immunities and legal capacity in all field offices.³⁰ The agency also reported that it performs reference checks and background security clearances for job applicants and has established procedures to investigate inappropriate staff behavior. UNRWA also told us that it seeks information from authorities whenever staff are detained, convicted, or refused a permit or targeted by Israeli military forces. UNRWA officials said they share the names of all UNRWA staff annually with the governments of Egypt, Israel, Jordan, Lebanon, Syria, and the Palestinian Authority but have received no information on staff members from these governments. Additionally, once hired, UNRWA international staff must apply for visas from the Governments of Egypt, Israel, Jordan, Lebanon, and Syria to work in those areas. UNRWA officials told us that these processes provide regional governments, notably in Egypt, Israel, Jordan, Lebanon, and Syria, with additional opportunities to scrutinize the profiles of UNRWA staff. Additionally, local staff in the West Bank and

²⁹UNRWA officials told us that following media reports alleging that people elected in March 2009 to positions in an UNRWA teachers' union were affiliated with political parties, the agency opened an investigation as required by and in accordance with UNRWA's Staff Rules and Regulations. That investigation is ongoing. UNRWA officials said disciplinary action will be taken if the results of the investigation show involvement of staff members in political activities contrary to UNRWA staff rules and regulations.

³⁰The Commissioner-General launched a comprehensive organizational development initiative in late 2005 designed to strengthen and sustain UNRWA's capacity for program management and delivery, which resulted in an organizational development strategic plan for the 2006 to 2009 time period. Goals of the plan include ensuring UNRWA programs for refugees are more strategic and focused and an agency culture of accountability.

While UNRWA Reported Monitoring Facilities and Finding No Material Misuse, It Continues to Face Recurring Incursions into Facilities

Gaza must apply for permits from the Government of Israel for transit between certain areas. For additional information on these policies and procedures, see appendix III.

Operation Support Officers (OSO) reported no instances in which agency facilities were not being used as intended, but UNRWA continues to face recurring incursions into its facilities.³¹ OSOs are to formally inspect each UNRWA facility in the West Bank and Gaza every 3 to 4 months—and informally inspect the facilities during camp visits as often as possible—to ensure that UNRWA facilities are used only to provide UNRWA aid and services, follow up on the condition of the facilities, and report on and immediately address any issues that are identified. OSOs are also responsible for removing political posters and communicating the importance of UNRWA’s neutrality to the community during camp visits. Since July 2006 UNRWA has reported more than 150 incursions into, and other violations of the immunity of, UNRWA facilities by armed Israeli military or police forces, Palestinian security forces, Palestinian militants or individual Palestinians. For example, Israeli forces reportedly used UNRWA school and health facilities as shooting positions or for interrogations, and Palestinian Authority security forces have also reportedly entered UNRWA facilities. In addition, UNRWA reported that armed Palestinian militants have forcibly entered or fired weapons at, near, or from UNRWA schools. Individual Palestinian beneficiaries who were angered by a reduction in UNRWA programming have also taken action against UNRWA facilities. UNRWA regularly protests these types of incursions as violations of its privileges and immunities under international law, and has asked the Palestinian Authority for increased police protection in cases involving Palestinian militants.

UNRWA has introduced formal OSO inspection goals for the Gaza area of three inspections per installation per year, which were absent in prior years, but UNRWA officials reported that the security situation and problems accessing the areas has increased the difficulty of meeting these goals. UNRWA reported that OSOs conducted nearly 1,100 formal inspections of its facilities in the West Bank and Gaza in 2008, meeting approximately 95 percent of its goal. In the West Bank, OSOs formally inspected each facility approximately 3.6 times (916 total inspections) in 2008, narrowly missing a goal of 4 inspections per installation (1024 total inspections). In Gaza, OSOs conducted 172 formal inspections in 2008.

³¹ [GAO-04-276R](#).

However, this represents less than one inspection per installation in the Gaza area.

UNRWA currently does not have an OSO program in Jordan, Lebanon, or Syria, but according to UNRWA officials, the agency hopes to receive funding that will enable it to expand the OSO program to Lebanon. In May, UNRWA selected a new protection officer funded by the European Commission to integrate the refugees' protection into UNRWA operations in Lebanon, including monitoring and reporting to senior staff on protection-related issues. State has reported that it approved funding in April 2009 for an expansion of the OSO program to Lebanon. We found that facility inspections under the OSO program may address conditions that could undermine UNRWA's neutrality. For example, during our visit to an UNRWA school in Jordan, where UNRWA does not currently operate an OSO program, we saw political graffiti on an exterior wall and posters created by teachers to support the school's human rights curriculum that had some violent content. Since our visit, UNRWA officials reported that the Jordan field office has called upon senior field officials to inspect facilities and that West Bank OSOs have shared practices with these officials to improve their ability to perform functions similar to the OSOs.

UNRWA Reported Expanding Screening with a UN Security Council List and Finding No Matches, but the Screening Process Has Limitations

UNRWA told us that it has expanded its use of a UN Security Council terrorist list to now screen all recipients of agency funds and that none of its staff, contractors, beneficiaries, or microfinance clients have appeared on the list, but we found some limitations in the agency's screening process. UNRWA screens its staff and contractors every 6 months against the UN 1267 list. In addition, for the first time, UNRWA screened all 4.6 million Palestinian refugees and microfinance clients against this list in December 2008. UNRWA officials told us that in addition to its screening and investigations of individual applicants prior to providing assistance, the agency intends to make such UN 1267 screening of all registered refugees and microfinance clients a routine procedure. The agency also enhanced transparency by introducing, in February 2009, a policy to disclose on its Web site details of UNRWA contracts valued over \$100,000, which includes contractor names it screens against the UN 1267 list. However, the list is limited to those individuals or entities affiliated with Al-Qaida and the Taliban and thus does not specifically include major regional groups, such as Hamas and Hezbollah, which the United States has designated as foreign terrorist organizations.³² According to UNRWA,

³²Under a UN policy, UNRWA officials said they do not screen contractors against donor country lists.

Internal Audits of UNRWA Do Not Assess Antiterrorism Controls or the Overall Cash Assistance Program

the UN Security Council has various working groups for terrorism-related issues, but the Sanctions Committee's UN 1267 list is currently the only such UN terrorist screening list available.³³ In addition, UNRWA does not conduct pre-employment screening of staff. UNRWA stated that screening every 6 months ensures that staff are screened during employment probationary periods. Furthermore, UNRWA told us it is unable to screen all persons displaced by the 1967 conflict who are receiving health and education benefits because the agency does not register or collect information on such displaced persons in the region.

UNRWA internal audits of its operations do not explicitly assess antiterrorism controls or controls for UNRWA's overall cash assistance program. UNRWA reported recent efforts to expand the capacity of its Department of Internal Oversight Services, which evaluates the agency's financial accounts, assesses the risk of fraud, and reviews the adequacy and effectiveness of internal controls systems, by hiring additional audit staff.³⁴ However, UNRWA officials reported that the department has not audited signed agency contracts to determine if staff physically attach the General Conditions of Contract, which include an antiterrorism clause and which must be in every contract between UNRWA and a contractor. UNRWA told us that the legal department ensures that all contracts contain these clauses. The Department of Internal Oversight Services also reported on an agency-wide risk management effort to identify high-risk areas in 2008 and has planned audits related to UNRWA's internal justice system and emergency assistance activities in the West Bank and Gaza funded by the agency's Emergency Appeal request to donors. However, audits related to several high-risk areas identified in the risk management exercise, such as the Special Hardship Assistance Program in Gaza and Syria,³⁵ camp reconstruction activities in Lebanon and oversight in Gaza

³³UNRWA also reported that, in accordance with UN policy, it uses the UN Suspended/Removed Vendor Report, which identifies those vendors confirmed to be doing business in an unethical or corrupt manner, to screen contractors.

³⁴We did not independently review the results of UNRWA's Department of Internal Oversight Services' internal audits because, under a current UNRWA policy, donor governments and respective agencies do not have access to the results of internal agency audits.

³⁵The Special Hardship Assistance Program is an UNRWA Relief and Social Services program, which is comprised of food assistance and a cash subsidy for food of up to \$40 per year per family member. This program is intended to provide a cushion of support to refugees in distress who are unable to earn a living because of a particularly difficult family situation, ensure minimum standards of nutrition and shelter, and intervene with cash grants in case of exceptional family difficulties.

are contingent on the availability of resources. In addition, since 2007, this department has conducted five reviews related to UNRWA staff screening processes and fraud prevention and detection, but none focused on UNRWA's cash assistance program activities funded through the General Fund or Emergency Appeal, such as cash subsidies for food or selective or emergency cash assistance. UNRWA reported, however, that approximately 10 percent of the department's work involves a review of a food aid and cash assistance program. The European Commission funds both the assistance program and its review. UNRWA told us that future internal audits would assess UNRWA's compliance with its neutrality and antiterrorism policies for contractors, as well as internal controls for cash assistance. According to agency officials, this will have resource implications for the agency.

While internal audits have not focused on UNRWA's overall cash assistance activities, the UN Board of Auditors, UNRWA's external auditor, reported on instances of breakdowns or weaknesses in internal controls.³⁶ UNRWA officials reported that after the agency investigated a case of cash assistance fraud in Gaza, the agency conducted a thorough reform of cash management procedures and held the senior managers of the program accountable for the systemic weaknesses identified and, in doing so, requested and accepted the early retirement of the 2 most senior program staff. Specifically, UNRWA reported that following this incident, the Gaza field office suspended emergency cash assistance (other than for shelter) to individuals and focused cash assistance instead on clearly defined target groups such as students enrolled in UNRWA schools and refugees enrolled in the Special Hardship program. In addition, UNRWA told us that it integrated its Emergency Cash Assistance program into a stand-alone Emergency Program, which includes a unit to monitor the integrity of emergency services.

Conclusions

It is an important U.S. goal to have processes in place to help ensure that U.S. funding for Palestinian assistance programs is not provided to individuals or entities engaged in terrorist activities. In recent years,

³⁶Under the UN Financial Regulations and Rules, the General Assembly appoints a Board of Auditors to perform the audit of the accounts of the UN and its funds and programs. The board is independent and solely responsible for the conduct of the audit, and it audits UNRWA's financial statements every 2 years. This board consists of three members, each of whom shall be the Auditor-General (or officer holding the equivalent title) of a member state.

USAID, State, and UNRWA have strengthened their policies and procedures to help ensure that assistance is not inadvertently provided to terrorists. In response to our 2006 recommendation, USAID has clarified its guidance and improved its system for vetting certain recipients of USAID assistance, thereby significantly decreasing its vetting times. In addition, State and UNRWA have agreed on a definition of terrorism, which addresses a concern we raised in 2003.

USAID complied with all applicable antiterrorism-related requirements when making its new prime awards in fiscal year 2008. Regarding prime awardees' fiscal year 2008 subawards identified by USAID, required vetting occurred and applicable antiterrorism certifications were obtained. However, we estimate that for approximately 17 percent of the fiscal year 2008 subawards identified by USAID, there was not sufficient information to assess compliance. For the remaining subawards, we estimate that 5 percent did not contain the mandatory clauses at the time the subaward was made. In addition, the subaward information reported by prime awardees was not always sufficient to monitor compliance. Action needs to be taken to help ensure that mandatory clauses are included within each document and that prime awardees provide USAID with sufficient monthly information to clearly demonstrate that mandatory clauses have been included in applicable subawards.

State has strengthened policies and procedures to determine whether UNRWA's efforts are consistent with its agreement to conform to U.S. conditions on funds by, for example, recently introducing additional mechanisms for communicating on section 301(c) issues with UNRWA. However, State has neither defined criteria for evaluating UNRWA's conformance with its commitment for accepting U.S. funds nor screened names of UNRWA contractors against the OFAC list. UNRWA has strengthened its policies and procedures to conform with conditions on U.S. funds, such as expanding screening of all recipients of UNRWA funds against the UN 1267 list, but UNRWA's internal audits do not determine whether UNRWA contractors have signed contracts that include the required antiterrorism clause or assess controls for UNRWA's overall cash assistance program. Addressing these weaknesses would provide greater assurance that assistance is not inadvertently being provided to terrorists.

Recommendations for Executive Action

To strengthen compliance with USAID policies and procedures at the subaward level, we recommend that the Administrator of USAID take action to help ensure that

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- the mandatory clauses are included within each subaward contract or agreement or, when not included within the contract or agreement there is sufficient evidence to clearly establish that the subawardee has agreed to comply with mandatory clauses at the time the award is made; and
 - prime awardees provide sufficiently detailed information in their monthly subaward reports to clearly demonstrate that mandatory clauses were included in the subaward at the time the award was made.

To help ensure that assistance is not inadvertently provided to terrorists, we recommend that the Secretary of State consider taking additional steps to oversee UNRWA's conformance with U.S. conditions on funding, such as (1) establishing criteria to evaluate UNRWA's efforts; (2) screening the names of UNRWA contractors against lists of individuals and entities of concern to the United States; and (3) monitoring UNRWA's commitment that future internal audits would assess UNRWA's compliance with its neutrality and antiterrorism policies for contractors as well as internal controls for cash assistance.

Agency Comments and Our Evaluation

USAID, State, and UNRWA provided written comments on a draft of this report (see app. IV, V, and VI). USAID, State, and UNRWA outlined actions they plan to take to implement our recommendations. USAID stated that our work contributed positively to the continuous improvement and strengthening of USAID West Bank and Gaza mission's compliance with antiterrorism policies and procedures. However, USAID disagreed with the extent of our finding that insufficient evidence was present to assess whether a significant percentage of subawards were in compliance. We maintain that evidence was insufficient because the only references to the purchase orders that were included on the mandatory clauses were individual handwritten annotations. It was not clear who made the annotations and when those annotations were made. To implement our recommendations USAID stated that it will issue new instructions to the mission's prime awardees to help ensure that contracts and agreements contain clear and specific references to attached clauses and clauses likewise contain clear and specific references to the base agreement. USAID also plans to instruct prime awardees to explain any inconsistencies in their monthly subaward reports. Additionally, USAID will require prime awardees to certify that their monthly subaward reports are both accurate and complete.

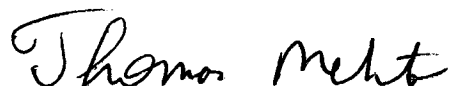
State recognized that it is appropriate for the department to consider taking additional steps to further ensure that U.S. assistance to UNRWA is not inadvertently provided to terrorists. State concurred with two parts of

our recommendation. State said that it will work with UNRWA to develop criteria, as appropriate, as well as reporting requirements, which will be documented in State and UNRWA's Framework for Cooperation for 2010. State also said that the internal audits we recommended would prove beneficial to UNRWA's operations and conformance with section 301(c) and noted UNRWA's written commitment to conduct internal audits of key UNRWA processes. State is actively assessing the feasibility of screening names of UNRWA contractors against lists of individuals and entities of concern to the United States. State said that addressing two parts of our recommendation will have resource implications for State and UNRWA, since additional resources would be required to effectively screen names and conduct additional internal UNRWA audits.

UNRWA also welcomed our report and findings and made a commitment that future internal UNRWA audits would assess the agency's compliance with its neutrality and antiterrorism policies for contractors and internal controls for cash assistance. UNRWA said it would facilitate State's monitoring of this commitment and work with State to develop criteria for UNRWA's conformance to section 301(c). In addition, USAID, State and UNRWA provided technical comments on a draft of this report, which we have incorporated as appropriate.

We are sending copies of this report to other congressional offices, State, USAID, and UNRWA. The report also is available at no charge on the GAO Web site at <http://www.gao.gov>.

If you or your staff have any questions about this report, please contact me at (202) 512-9601 or melitot@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. Other contacts and major contributors are listed in appendix VII.



Thomas Melito
Director, International Affairs and Trade

List of Congressional Committees

The Honorable Howard L. Berman
Chairman
The Honorable Ileana Ros-Lehtinen
Ranking Member
Committee on Foreign Affairs
House of Representatives

The Honorable Gary L. Ackerman
Chairman
The Honorable Dan Burton
Ranking Member
Subcommittee on the Middle East
and South Asia
Committee on Foreign Affairs
House of Representatives

The Honorable Patrick Leahy
Chairman
The Honorable Judd Gregg
Ranking Member
Subcommittee on State, Foreign
Operations, and Related Programs
Committee on Appropriations
United States Senate

The Honorable Nita M. Lowey
Chair
The Honorable Kay Granger
Ranking Member
Subcommittee on State, Foreign Operations,
and Related Programs
Committee on Appropriations
House of Representatives

Appendix I: Objectives, Scope, and Methodology

Our objectives were to (1) assess the extent to which the U.S. Agency for International Development (USAID) has complied with its policies and procedures to help ensure that its programs do not provide support to entities or individuals associated with terrorism in the West Bank and Gaza and (2) assess the Department of State's (State) and UNRWA's policies and procedures to support conformance with U.S. statutory conditions placed on contributions provided to UNRWA to prohibit funding of terrorist-related activities.

USAID Policies and Procedures

To determine the extent to which the USAID Mission to the West Bank and Gaza (the mission) complied—at the prime and subaward levels—with its policies and procedures to help ensure that its programs do not provide support to entities or individuals associated with terrorism in the West Bank and Gaza, we identified relevant legal and other requirements as well as USAID policies and procedures to comply with those requirements. These legal and other requirements are contained in U.S. appropriations laws, executive orders, and the U.S. code. Mission Order 21 is the mission's primary document that details the procedures to comply with applicable laws and executive orders to help ensure that assistance does not provide support to entities or individuals associated with terrorism. The mission revised Mission Order 21 effective October 3, 2007 to update its antiterrorism procedures in response to, among other things, recommendations we made in a 2006 report.

We discussed the mission's implementation of Mission Order 21 with the USAID Mission Director, senior staff, regional legal advisor, program staff, and other officials responsible for managing assistance projects and overseeing contracts, grants, and cooperative agreements at the USAID Mission in Tel Aviv, Israel, and the U.S. Consulate in Jerusalem. We also interviewed five of USAID's implementing partners that had received relatively large dollar contracts from USAID in the West Bank, Jerusalem, and the United States. We interviewed State, USAID, and other officials involved in vetting USAID award recipients. In addition, we interviewed USAID's Regional Inspector General in Cairo to determine the results of audits of West Bank and Gaza assistance programs and steps taken to strengthen USAID's auditing procedures.

We focused our review on the mission's prime award contracts, grants, and cooperative agreements and subawards that were made during fiscal year 2008 through the Economic Support Fund, in accordance with the mandate contained in the Consolidated Appropriations Act for fiscal year 2008 (PL 110-161). To determine whether the mission's prime awards contained the applicable antiterrorism certification and clauses as

required by Mission Order 21, we reviewed copies of all 32 new prime awards issued by the mission during fiscal year 2008. To determine whether the subawards complied with relevant Mission Order 21 requirements, we selected a random stratified sample of 95 subawards made to non-U.S. organizations and 49 subawards made to U.S. organizations, a total of 144 subawards. Initially, we selected a random sample of 147 subawards. However, because one of the reported subawards (to a U.S. organization) identified by USAID was not actually executed, we had a random sample of 146 subawards. We also removed from the sample 2 subawards that did not require mandatory clauses, resulting in a random stratified sample of 144 subawards. Our sample of 49 subawards made to U.S. organizations was drawn from a subpopulation of 101 subawards and our sample of 95 subawards made to non-U.S. organizations was drawn from a subpopulation of 2,519 subawards. We selected these subaward sample sizes to estimate compliance rates with confidence intervals of no more than plus or minus 10 percent for both the U.S. organizations and the non-U.S. organizations. The percentages we report for all subawards are weighted to reflect the fact that we oversampled the U.S. subawards in order to ensure that we obtained a sufficient number for making projections for that strata.

We selected these random stratified samples from a universe of 2,620 new fiscal year 2008 subawards identified by the mission based on subaward activity reported to the mission by prime awardees. The mission developed the universe by assembling the subaward spreadsheets that were available as of October 2008 and provided by each partner who had an active prime award during the period from October 3, 2007 through September 30, 2008. The spreadsheets included U.S. and non-U.S. subawards. From the subawards reported on these spreadsheets, the mission identified subawards made during the period from October 1, 2007 through September 30, 2008 and filtered out all subawards made outside of those dates. The mission then created a list containing the names of the organizations receiving each subaward and the start and end date of each subaward. At our request, the mission then added information to the list to include the amount and type of each subaward (e.g. contract, grant). In addition, if the mission found a subaward reported in New Israeli Shekels, it replaced the amount in shekels with an estimated conversion to U.S. dollars to help facilitate the GAO selection process. In addition, if the mission found an entry with an end date listed as “immediately,” it replaced this word with a date identical to the start date. The mission's objective was to include all individual subaward agreements and exclude any extensions and modifications to those awards. However, according to the mission, their attempt to exclude extensions and modifications was

limited to those instances in which the information was available from the prime awardee's monthly reports. As a result, our sample included several modifications and extensions. In addition, our sample included 2 instances in which prime awardees bundled multiple procurements and reported them as a single subaward. We did not attempt to correct for these cases, but instead made a modification to the decision rules we used to determine compliance.

We examined in detail (1) the vetting documentation maintained by the mission on its Partner Vetting System (PVS) to determine if the mission had vetted non-U.S. prime awardees and a sample of subawardees as required by Mission Order 21 and (2) prime award and subaward documentation for a sample of subawardees to determine if the antiterrorism certifications were signed and the mandatory clauses were included in the prime awards and subawards as required by Mission Order 21. We reviewed the vetting information in the PVS for all four prime awards made to non-U.S. organizations and a random stratified sample of 95 subawards made to non-U.S. organizations. The remaining 28 prime awards and 49 subawards were made to U.S. organizations, and so were not subject to vetting. We compared the vetting date to the award date to determine if the mission vetted the appropriate non-U.S. organizations prior to the date of award. To understand the mission's vetting process, we interviewed various mission officials including the head of the Program Support Unit, which is the division responsible for the vetting process. To determine whether the subawards contained the required mandatory clauses and whether required antiterrorism certifications were obtained, we reviewed applicable documentation for a random sample of 95 subawards made to non-U.S. organizations and 49 subawards made to U.S. organizations, a total of 144 subawards.

UNRWA Policies and Procedures

To assess UNRWA's and State's policies and procedures to support conformance with U.S. statutory conditions placed on assistance to UNRWA, we reviewed the applicable federal law—section 301(c) of the Foreign Assistance Act of 1961, as amended. We also reviewed documentation on 3 Frameworks for Cooperation between State and UNRWA and 10 U.S. contributions letters that describe UNRWA's agreement to conform with U.S. conditions on funds for 2007 through 2009; State's processes for overseeing UNRWA's conformance to U.S. conditions; and documents describing State discussions on UNRWA's conformance to U.S. conditions. We also interviewed State officials in Amman, Jordan; Jerusalem; and Washington D.C., including the Regional

Refugee Coordinator in Jerusalem, who are responsible for implementing section 301(c) and overseeing U.S. contributions to UNRWA.

To describe UNRWA policies and procedures to help ensure that all possible measures were taken to assure U.S. funds were not used to furnish assistance to any refugee who, among other things, engaged in any act of terrorism, we reviewed our 2003 report on UNRWA,¹ as well as UNRWA and UN budget, policy, and program documents for fiscal years 2007 and 2008. We also examined five UNRWA semiannual reports on UNRWA's efforts to conform to agreements with U.S. conditions on funds from July 2006 through December 2008. These reports provide data on staff disciplinary actions, denial of benefits to refugees, inspections of and incursions into UNRWA facilities, and screening of recipients of UNRWA funds against the UN Security Council's Al-Qaida and Taliban Sanctions Committee Consolidated List (UN 1267 list). We also interviewed UNRWA headquarters and field officials in Amman, Jordan and Jerusalem responsible for implementing and overseeing UNRWA's programs, including the Commissioner-General; Deputy Commissioner-General; Directors of UNRWA Field Offices; senior officials in the Departments of Administrative Support, Finance, Internal Oversight, Legal Affairs, and several program offices; and staff responsible for monitoring facilities in the West Bank and Gaza areas. Furthermore, to obtain information on UNRWA's programs and oversight activities in the agency's refugee camps, we visited three camps in the West Bank and outside Amman (Jalazone, Jabal el-Hussein, and Baqa'a refugee camps) where we spoke with UNRWA staff and Palestinian refugees about their understanding of the agency's policies and procedures. We also met with an official from the government of Israel's Ministry of Foreign Affairs Department for UN Political Affairs.

Additionally, we compared a list of contractors used by UNRWA from 2002 to 2009 with the U.S. Department of Treasury's Office of Foreign Assets Controls (OFAC) Specially Designated Nationals and Blocked Persons list, as of February 3, 2009. Our relatively basic computerized matching comparison focused strictly on the "name" field supplied by UNRWA and OFAC, including both individuals and entities, although information for the place of birth and date of birth fields were available for some

¹GAO, *Department of State (State) and United Nations Relief and Works Agency (UNRWA) Actions to Implement Section 301(c) of the Foreign Assistance Act of 1961*, GAO-04-276R (Washington, D.C.: Nov. 17, 2003).

individuals in the OFAC list. The UNRWA list contained approximately 20,000 records with names, while the OFAC list contained approximately 9,000 primary names and more than 5,000 aliases. We removed “tokens” or parts of names, such as prefixes or suffixes on names, in each list to make the matching process possible. For the UNRWA list of names, we then removed any name which only comprised one token, such as the name “Ali.” The original OFAC list contained a string of information including names, dates of birth, and places of birth that were wrapped on multiple lines. After converting the data into a more usable form, taking into account both primary names and aliases, we were able to produce a usable file from the OFAC list with approximately 14,600 names.

Matching was complicated by a number of factors, such as name formats that varied, many names that had been translated from foreign languages, and multiple aliases for some of the individuals named. We addressed these issues to the extent possible with the available software and performed a comparison of these names to produce potential matches between the two lists. While a perfect match between the two lists would require the records in each list to be identically matched, we found that names in the two lists may have varied in terms of the number of tokens, punctuation considerations, the translation of foreign sounding names and variations in spelling. Therefore, we identified records that were reasonably similar to be potential matches. For each potential match, we performed a manual review of the available information on the records using other Internet sources, to help determine whether these were possible matches. It is worth noting that more sophisticated software, specifically dedicated to the Arabic language that takes into account linguistics or phonetic sounds for each name, may reveal additional information about potential matches.

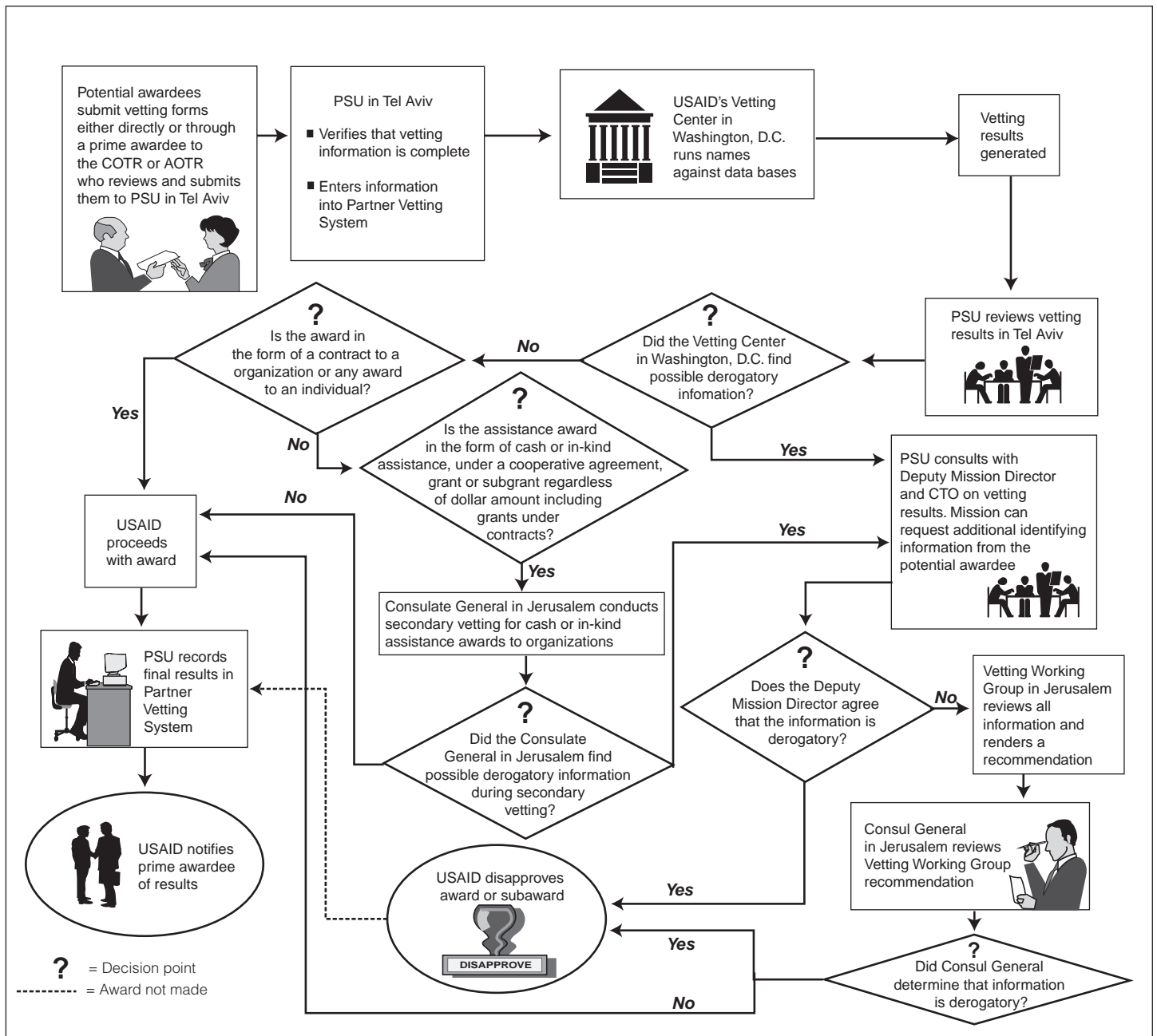
We conducted this performance audit from August 2008 to May 2009 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Appendix II: USAID Mission to the West Bank and Gaza Vetting Process

Mission Order 21 states that the USAID Mission to the West Bank and Gaza must vet certain non-U.S. recipients of USAID funding, which involves checking recipients' names and other identifying information against databases and other information sources to determine if they are involved with terrorism. The Program Support Unit (PSU) at the USAID Mission coordinates the vetting process for those requiring vetting, as shown in figure 1.

Appendix II: USAID Mission to the West Bank and Gaza Vetting Process

Figure 1: USAID's Vetting Process for Awards to Aid Palestinians, Fiscal Year 2008



Source: GAO analysis of USAID documents and Art Explosion.

Note: The following acronyms refer to USAID personnel who manage awards: Contracting Officer's Technical Representative (COTR), Agreement Officer's Technical Representative (AOTR), and Cognizant Technical Officer (CTO).

Appendix III: UNRWA Policies and Procedures for Cash Assistance, Staff Neutrality, Use of UNRWA Facilities, and Contractor Behavior

UNRWA has several policies and procedures to help support UN neutrality and UNRWA's conformance with conditions on receiving U.S. funds. This appendix provides additional information on specific policies and procedures that UNRWA uses to implement its cash assistance activities and promote the neutrality of agency staff, facilities, and contractors.

Policies for Cash Assistance to Refugees

Policies for Special Hardship and Cash Assistance

UNRWA has policies to oversee the relief and social services assistance it provides to refugees, including special instructions for Special Hardship, selective, and emergency cash assistance.¹ UNRWA policy is to provide Special Hardship cash subsidies for food only to registered Palestinian refugees. In addition, UNRWA staff are to screen applicants' eligibility for cash assistance. The screening process includes a home visit by a social worker and follow-up checks to ensure assistance has been used for the designated purpose. Under written UNRWA instructions for assistance, if a family has other sources of income, such as Palestinian Authority ministries or charitable organizations, it may be disqualified from receiving UNRWA cash assistance. Agency officials also reported that UNRWA uses a computerized distribution list for Special Hardship cash subsidies for food, which has been reviewed by finance and social services staff in the field. Similarly, agency policy states that senior field staff are responsible for overseeing cash distributions, a social worker is required to be present at each distribution point, and refugees must provide certain documentation to receive cash assistance. In addition, senior officials in the Department of Relief and Social Services are required to conduct random visits and review case files to ensure proper handling of Special Hardship cases by social workers and staff. Social workers are also to rotate among areas to alleviate social pressures they may face from refugees. UNRWA also recently introduced the use of a needs-based formula, the proxy means test formula, as criteria for receipt of certain

¹State said it does not currently limit its contributions to UNRWA's General Fund to specific purposes, but all U.S. contributions to UNRWA's Emergency Appeal for West Bank and Gaza are limited so that no U.S. funds are to be used for UNRWA's emergency cash assistance activities in West Bank and Gaza.

social services, such as Special Hardship assistance, in order to target benefits to those in most need.

Other Policies for Cash Assistance

UNRWA has additional measures to oversee its cash assistance activities. For example, for both selective and emergency UNRWA cash assistance, UNRWA policy is that social workers are to make field inquiries to examine an applicant's emergency circumstances prior to making a recommendation for assistance. Depending on the amount of assistance recommended, senior relief and social services officials at varying levels of hierarchy must then review the recommendation. Social workers are to conduct follow-up visits with beneficiaries, and senior field officials are to perform random checks to determine whether funds are spent for approved uses. In addition, relief and social services officials in the field must report monthly to the head of the department on any selective or emergency cash assistance approved and issued.

Policies and Procedures to Promote UNRWA Staff Neutrality

UNRWA reported that it has implemented various policies and procedures to promote staff neutrality, including both pre- and post-hire policies on staff behavior. In cases where UNRWA investigates and finds staff behavior inconsistent with UNRWA policies, UNRWA policy is to discipline or terminate the staff.

General Policies for UNRWA Staff Neutrality

UNRWA reported that it has implemented various policies and procedures to promote staff neutrality. For example, UNRWA requires staff to sign a neutrality pledge in each employment contract and an annual verification statement on outside activities. Officials reported that staff receive information on neutrality policies during their induction upon employment, including training on UNRWA privileges, immunities and responsibilities, and staff receive ongoing guidance from senior officials in the field and headquarters. UNRWA staff rules also require staff members to avoid actions and public pronouncements that may adversely reflect on the integrity, independence and impartiality required by their positions. While UNRWA does not expect staff to give up their national sentiments or their political and religious convictions, the agency requires staff to bear in mind the reserve and tact incumbent upon them by their employment at UNRWA. For instance, staff may exercise their right to vote, but may not engage in any political activity inconsistent with independence and impartiality. UNRWA staff rules and regulations do not prohibit membership in and payment of normal financial contributions to a

political party, provided that membership does not obligate, entail or result in statements or actions that violate the staff member's UN neutrality and impartiality obligations.

Prehire Policies for UNRWA Staff Neutrality

Officials reported that UNRWA performs reference checks and background security clearances in accordance with the policies for each field office area and asks whether applicants have been convicted of any crimes prior to hiring them. The screening processes differ by level of staff responsibility and the type of governance and security structures in the field area. UNRWA conducts background and security screenings with the assistance of the governments of Jordan and Syria in those field areas, under agreements UNRWA negotiated with host governments during early years of agency operations in the 1950s. For example, in Jordan, once a hiring review board has selected a candidate for a position, UNRWA will send the Government of Jordan a formal notice asking if the government has any concerns regarding the individual; the government then performs a security screening. Representatives from the governments of Jordan and Syria are also members of the UNRWA hiring panel in those field areas and may provide input on potential staff. UNRWA reported instances in which a government did not approve of UNRWA hiring an individual, and although UNRWA was not told the reason for the concerns, the individual was not hired. UNRWA also shares the names of all staff with host governments, including Israel and the Palestinian Authority, on an annual basis under the 1946 Convention on the Privileges and Immunities of the United Nations.

Policies for Investigating UNRWA Staff Behavior

UNRWA has also established procedures to investigate inappropriate staff behavior, which may result in the disciplining or termination of staff. For example, investigations may consist of fact-finding investigations or formal Boards of Inquiry involving legal officers or senior management, with the technical assistance of UNRWA's Department of Legal Affairs or Department of Internal Oversight Services. Staff members have an obligation to report misconduct and are protected from retaliation under UNRWA's whistleblower and antireprisal policy, and according to officials, the agency takes swift disciplinary action whenever there is evidence of staff member involvement in inappropriate political or military activities. Officials stated that this disciplinary action is well-known, predictable and consistent, and has a deterrent effect. UNRWA told us the agency also has formal procedures for staff to appeal investigation results through the UNRWA Joint Appeals Board, but the Commissioner General is responsible for all final determinations. Staff may also seek recourse after

the UNRWA Joint Appeals Board process through the UN Administrative Tribunal, the decision of which is binding on UNRWA as a UN agency.²

Rules and Regulations for the Use of UNRWA Facilities by Outside Entities

UNRWA field offices have established rules and regulations for the use of UNRWA facilities in Jordan, Lebanon, and the West Bank by outside entities, and the Gaza and Syria field offices have a policy of not permitting use of UNRWA facilities by any outside entity. Use of UNRWA facilities in Jordan, Lebanon and the West Bank requires a formal written request and approval by the field office director. Officials reported that a general condition of any UNRWA approval is that the organization using an UNRWA facility respects UN neutrality, and UNRWA may monitor the event. The agency also has a policy of approving use of facilities for non-political activities only. However, UNRWA told us that it does allow governmental authorities to request the use of facilities for polling stations, providing that campaigning is not present. For example, the government of Jordan has used UNRWA schools as polling stations. Officials reported that the agency has also allowed the use of its facilities for other approved purposes, including use by UNRWA summer camps and by international organizations such as the United Nations Children's Fund and World Health Organization. In addition, certain community-based organizations, affiliated to varying extents with UNRWA, may use premises provided by UNRWA in all five fields of operation, pursuant to conditions in a memorandum of understanding. Officials reported that relief and social services staff work closely with and monitor such organizations.

Policies and Procedures Regarding Contractor Behavior

UNRWA's procurement policies and procedures communicate the agency's expectations for contractor behavior. In addition to its General Conditions for Contract, which includes an antiterrorism clause, when signing contracts with the agency, contractors must also abide by the UN Supplier Code of Conduct, which includes a conflict of interest and corruption clause and outlines corporate policies and practices expected

²The UN Administrative Tribunal Statute and Rules established the tribunal to hear and pass judgment on applications alleging non-observance of a staff member's contract or terms of appointment. An application is receivable before the UN Administrative Tribunal once the person concerned has taken the case to a joint appeals body that has communicated its opinion to the Secretary-General or in a case where the Secretary-General and the staff member concerned agree to submit applications directly to the tribunal.

**Appendix III: UNRWA Policies and Procedures
for Cash Assistance, Staff Neutrality, Use of
UNRWA Facilities, and Contractor Behavior**

of all UN suppliers. According to UNRWA officials, as a UN agency, UNRWA also checks contractors against the UN Suspended/Removed Vendor Report, which identifies those vendors confirmed to be doing business in an unethical or corrupt manner. Individual contracts are managed by procurement staff in the Department of Administrative Services, and officials reported that any inappropriate conduct would result in a termination of contract.

Appendix IV: Comments from the U.S. Agency for International Development

Note: A GAO comment supplementing those in the report text appear at the end of this appendix.



USAID
FROM THE AMERICAN PEOPLE

MAY 8 2009

Mr. Thomas Melito, Director
International Affairs and Trade
U.S. Government Accountability Office
441 G Street, N.W.
Washington, D.C. 20548

Dear Mr. Melito:

I am pleased to provide the U.S. Agency for International Development's (USAID) formal response on the draft GAO report entitled "*FOREIGN ASSISTANCE: Measures to Prevent Inadvertent Payments to Terrorists under Palestinian Aid Programs Have Been Strengthened, but Some Weaknesses Remain*" (GAO-09-622). Our comments are limited to those sections of the report concerning USAID's assistance and operations.

The GAO team's field work and draft report contributes positively to the continuous improvement and strengthening of USAID West Bank/Gaza's compliance with antiterrorism policies and procedures. We are pleased to note that the draft GAO report recognized USAID's full compliance with vetting and anti-terrorism certification policies and procedures with respect to both prime awards and the audited subaward sample.

The GAO's principal finding related to compliance with the inclusion of mandatory clauses in subawards. This finding was based on an estimate that a significant percentage of all fiscal year 2008 subawards do not contain sufficient evidence to assess whether required clauses form part of the subawards. USAID asserts that there is adequate evidence that the mandatory clauses do form part of the awards. USAID contracting officers and other employees familiar with procedures for issuing contracts and grants were able to confirm that the mandatory provisions formed part of each award, with only one exception. As a result, we believe the GAO's assertion of insufficient evidence should be reconsidered.

In either case, there are steps that USAID can take to further strengthen prime awardee file documentation and reporting that will also address the GAO's concerns. In the draft report, the GAO recommends that the Administrator of USAID strengthen compliance with USAID policies and procedures at the

U.S. Agency for International Development
1300 Pennsylvania Avenue, NW
Washington, DC 20523
www.usaid.gov

See comment 1.

subaward level by ensuring that: (a) mandatory clauses are included within each subaward contract or agreement, or, when handled outside the contract or agreement there is sufficient evidence to clearly establish that the subawardee has agreed to comply with mandatory clauses at the time the award is made; and (b) prime awardees provide sufficiently detailed information in their monthly subaward reports to clearly demonstrate that mandatory clauses were included in the subaward at the time the award was made.

In order to implement the GAO's recommendations, USAID will issue new instructions to its prime awardees under the West Bank and Gaza program to ensure that contracts and agreements contain clear and specific references to attached clauses and that attached clauses, likewise, contain clear and specific references to the base agreement. Furthermore, prime awardees will also be instructed to explain any inconsistencies between the dates on which mandatory clauses were incorporated into subawards and the dates of the subawards themselves. Lastly, prime awardees will certify to the completeness and accuracy of the monthly subaward report. USAID believes that these new measures, combined with USAID's semi-annual compliance reviews of all prime awardee subaward files, addresses the draft report's underlying concern, namely, ensuring that required clauses are included in subawards at the time the subawards are made. In addition, USAID's proposed action will provide greater assurance that the GAO will have the evidence it requires to audit prime awardee compliance in the future.

Thank you for the opportunity to respond to the GAO draft report and for the courtesies extended by your staff in the conduct of this review.

Sincerely,



Drew W. Luten
Acting Assistant Administrator
Bureau for Management

The following is GAO's comment on USAID's letter dated May 8, 2009.

GAO Comment

1. We maintain that evidence was insufficient to assess compliance because the only references to the purchase orders that were included on the mandatory clauses were individual handwritten annotations. It was not clear who made the annotations and when those annotations were made.

Appendix V: Comments from the U.S. Department of State



United States Department of State

Washington, D.C. 20520

MAY 06 2009

Ms. Jacquelyn Williams-Bridgers
Managing Director
International Affairs and Trade
Government Accountability Office
441 G Street, N.W.
Washington, D.C. 20548-0001

Dear Ms. Williams-Bridgers:

We appreciate the opportunity to review your draft report, "FOREIGN ASSISTANCE: Measures to Prevent Inadvertent Payments to Terrorists under Palestinian Aid Programs Have Been Strengthened, but Some Weaknesses Remain," GAO Job Code 320618.

The enclosed Department of State comments are provided for incorporation with this letter as an appendix to the final report.

If you have any questions concerning this response, please contact Monique Ramgoolie, Program Officer, Bureau of Population, Refugees and Migration at (202) 663-3103.

Sincerely,

A handwritten signature in black ink that reads "James L. Millette".

James L. Millette

cc: GAO - Cheryl Goodman
PRM - Samuel Witten (Acting)
State/OIG - Mark Duda

Department of State Comments on Draft GAO Report

FOREIGN ASSISTANCE: Measures to Prevent Inadvertent Payments to Terrorists under Palestinian Aid Programs have been Strengthened, but Some Weaknesses Remain

(GAO-PUB No. 09-622, GAO Code 320618)

Thank you for allowing the Department of State the opportunity to comment on the draft report, *“Measures to Prevent Inadvertent Payments to Terrorists under Palestinian Aid Programs have been Strengthened, but Some Weaknesses Remain.”* As the GAO has found, the State Department has strengthened policies and procedures related to monitoring of the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) with regard to its conformance with the condition required by section 301(c) of the Foreign Assistance Act of 1961, as amended. Indeed, significant progress has been made since the 2003 GAO assessment on monitoring in general. We recognize, as does GAO, that it is appropriate for the Department to consider taking additional steps to enhance and formalize the measures implemented by the Department to further ensure that USG assistance to UNRWA for its critical operations is not inadvertently provided to terrorists. In this light, we appreciate the recommendations offered by the GAO.

Recommendations for Executive Action

The GAO recommends that the Secretary of State consider taking additional steps to oversee UNRWA’s conformance with U.S. conditions on funding, such as: (1) establishing criteria to evaluate UNRWA’s efforts; (2) screening the names of UNRWA contractors against lists of individuals and entities of concern to the United States; and (3) monitoring UNRWA’s commitment that future internal audits would assess UNRWA’s compliance with its neutrality and antiterrorism policies as well as its internal controls for cash assistance.

Establishing Criteria to Evaluate UNRWA’s Efforts

The Department of State concurs with this recommendation. Currently, the Department, particularly the Bureau of Population, Refugees, and Migration (PRM), monitors UNRWA’s activities, reports, and performance on an ongoing basis with respect to UNRWA’s conformance with the condition required by section 301(c). We undertake an immediate review of any information or allegations related to section 301(c) by requesting details from UNRWA, including

its actions to address any allegations or incidents. We also review closely UNRWA's 301(c) reports, provided to the Department on a semi-annual basis, asking UNRWA for additional details and clarification whenever necessary.

As noted in the GAO report, continued USG funding for UNRWA is contingent upon the Department's conclusion that UNRWA continues to take the steps necessary to meet the condition required by section 301(c). This condition is included in the annual USG-UNRWA Framework for Cooperation as well as in all contribution letters that obligate Migration and Refugee Assistance (MRA) and Emergency Refugee Migration Assistance (ERMA) funds to UNRWA. The Department and UNRWA have worked continuously to enhance both UNRWA's policies and procedures and State/PRM's oversight of UNRWA's activities as they relate to section 301(c) and other due diligence measures. For example, with the encouragement and funding of the USG, UNRWA has developed the successful Operations Support Officer (OSO) program in the West Bank and Gaza. As the GAO report notes, in April 2009, the Department approved funds for the establishment of an OSO program in Lebanon.

The GAO report includes several new policies undertaken by the Department to improve oversight by enhancing communication with UNRWA on issues related to 301(c). These procedures were designed to formalize already existing but less formal means of communication between the Department of State and UNRWA. In a similar vein, the Department will work with UNRWA to develop a formalized checklist of criteria including those mechanisms already used informally to evaluate UNRWA's conformance with the condition required by 301(c), such as the number of OSO inspections and checks against the UN Security Council Resolution 1267 list (Al Qaida and Taliban) sanctions regime. The Department will work together with UNRWA to develop criteria, as appropriate, as well as reporting requirements, the modalities of which will be included in future Frameworks for Cooperation beginning in 2010.

Screening Names of UNRWA contractors against Lists of Individuals and Entities of Concern to the United States

The Department of State is actively assessing the feasibility of this recommendation. State/PRM is in the process of discussing this issue with other personnel within the Department, from other U.S. Government agencies, and with UNRWA. UNRWA has confirmed that it already screens its list of potential vendors against the list of persons designated under UN Security Council Resolution 1267. UNRWA has also confirmed to the Department that it would use

information provided by us regarding potential individuals and entities of concern as a trigger to conduct its own investigations as relevant. (As the GAO report notes, in 2006 the UN declined a request from the Department to screen all of its potential contractual and financial arrangements against the list of specially designated nationals maintained by the Treasury Department's Office of Foreign Assets Control.)

The Department has some concerns that the resources required to undertake effective screening may not be commensurate with the benefits that would be achieved from such a program, in light of the costs that would likely be associated with screening and the controls that UNRWA already has in place. However, State/PRM, in coordination with other offices within the Department as well as other USG agencies, is actively reviewing and researching this matter to see whether there is a feasible mechanism to implement this recommendation.

Monitoring UNRWA' Commitments regarding Future Internal Audits

The Department of State concurs with this recommendation and notes that in January 2009, UNRWA committed in writing to conduct internal audits of key elements of UNRWA processes, including those related to appropriate inclusion of anti-terrorism clauses in UNRWA contracts as well as cash assistance. The Department believes that internal audits on these topics, as recommended by GAO, would prove beneficial to UNRWA's operations and continued conformance of the condition required by section 301(c). The Department understands that conducting these internal audits would result in additional costs to UNRWA, which already suffers from chronic underfunding. The Department is exploring funding options to enhance UNRWA's capacity for internal audits, including in these two areas.

Appendix VI: Comments from the United Nations Relief and Works Agency for Palestine Refugees in the Near East



united nations relief and works agency for palestine refugees in the near east

unrwa headquarters gaza office of the commissioner-general

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+962 6 5808556
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+962 6 5808179

www.unrwa.org

7 May 2009

Dear Mr. Melito.

Thank you for requesting our comments on the draft GAO report, "Foreign Assistance: Measures to Prevent Inadvertent Payments to Terrorists under Palestinian Aid Programs Have Been Strengthened, but Some Weaknesses Remain" (GAO-PUB No. 09-622, GAO Code 320618).

UNRWA welcomes GAO's review, report and findings. The Agency cooperated fully with the review and appreciates GAO's collaborative and constructive approach throughout the process.

UNRWA will work closely with the US Department of State to further develop criteria to evaluate those internal processes and mechanisms that strengthen its compliance with US conditions of funding. UNRWA has also made a commitment that future internal UNRWA audits would assess the Agency's compliance with its neutrality/anti-terrorism policies for contractors as well as internal controls for cash assistance and will facilitate monitoring by State of this commitment.

I take this opportunity to confirm that UNRWA is committed, in accordance with UN principles and policies, to UN neutrality, transparency, accountability and conformance with donor funding conditions. I would also like to express my sincere appreciation for the vital support of the Government of the United States for the humanitarian and human development mission of the Agency.

Yours sincerely,

Karen Koning AbuZayd
Commissioner-General

مكتب غزة الإقليمي
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وكالة الأمم المتحدة لإغاثة
والتنسيق الإنساني
فلسطين
في الشرق الأدنى

Appendix VII: GAO Contact and Staff Acknowledgments

GAO Contact

Thomas Melito, (202) 512-9601 or melitot@gao.gov

Staff Acknowledgments

In addition to the individual named above, Cheryl Goodman, Assistant Director; Ashley Alley; Debbie Chung; John Craig; Martin de Alteriis, Justin Fisher, Mitchell Karpman, Justin Monroe, Mary Moutsos; John Reilly; Suneeti Shah; Elizabeth Singer; and Omar Torres made key contributions to this report.

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