



**WILLIAM WILBERFORCE TRAFFICKING VICTIMS  
PROTECTION REAUTHORIZATION ACT OF 2008**

**U.S. Agency for International Development**

**Office of Inspector General**

**Report to Congress**

**January 13, 2012**

## **Introduction**

The U.S. Agency for International Development, Office of Inspector General (OIG) prepared this report pursuant to Section 232 of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA), Public Law 110-457 (December 23, 2008). Section 232 requires the OIG to investigate a sample of contracts or subcontracts for which there is a heightened risk that a contractor may engage in acts related to trafficking in persons, and to report on the findings of the investigations conducted in the previous year. To meet this requirement, OIG conducted two reviews that were audit-related in the past year related to trafficking in persons, which are summarized in this report. These reviews are not investigations, which we define as law enforcement activities carried out by USAID OIG.

## **Summary of OIG Activities for 2011**

One OIG review dealt with USAID/Egypt's controls to help prevent trafficking in persons and its contractors' compliance with the TVPRA. A second review covered the Millennium Challenge Corporation's (MCC) programmatic efforts to help address and prevent trafficking in persons. Each review included an examination of a sample of contracts for their respective agencies. In 2011, OIG's Office of Investigations conducted one criminal law enforcement investigation related to trafficking in persons. The allegation was found to be unsubstantiated.

The OIG's *Review of USAID/Egypt's Contractors' Compliance With the Trafficking Victims Protection Reauthorization Act of 2008* (Report No. 6-263-12-001-S), issued on December 29, 2011, reviewed 15 USAID/Egypt contracts ongoing as of September 30, 2011, and found no indication of any trafficking in persons violations. USAID/Egypt had no contracts that employed significant numbers of staff in low-wage, low-skill positions. In fact, only one contract, valued at \$1.5 million, involved low-wage, low-skill workers, with building repair and maintenance services procured through a subcontractor. Based on interviews with employees, site visits, and a review of employment contracts and pay records, OIG found no indication of human trafficking. However, the subcontract omitted the required Federal Acquisition Regulation (FAR) clause prohibiting human trafficking; the clause was added after OIG began its fieldwork.

In addition, as of September 30, 2011, 60 percent (9 out of 15) of USAID/Egypt's active contracts valued at \$130.5 million did not include the required FAR clause related to trafficking in persons. Inclusion of the clause is a key component to ensuring contractors' awareness of the U.S. Government's policy on trafficking in persons and of their obligations as a USAID contractor. The mission does not routinely request or receive modifications to USAID contracts managed by USAID's Office of Acquisition and Assistance (OAA) in Washington, D.C., under which USAID/Egypt has task orders, including modifications related to trafficking in persons. Also, most USAID/Egypt contracting officer's technical representatives (COTR) had not received any information or training on trafficking in persons until the mission's Fiscal Year 2011 ethics training. The review found that many COTRs and at least one contractor were not aware of the U.S. Government's policy on trafficking in persons or related FAR requirements. Moreover, two implementers, whose contracts included the FAR clause, had nonetheless failed to inform their employees about the U.S. Government's zero-tolerance policy for human trafficking and actions that would be taken if they violated the policy. A third implementer also had failed to inform its employees following the addition of the FAR clause to its contract.

In January 2011, USAID issued its *Counter Trafficking in Persons Code of Conduct* and provided guidance on the code's implementation in April 2011. In response, USAID/Egypt appointed a COTR as the Counter Trafficking in Persons Coordinator in May 2011 and began to educate staff through Regional Legal Advisors' ethics training and other briefings. Though not required, USAID/Egypt also began to notify potential new employees of the code of conduct.

OIG made four recommendations for USAID/Egypt: (1) ensure its contracts include the required FAR clause; (2) collaborate with USAID's OAA to establish a mechanism that would provide missions with information about modifications to contracts under which the mission has task orders; (3) remind contracting officers to exercise ongoing oversight of contracts; and (4) remind contracting officers to provide COTRs with copies of any contract modifications. Management decisions have been reached on all four recommendations, and final action has been taken on one.

The OIG's *Review of the Millennium Challenge Corporation's Approach to Address and Deter Trafficking in Persons* (Report No. M-000-12-001-S), issued December 20, 2011, examined 17 MCC infrastructure contracts valued at about \$397 million covering activities in El Salvador, Ghana, Mali, and Namibia. Of the 17 contracts, 16 had provisions prohibiting child labor, sex trafficking, and prostitution, while one contract contained a clause against child labor with a second clause indirectly covering trafficking in persons.

The review also found that MCC had designed controls to address trafficking in persons. MCC appointed specific staff members to address trafficking in persons in its programs. Under its "Holistic and Risk-based Approach to Managing the Risk of Trafficking in Persons," MCC developed five components to help address risks related to trafficking in persons: (1) a zero-tolerance policy; (2) a requirement in certain contracts and bidding documents that contractors certify they do not engage in trafficking in persons; (3) the exclusion of countries with the lowest ranking (Tier 3 in the Department of State's Trafficking in Persons Report) from MCC's country candidate list; (4) consideration of trafficking-related risks when developing compacts; and (5) regular communication among MCC staff and with U.S. embassy personnel, and contact with other U.S. Government agencies, donors, nongovernmental organizations, and contractors to refine MCC's approach to trafficking in persons.

Under its trafficking in persons guidance, MCC can provide warnings to countries that show a pattern of behavior inconsistent with its selection criteria. If MCC's warning letters are not acted upon, MCC may partially or fully suspend or terminate a country's eligibility for its programs. However, MCC had not issued warning letters to three countries whose rankings in the State Department's 2011 Trafficking in Persons Report did not improve or were downgraded. Tanzania and Niger ranked as Tier 2 Watch List for the second consecutive year and Liberia was downgraded from Tier 2 to Tier 2 Watch List. Under the TVRPA, countries ranked as Tier 2 Watch List for two consecutive years will be ranked Tier 3 in the third year, unless the President waives this requirement. Unavailability of key staff contributed to the delay in developing a communication plan—and therefore the warning letters—for Tanzania, Niger, and Liberia.

The review also found that MCC continued to provide full compact funding to countries that ranked as Tier 2 Watch List for two or more consecutive years, such as Mali. In this case, MCC elected to comply with a waiver by the Secretary of State and to not subject the country to sanctions. The review also noted that MCC had addressed concerns raised in an earlier OIG report by requiring trafficking in persons

language in small works contracts as well as large works and consulting services contracts.<sup>1</sup> Our review of seven small works contracts, valued at about \$2.6 million, and four bidding documents, verified use of the required language. MCC also had sent letters to three countries regarding their rankings, following a finding in our previous report.

OIG recommended that MCC finalize and implement a communication plan for Tanzania, Niger, and Liberia to address each country's eligibility concerns. A management decision has been reached and final action taken on this recommendation.

Lastly, we did not refer any cases for prosecution for trafficking in persons violations in 2011.

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<sup>1</sup> USAID/OIG, *Review of the Millennium Challenge Corporation's Approach to Addressing and Deterring Trafficking in Persons*, Report No. M-000-11-001-S, January 12, 2011.

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