Tracking Allegations of Sexual Exploitation and Abuse Business Process Review

Bureau for Management
February 2020
**ACRONYM LIST**

<table>
<thead>
<tr>
<th>Acronym</th>
<th>Description</th>
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<tbody>
<tr>
<td>AAPD</td>
<td>Acquisition and Assistance Procurement Directive</td>
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<tr>
<td>AAPSM</td>
<td>Action Alliance for Preventing Sexual Misconduct</td>
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<tr>
<td>AARM</td>
<td>Award, Audit and Risk Management Team</td>
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<tr>
<td>ADS</td>
<td>Automated Directives System</td>
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<tr>
<td>B/IO</td>
<td>Bureau or Independent Office</td>
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<td>BPR</td>
<td>Business Process Review</td>
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<tr>
<td>CBP</td>
<td>Customs and Border Patrol</td>
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<td>CFR</td>
<td>Code of Federal Regulations</td>
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<td>CMS</td>
<td>Case Management System</td>
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<tr>
<td>CO/AO</td>
<td>Contracting Officer/Agreement Officer</td>
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<td>COR/AOR</td>
<td>Contracting Officer’s Representative/Agreement Officer’s Representative</td>
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<tr>
<td>C-TIP</td>
<td>Counter-Trafficking in Persons</td>
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<tr>
<td>DCHA/DRG</td>
<td>Bureau for Democracy, Conflict, and Humanitarian Assistance, Center of Excellence on Democracy, Human Rights and Governance</td>
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<td>DCHA/OFDA</td>
<td>Bureau for Democracy, Conflict, and Humanitarian Assistance, Office of Foreign Disaster Assistance</td>
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<td>DFAT</td>
<td>Department of Foreign Affairs and Trade</td>
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<td>DFID</td>
<td>Department for International Development</td>
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<td>DHS</td>
<td>Department of Homeland Security</td>
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<td>FAPIIS</td>
<td>Federal Awardee Performance and Integrity Information System</td>
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<td>FAR</td>
<td>Federal Acquisition Regulation</td>
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<td>FTE</td>
<td>Full Time Equivalent</td>
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<td>GDPR</td>
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<td>IP</td>
<td>Implementing Partner</td>
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<td>ISDC</td>
<td>Interagency Suspension and Debarment Committee</td>
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<td>Joint Integrity Case Management System</td>
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<td>MOC</td>
<td>Management Operations Council</td>
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<td>MOU</td>
<td>Memorandum of Understanding</td>
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<td>M/MPBP/COMP</td>
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<td>NGO</td>
<td>Non-governmental Organization</td>
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<td>OECD DAC</td>
<td>Organization for Economic Cooperation and Development, Development Assistance Committee</td>
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<td>OIG/I</td>
<td>Office of Inspector General, Office of Investigations</td>
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<td>Office of Professional Responsibility</td>
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<td>Regional Legal Officer</td>
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<td>System for Award Management</td>
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<td>SDO</td>
<td>Suspending and Debarring Official</td>
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<td>SEA</td>
<td>Sexual Exploitation and Abuse</td>
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<td>SEAH</td>
<td>Sexual Exploitation, Abuse, and Harassment</td>
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<td>SEC</td>
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<td>SOP</td>
<td>Standard Operating Procedure</td>
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<td>Abbreviation</td>
<td>Full Name</td>
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<td>TI</td>
<td>Transition Initiative</td>
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<td>USAID</td>
<td>United States Agency for International Development</td>
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# Recommendations at-a-Glance

The following recommendations are based on findings from a review of the Agency’s process to respond to Sexual Exploitation and Abuse (SEA) allegations received from implementing partners.

## Efficiency

#### Effectiveness

1-6 Months  
Minimal Complexity

7-12 Months  
Medium Complexity

13-24 Months  
High Complexity

## Recommendations

<table>
<thead>
<tr>
<th>Recommendations</th>
<th>Owner</th>
<th>Impact</th>
<th>Feasibility</th>
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<tbody>
<tr>
<td><strong>Issue 1: Agency Approach to SEA Allegations Response</strong></td>
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<tr>
<td>1.1 The Agency should designate or establish a single operating unit to coordinate Agency resolution of SEA cases. It would be responsible for:</td>
<td>A/AID</td>
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<td>- Disseminating guidance to implementing partners (IPs) and Agency staff on how to respond to SEA allegations;</td>
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<td>- Owning Agency operational policy and procedure for handling SEA allegations reported by implementing partners;</td>
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<td>- Coordinating and monitoring the Agency’s response to cases to ensure consistency and effectiveness;</td>
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<td>- Managing a Case Management System (CMS); and</td>
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<td>- Developing and delivering periodic training.</td>
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<td>1.2 The Agency should seek to consolidate, to the maximum extent practicable, all safeguarding policies, including SEA, including Counter-Trafficking in Persons (C-TIP) and child safeguarding, into a comprehensive safeguarding policy, process, and set of award requirements for implementing partners.</td>
<td>Front Office, DCHA/DRG, DCHA/OFDA and M/OAA</td>
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<td>1.3 The Agency should develop a comprehensive operating policy with clear standards, operating procedures and roles and responsibilities for the review of and response to SEA allegations and case management.</td>
<td>Front Office</td>
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**Issue 2: Case Management**

| 2.1 | The Action Alliance for Preventing Sexual Misconduct (AAPSM), in coordination with the Office of Inspector General Office of Investigations (OIG/I); the Bureau for Management, Office of Management Policy, Budget and Performance, Compliance Division (M/MPBP/COMP); and the Bureau for Management, Office of the Chief Information Officer (M/CIO); should procure a dedicated CMS to support a coordinated, streamlined, and consistent response to all SEA allegations and cases, and that lays the foundation for a CMS that can be used for all forms of misconduct, to the maximum extent practicable. | Front Office, M/MPBP, M/CIO and OIG/I | Q |

**Issue 3: Investigation and Action**

| 3.1 | M/MPBP/COMP should develop a plan for accepting investigative materials directly from IPs for consideration of administrative action on substantiated SEA allegations. | M/MPBP | Q |
| 3.2 | M/MPBP/COMP should provide information to IPs about the requisite evidentiary thresholds for suspension and debarment and provide clarity and examples of the type of documentation necessary to take such action. | M/MPBP | Q |
| 3.3 | The AAPSM, in coordination with the Office of the General Counsel (GC) and M/MPBP/COMP, should gather and disseminate methods and best practices regarding preventing the rehiring of perpetrators of SEA in the development community. | AAPSM Working Group, GC, M/OAA and M/MPBP | Q |
| 3.4 | The AAPSM, in coordination with GC, The Bureau for Management’s Office of Acquisition and Assistance (M/OAA), and M/MPBP/COMP, should develop guidance for Contracting Officers/Agreement Officers (CO/AOs) to be issued by M/OAA regarding appropriate actions to take in response to substantiated SEA allegations. | M/OAA, AAPSM Working Group, GC, M/MPBP | Q |
| 3.5 | That the Agency should pursue a Memorandum of Understanding (MOU) with the Office of Inspector General, Office of Investigations to establish guidelines and processes for coordination and information sharing for SEA, and for all other forms of misconduct, to the maximum extent practicable. | M/MPBP and GC | Q |
EXECUTIVE SUMMARY

Introduction

Sexual exploitation and abuse (SEA) fundamentally strikes at the very foundation of international development by causing intolerable harm to its survivors, threatening the United States Agency of International Development’s (USAID) mission, and undermining the credibility of the entire aid sector. USAID has made clear it has zero tolerance for SEA among staff and implementing partners (IPs) and will take the necessary steps to address SEA in its agency and programs.

In order to carry out this principle, Administrator Mark Green established the Action Alliance for Preventing Sexual Misconduct (AAPSM) in March 2018, an intra-Agency working group charged with leading efforts to address and prevent sexual misconduct in all its forms. Subsequent to establishing the AAPSM, the Agency made public declarations of its dedication to addressing SEA, including issuing a policy statement, clarifying existing grant standard provisions and contract clauses related to IP codes of conduct and SEA reporting, and serving as a signatory to 22 safeguarding commitments made by international donors and non-governmental organizations (NGOs). Among these was a commitment to “review, and if necessary, strengthen core oversight and management systems for tackling sexual exploitation and abuse.” To fulfill the Agency’s external commitments, the AAPSM is seeking to build the Agency’s internal capacity and knowledge to respond to SEA allegations efficiently and effectively and in a robust manner, which includes development of a comprehensive Protection from Sexual Exploitation and Abuse policy that is currently in process.

The AAPSM asked the Bureau for Management (M) to conduct this business process review (BPR) to assess the Agency’s ability to respond to SEA allegations, create a standard process for Agency response to SEA allegations, and offer recommendations to implement change and improvements. The BPR’s desired outcome is a set of recommendations that will improve the Agency’s capacity to respond to and manage SEA allegations in the following ways:

- Ensuring sufficient Agency action has been taken by improving standardization and coordination;
- Increasing trust in the Agency’s reporting mechanisms, and ultimately better protecting beneficiaries from SEA;
- Reducing Agency strategic, programmatic, and reputational risk related to SEA, as identified in Risk 8.0 of the Executive Management Council on Risk and Internal Control’s Agency Risk Matrix;
- Contributing to USAID’s support for the joint donor commitments identified during the Safeguarding Summit 2018; and
- Strengthening USAID’s ability to ensure U.S. taxpayer funds do not support SEA in USAID programs in any way.

In addition, USAID has Congressional reporting requirements under the Frederick Douglas Trafficking Victims Prevention and Reauthorization Act of 2018 on trafficking cases, and has had additional SEA-

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1 These commitments include, specifically, the need to strengthen core oversight and management systems for tackling SEA (commitment 18) and for every donor to take action through its own systems, processes, and stakeholders (commitment 21).
related reporting requirements under annual appropriations.² Improving USAID’s processes will enable the Agency to detail the measures taken in response to allegations of sexual exploitation and abuse against beneficiaries by implementing partners. A coherent process will ensure that USAID manages each allegation of SEA appropriately and effectively, and that the Agency is positioned to better identify risk and make management decisions based on that information.

**Objectives of the SEA BPR**
The objectives of this BPR are to conduct analysis and make recommendations to improve the efficiency, effectiveness, and consistency of the Agency’s response to allegations of SEA.

**Scope of the SEA BPR**
While sexual misconduct includes both sexual misconduct, including sexual harassment³ within USAID’s workplace and SEA related to USAID’s programs,⁴ this review is limited to how USAID manages allegations of SEA within its programs. Sexual exploitation is any actual or attempted abuse of a person in a position of vulnerability [by an aid worker], for sexual purposes, including profiting monetarily, socially or politically.⁵ Sexual abuse is any actual or threatened physical intrusion of a sexual nature, whether by force or under unequal or coercive conditions.⁶

It is important to note that the following areas, which also concern vulnerable populations, are related to, and may overlap with, SEA:

- Child safeguarding, which deals with the prohibition of child abuse (physical, sexual, or emotional), exploitation, or neglect;⁷ and
- Counter-trafficking in persons (C-TIP), which deals with preventing the “acquisition of a human being through the use of force, fraud, or coercion for the purpose of exploiting the individual for profit through forced labor or prostitution.”⁸

While the processes by which USAID manages allegations related to child safeguarding and C-TIP are outside the BPR’s scope, the review considered these areas to the extent that consolidating and streamlining processes relevant to all three areas would maximize efficiency and effectiveness.

This review also takes into account USAID’s commitment to a survivor-centered approach to addressing SEA, in line with the commitment USAID made at the Safeguarding Summit 2018.⁹ This approach entails elevating the needs, rights, and well-being of a survivor of SEA to the forefront of the Agency’s SEA efforts.¹⁰

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³ Harassment is either: 1) conduct in the workplace that violates Equal Employment Opportunity (EEO) law or policy (e.g., unwelcome conduct that is so pervasive or severe that it creates a hostile or offensive work environment or results in a negative employment action), or 2) conduct that falls short of an EEO violation (e.g., inappropriate or offensive behavior that may be isolated or infrequent). See [USAID’s Anti-Harassment Policy](https://www.usaid.gov/human-right/anti-harassment).
⁴ See [Administrator’s Action Alliance for Preventing Sexual Misconduct Fact Sheet](https://www.usaid.gov/human-right/anti-harassment).
¹⁰ See [Administrator’s Action Alliance for Preventing Sexual Misconduct Fact Sheet](https://www.usaid.gov/human-right/anti-harassment).
For the purposes of the BPR, the process for responding to allegations of SEA consists of four general sub-processes:

1) **Intake** – the point at, and process by which, USAID receives information, from an external or internal source, concerning an allegation of SEA related to an IP.
2) **Internal Review** – the process by which USAID stakeholders internally manage and respond to allegations of SEA that involve IPs.
3) **Agency Response** – the process by which the appropriate USAID stakeholders take potential action and communicate with external stakeholders, such as IPs, whistleblowers, survivors, the local community, the Office of Inspector General (OIG), and the press.
4) **Global Trend Management** – the process by which USAID compiles data that will identify misconduct trends at sectoral, country, regional, and IP levels.

**Key Observations**

The 22 commitments made by USAID and other donor organizations at the October 2018 Safeguarding Summit focused on driving change in four key areas: survivor support and enhanced accountability, minimum standards, cultural change and organizational capacity and capability. Accounting for clarifications to the standard provisions made prior to the safeguarding summit, the Agency has only fully addressed one of the commitments and partially addressed a second. While the Agency provided IPs with clear and specific language in its award standard provisions on SEA, as of November 2019, it has not achieved much progress in providing coherent guidance to IPs across all SEA-related allegations (including C-TIP and child safeguarding), it does not centrally maintain relevant information about all allegations and confirmed cases across the Agency, and there is no Agency-wide management system in place for responding to allegations.

In conjunction with these observations, and endeavoring to think comprehensively for the long-term, this review considered that the impact of its recommendations could be further maximized by including a broader range of misconduct within a future process and system. Because the greater scope of misconduct goes far beyond SEA to include all fraud, waste, and abuse, this review did not note findings or make recommendations that specifically delineate how a future process could expand to include additional areas; however, the Agency should make every effort to consider doing so during implementation of the recommendations.

The following summarizes issues articulated in the BPR’s three issue papers:

1. **Insufficient organizational capacity for internal coordination:** USAID lacks the organizational capacity necessary to execute its zero-tolerance policy for inaction in response to SEA allegations and meet the commitments agreed to at the Safeguarding Summit 2018. It also lacks an institutional owner who is responsible for several functions necessary for consistent and

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**BPR Expected Impacts**

- Facilitate a consistent, survivor-centric response to SEA allegations
- Promote coherent guidance across SEA-related policies and provisions
- Improve accuracy and availability of SEA case data for decision-making
coordinated responses to SEA allegations. This specifically includes oversight of SEA case management; the creation and dissemination of policy, guidance and training; and Agency reporting on SEA trends for further evaluation and Agency action.

See Issue 1 (page 12), Agency Approach to SEA Allegations Response, for more information.

2. Lack of a technology solution for case management coordination and information sharing: The Agency does not have a corporate platform to manage the SEA allegations it receives, which often results in inconsistent and inefficient Agency responses. Further, this deficiency impedes the Agency’s ability to assess trends, identify systemic issues across Missions or IPs, and take responsive or preventive actions, as necessary.

See Issue 2 (page 24), Case Management, for more information.

3. Limitations and delays in Agency action against bad actors: Agency action is often delayed or limited due to problems with the timeliness, quality, and consistency of the information required to justify any action (including suspension or debarment of an IP). Contracting/Agreement Officers (CO/AOs) also need greater clarity on the range of administrative actions possible at the award level.

See Issue 3 (page 30), Investigations and Action, for more information.

Each of the issue papers found later in the BPR document provides problem analysis with a set of findings along with recommendations for how these problem areas could be addressed. A summary of all recommendations is available above on page 3 in the “Recommendations at a Glance” section.
Methodology

The approach to business process improvement for this BPR consists of two phases: diagnosis and optimization. The team completed the diagnosis and began the optimization phases of the BPR approach outlined in the insert box. The team took the following steps:

1. Conducted key informant interviews with:
   a. Agency senior leaders;
   b. AAPSM working group members;
   c. CO/AOs;
   d. Staff from GC;
   e. Staff from the OIG;
   f. Staff from the Compliance Division within the Bureau for Management’s Office of Management Policy, Budget, and Performance (M/MPBP/COMP);
   g. Staff from the Office of Foreign Disaster Assistance and the Office of Food for Peace within the Bureau for Democracy, Conflict, and Humanitarian Assistance (DCHA/OFDA and DCHA/FFP); and
   h. Implementing partners.

2. Participated in AAPSM fact-finding meetings with other donor organizations.

3. Mapped the “as-is” process for managing SEA allegations and identified risks.

4. Reviewed existing Federal regulations, Agency policies, and guidance.

5. Examined SEA allegations response processes at other donor organizations.

6. Conducted problem analysis, and developed recommendations to improve the efficiency (time and business flow) and effectiveness (quality) of the process, including creation of a “to-be” business process map.

The review team recommends the Agency now undertake the implementation phase which should include the following next steps:

1. The AAPSM should present to the BPR Executive Sponsor, Deputy Administrator Bonnie Glick, the proposal to establish a new operating unit that will coordinate the Agency’s response to SEA allegations, as outlined in the to-be process depicted in Appendix C. This step is critical to the implementation of, and a key enabler of sustained progress on, many of the steps and recommendations that follow. The AAPSM is time-limited, lacks the authority to review these

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11 See Appendix A: List of Interviewees.

12 In order to avoid duplication of efforts, the BPR team attended policy consultations with partner organizations that were led by the AAPSM and that included process observations relevant to this review.
cases, and with only two temporary, full time equivalents (FTEs), it cannot realistically execute most of the recommendations proposed by this BPR.

2. The Administrator (AID/A), Deputy Administrator, and the Office of the Inspector General (OIG) should coordinate with each other to identify their organizations’ respective roles and responsibilities for SEA case management. Additionally, they should document their commitment to improved coordination through shared use of a case management system for all reports of fraud, waste, and abuse.

3. The AAPSM should create action and communication plans to socialize and implement the recommendations presented.

4. The AAPSM will update the Management Operations Council (MOC) on the implementation status of this BPR’s recommendations per agreed upon reporting milestones. The recommendation owners will have an initial period of six months to formally reject any recommendations they consider inappropriate or incapable of implementation. At the six-month point, any recommendation not rejected will be accepted and require monitoring and reporting at the MOC. Every year after the end of the BPR, AID/A, through the AAPSM, will work with M/MPBP to report implementation progress to the MOC. After two years, the implementing offices will provide a final report back on progress thus far, present plans for implementing remaining items, lay out performance metrics for continuous monitoring, engage collaborating partners, and officially close the implementation phase.

5. M/MPBP is available to provide limited technical assistance for a period of up to six months after report issuance. For instance, M/MPBP can work with the AAPSM to establish performance indicators to measure the efficiency and effectiveness of the new case management process after implementation of the recommendations. Further, M/MPBP/CMP could conduct periodic sampling of SEA cases to proactively identify issues that the AAPSM could address through enhanced training or policy guidance. This function would transition to the proposed new unit, if the recommendation for the new unit is accepted by AID/A. If it is not accepted by AID/A, then it is unclear who would take responsibility for these functions, which opens the Agency to additional risk. The AAPSM does not have the authority or capacity to take on this responsibility.

The following sections present the overarching issues and specific problems discovered during the review with recommendations that address them. There are also “as-is” and “to-be” business process maps illustrating how the Agency responds to SEA allegations.
Issue 1: Agency Approach to SEA Allegations Response

This issue paper examines the extent to which there is a comprehensive, coherent, and coordinated Agency approach to its response to SEA-related allegations involving USAID-funded awards.

Issue Statement
The Agency's ability to respond to SEA allegations is hindered by three critical deficiencies. First, the Agency does not have a defined and coherent process for the efficient and effective management and reporting of SEA allegations. Second, it lacks the organizational capacity necessary to execute its zero-tolerance policy for inaction in response to SEA allegations and maintaining a survivor-centered approach. Third, the Agency lacks clear and consistent guidance for internal staff and implementing partners regarding how, when, and to whom SEA allegations should be reported. This is consistent with findings identified by the AAPSM.

Background

What is SEA?
Sexual exploitation is any actual or attempted abuse of a person in a position of vulnerability [by an aid worker] for sexual purposes, including profiting monetarily, socially or politically.13 Sexual abuse is any actual or threatened physical intrusion of a sexual nature, whether by force or under unequal or coercive conditions.14

What is a survivor-centered approach?
A survivor-centered approach is one for which the survivor's dignity, experiences, considerations, needs, and resiliencies are placed at the center of the process, from the initial program design to investigating and responding to potential incidents, with appropriate accountability for perpetrators of abuse. Consistent with the UN Protocol on Allegations of SEA Involving Implementing Partners, the survivor should be informed, participate in the decision-making process, and provide consent on the possible use and disclosure of their information. Those interacting with the survivor and/or handling information regarding the allegation must maintain confidentiality, ensure safety of the survivor, and apply survivor-centered principles without discrimination. When the survivor is a child, the approach must consider the best interests of the child and engage with the family/caregivers as appropriate. USAID staff and partners should comply with host country and local child welfare and protection legislation and international standards, whichever gives greater protection, and with U.S. law as applicable, per the USAID Child Safeguarding Policy.15

14 United Nations Glossary on Sexual Exploitation and Abuse at 5.
15 See Draft USAID Protection from Sexual Exploitation and Abuse Policy
Who is the responsible USAID owner for the SEA process?

There is currently no standardized process for specifically handling SEA allegations, and as such, there is no owner. Currently, SEA is handled through the normal award administration process. However, several roles and offices are involved in responding to SEA allegations and have the following responsibilities:

- Chief of Mission - Can direct the removal from a country of any U.S. citizen or the discharge from a contract of any individual (U.S., third-country, or cooperating country national) under existing grant provisions and contract clauses covering employees of IPs.

- Mission Directors - Are responsible for the total USAID program in the partner country, including certain administrative responsibilities set forth in awards, and for advising USAID regarding the performance of the work under the contract and its effect on the United States Foreign Assistance Program. IPs must notify Mission Directors and CO/AOs of all allegations of SEA.

- Contracting/Agreement Officers (CO/AOs) - Ensure the inclusion of SEA-related contract clause or assistance standard provisions in all acquisition and assistance (A&A) awards. When an IP informs the CO/AO of an employee’s misconduct, the CO/AO reports the incident to the OIG and may take appropriate remedial actions, in accordance with the terms and conditions of the award. IPs must notify Mission Directors and CO/AOs of all ‘credible’ allegations of SEA.

- Contracting/Agreement Officer Representatives (COR/AORs) - Have award management responsibilities consistent with their delegation letters, which can touch on SEA issues.

- General Counsel (GC)/Regional Legal Officers (RLO) - Provide consultation services to CO/AOs and management on potential actions that can be taken against an IP in response to SEA allegations. GC may also provide legal advice and consultation to M/MPBP/COMP on possible recommendations for suspension and debarment.

- M/MPBP/COMP - Oversees the Agency’s suspension and debarment program in response to misconduct and assesses an organization’s present responsibility to capably manage USAID funds where deficiencies in internal controls have been identified, which may include SEA allegations.\(^\text{16}\)

- Office of Inspector General, Office of Investigations (OIG/I) - Investigates allegations of violations of federal laws, rules, and regulations involving USAID awards. As discussed in Issue Paper 3: Investigation and Action, OIG is unlikely to investigate the majority of SEA allegations.

The BPR Team also documented an as-is process of the Agency’s response to an allegation of SEA, included in Section IV, Process Maps, that depicts how an SEA allegation may be handled absent a single, cohesive process.

\(^{16}\) For more information about what actions M/MPBP/COMP may be able to take, see Issue 3: Investigation and Action.
What requirements or guidance exist to communicate Agency expectations for how staff and IPs respond to SEA?

The table below summarizes SEA, C-TIP, Child Safeguarding and Code of Conduct in Humanitarian Relief requirements applicable to USAID staff and IPs.

**Table 1: Requirements Applicable to Implementing Partners for SEA, C-TIP, Child Safeguarding and Code of Conduct in Humanitarian Relief Allegations**

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<th>Area</th>
<th>Requirement</th>
<th>Reference</th>
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| SEA  | 1) IP’s Chiefs of Party must advise the Mission Director and the Contracting Officer when an allegation of sexual exploitation or abuse of a beneficiary by an employee is received, and 2) USAID IPs must behave in a manner consistent with the six standards, published on October 9, 2003, by the United Nations Secretary-General’s Bulletin – Special measures for protection from sexual exploitation and sexual abuse (ST/SGB/2003/131). | Assistance Awards: “Recipient and Employee Conduct” and “Regulations Governing Employees”[^17]

Provisions

Contracts: AIDAR clause 752.7013, Contractor-Mission Relationships |

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<th>SEA</th>
<th>Once an allegation of SEA is received from an IP, the CO/AO must report this allegation to the OIG</th>
<th>Acquisition and Assistance Procurement Directive 18-03 (AAPD 18-03)</th>
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<td>SEA</td>
<td>CO/AOs are responsible for including AIDAR clause 752.7013[^18] in all new contracts and to notify the OIG in the event an allegation of SEA is received from an IP.</td>
<td>Acquisition and Assistance Procurement Directive 18-03 (AAPD 18-03)</td>
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<td>SEA</td>
<td>USAID staff are required to report suspected cases of sexual exploitation, whether by Agency personnel or implementing partners, to the OIG</td>
<td>Executive Message[^19]</td>
</tr>
</tbody>
</table>

[^17]: Award provision language can also be found in ADS Chapter 303 maa, Standard Provisions for U.S. Non-Governmental Organizations and ADS Chapter 303 mab, Standard Provisions for Non-U.S. Non-Governmental Organizations.

[^18]: AIDAR clause 752.7013 is a clause included in all contracts involving performance overseas that addresses contractor employee misconduct.

**C-TIP**

| IPs must report credible allegations of C-TIP to the relevant CO/AO and to the OIG. For awards over $500,000, USAID requires its partners to certify that they have compliance plans in place. | Assistance Awards: Trafficking in Persons (April 2016) standard provision ([ADS 303.3.32](https://www.usaid.gov/sites/default/files/documents/1866/ads303.pdf))


**Child Safeguarding**

| IPs are required to abide by core principles that prohibit personnel from engaging in child abuse, exploitation, or neglect; incorporate child safeguarding in project planning and implementation; and institute procedures to prevent and address violations. | Federal Acquisition Regulation (FAR) 752.7037, Child Safeguarding Standards and Standard Provisions for U.S. and Non U.S. Non-governmental Organizations[^20] |

**Child Safeguarding**

| USAID staff are prohibited from engaging in child abuse, exploitation, or neglect. USAID requires personnel to comply with host country legislation and international standards and requires reporting allegations of child abuse or exploitation by staff to the OIG. | [ADS 200mbt, Policy/Guidance on the Implementation of USAID Child Safeguarding Standards](https://www.usaid.gov/sites/default/files/documents/1866/ads200mbt.pdf) |

**Code of Conduct in Humanitarian Relief**

| Implementing partners must — in advance of receiving International Disaster Assistance (IDA), Transition Initiative (TI) or Title II funding — adopt a code of conduct to protect beneficiaries from sexual exploitation and abuse in humanitarian relief operations consistent with the six core principles adopted by the U.N. Inter-Agency Standing Committee on Protection from Sexual Exploitation and Abuse in Humanitarian Crises. | [Policy for Humanitarian Action](https://www.usaid.gov/sites/default/files/documents/1866/120862.pdf) |

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Agency staff have not received additional formal guidance while the Draft Protection from Sexual Exploitation and Abuse (PSEA) policy is in progress. However, Agency staff have received additional tools and resources related to preventing sexual misconduct and sexual harassment. These include the AAPSM internet and intranet pages, employee and manager toolkits, and engagement kits for operating units to facilitate discussion with staff and IPs on preventing sexual misconduct. IPs, as a collective, have not received additional guidance codified in an announcement or revised standard provisions. However, individual IPs have received guidance from CO/AOs, and in the course of consultations on the draft PSEA policy, the AAPSM has informed DC HQ level partner representatives of their responsibilities on reporting. Guidance was also shared at the "Future" BHA Bureau Town Hall in December 2019.

How are Agency staff and IPs held accountable for complying with established guidance?

There are Agency staff with responsibilities around enforcing SEA. CO/AOs are responsible for making sure IPs comply with their award requirements, including those in the standard provisions related to SEA. M/MPBP/COMP recommends actions against IPs who do not comply with SEA guidance, which can include suspension or debarment. OIG provides an additional layer of accountability in that they may audit Agency policies for effectiveness and efficiency, as well as make referrals to the Agency of IPs who do not comply with SEA guidance.

Problem Analysis

**Problem 1: Lack of Internal Coordination Inhibits the Agency’s Ability to Sufficiently and Consistently Respond to Allegations.**

Responding efficiently and effectively to SEA-related allegations requires a well-defined coordination mechanism with sufficient capacity. However, there is not currently an institutional owner that could adequately serve as a coordinating entity for the Agency. This results in siloed information, inconsistent actions and expectations, and delayed response as staff search for guidance, resources, and solutions.

**Findings:**

- The Agency’s policies and practices for responding to SEA, C-TIP (which can also involve sexual exploitation), and child safeguarding allegations are fragmented, despite the overlap between all three. Interview participants expressed confusion regarding how they should respond differently to the allegations based on the allegation type since the Agency lacks the policy, process and procedures to ensure coherence within and between them.
- As noted above, there are at least seven actors that could be involved in any given SEA case based on the type of SEA, including: Mission Director, CO/AO, GC/RLO, COR/AOR, the Mission C-TIP Coordinator, OIG/I, M/MPBP/COMP, and the Suspending and Debarring Official (SDO). For the majority of these actors, addressing misconduct is one of many responsibilities, nor is it their primary responsibility.
- There are multiple entry points for SEA allegations across the multiple actors. The only required information sharing that must occur once someone in the Agency receives an allegation is to share that information with the OIG.
- Under the Agency’s current decentralized approach, individual cases may remain isolated within different offices and missions.
- Once the allegation is shared with OIG, the process then has a minimum of three parallel paths with no formalized process of coordination between them: 1) within OIG to determine whether it will investigate, 2) a process between the cognizant operating unit and the IP to determine what action the CO/AO will take at the award level, and/or 3) between the IP, the cognizant OU, and M/MPBP/COMP.
- There is no set process or protocols for C/AORs to follow up with a partner to ask questions about whether the survivor has been taken care of, is safe, and has access to appropriate resources. CO/AOs may not be well versed in what resources may be required to support a survivor.
- Based on interviews with a wide array of USAID staff, there is no consensus across actors as to roles and responsibilities, interdependencies, and information sharing. Despite having seven
actors, the Agency has not established a process owner with the permanent responsibility for coordinating the process across Washington and overseas OUs.

- Information regarding allegations and the Agency’s response resides solely within the cognizant OU responsible for the award unless the CO/AO decides to engage the AAPSM Coordinator, GC/RLO, or escalate an allegation to M/MPBP/COMP.
- In absence of an established process owner, OUs needing to respond to an allegation will reach out to the GC, which can sometimes result in delays given they do not have a formal role in the process.
- The only other actor that receives allegations, OIG/I, may not be in a position to share sensitive case information (though they often do) with the CO/AO or M/MPBP/COMP and the SDO -- key actors in taking action on behalf of the Agency.
- There is a widespread misconception among USAID staff that once a report is sent to OIG, the Agency has completed its obligations, and OIG will handle the issue from that point on.
- Without a unit to manage coordination, there is a risk that information regarding an allegation can spread beyond staff with a need to know, which can pose a range of risks to the Agency, beneficiaries, whistleblowers, and IPs and their reputations.
- Current Agency guidance for IPs to report only to Mission CO/AOs and Mission Directors inherently silos information related to reported allegations and inhibits cross-Agency awareness and coordination.
- Several other donors have developed centralized teams to manage and guide their organizations’ response to SEA allegations.
- The United Kingdom’s Department for International Development (DFID) has both a Safeguarding Policy Team, and a Safeguarding Investigations Team. The Investigations Team consists of 4.5 FTEs staff who are responsible for managing all external and internal safeguarding cases and supported by DFID’s case management system (CMS).
- Australia’s Department of Foreign Affairs and Trade (DFAT) has a Safeguarding team within its Contracting and Aid Management Division with 6 FTEs. Among this team’s responsibilities are supporting the response to SEA allegations and providing coordination and guidance within DFAT and for its partners.
- The Netherlands’ Ministry of Foreign Affairs has a safeguarding coordinator, responsible for both internal and external cases of sexual exploitation, abuse, and harassment (SEAH). This coordinator manages a central registration point for all concerns and guides the organization’s response.
- A consistent theme in discussions with USAID staff, partners, and other donor organizations is that while an organization can have a defined process, a “standard” response is very difficult to outline; every case is different and requires a tailored approach, and staff with specialized and specific knowledge who can advise on the nuances and complexities of individual cases.
- USAID staff lack expertise in SEA issues and were often unfamiliar with what it means to take a survivor-centric approach. During interviews, staff often suggested actions that would be inconsistent with a survivor-centric approach (e.g., direct an IP to contact local law enforcement regarding the matter).

**Problem 2: The Agency Lacks the Policy, Process, and Resources Necessary to Manage SEA Allegations.**

While the Agency has a high-level SEA policy statement, the lack of enabling process, procedures, and supporting resources render it non-operational. As a result, the Agency is unable to respond to

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21 Many other donors include sexual harassment with SEA and thus use the acronym “SEAH”.

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individual allegations efficiently and consistently or monitor its own progress towards a policy of zero-tolerance for inaction.

**Findings:**
- In July 2019, the United States, along with 29 of the world’s major aid donors, agreed to a new standard for preventing SEA recommended by the Organization for Economic Cooperation and Development’s Development Assistance Committee (OECD DAC). In this recommendation, the DAC suggests that adherence to the recommendation demonstrates a coherent approach to addressing SEA and sexual harassment.
- Other donor organizations have dedicated personnel and resources to coordinate their organization’s response to SEA allegations. Some smaller donors have a single FTE, while others have approximately five FTEs responsible solely for coordinating cases.
- There is not an existing SEA framework, which increases the risk of mismanagement and the likelihood that the Agency will realize the risk it identified in the Agency risk profile.
- The Agency placed a requirement on staff and IPs for reporting SEA violations without understanding the scale of such reporting or what it might require of the Agency to respond to the allegations efficiently and effectively.
- The Agency has not defined or documented the process and procedures with which it responds to SEA-related allegations (i.e., trafficking in persons, child abuse, and other forms of SEA). DCHA’s Office of U.S. Foreign Disaster Assistance (OFDA) works exclusively on humanitarian response, where vulnerabilities of all kinds, including SEA, spike. Due to increased risk, humanitarian actors have a longer history of addressing SEA than their development counterparts. As a result, USAID/OFDA has dedicated technical expertise to oversee partners’ adherence to PSEA requirements and support the global community to combat SEA. Additional requirements have been in place for USG humanitarian partners since 2006.
- The CO/AO function is the only Agency function currently documented in Agency operating policy as having any responsibility for specifically addressing SEA-related allegations. Their only documented responsibility is to share all allegations with the OIG with no stated Agency expectation that they act on the information provided.
- Based on interview feedback, staff lack: 1) accurate expectations for OIG/I’s role and level of involvement in investigating allegations; and 2) transparency into status of the disposition of individual allegations and the extent to which the Agency took sufficient action and met survivor needs.
- The Agency has only two temporary FTEs with multiple responsibilities to prepare, equip, and advise the Agency and IPs to comply with guidance, once developed.
- The Agency does not have a formal agreement or memorandum of understanding with the OIG that outlines OIG’s expected level of engagement in investigating SEA. Per interview participant feedback, lack of awareness by the CO/AO or by M/MPBP/COMP as to whether OIG would investigate, combined with a lack of confidence in the quality of IP investigations, led to delays in taking action in some cases.

**Problem 3: The Agency Provides Insufficient and Inconsistent Guidance to IPs for Reporting SEA Allegations.**

USAID has different clauses/provisions for safeguarding-related policies (i.e., C-TIP, child safeguarding, and SEA) with disparate requirements regarding to whom CO/AOs and IPs must report allegations. Compounding the challenge of navigating overlapping reporting requirements is a lack of definitions
that clearly define the Agency’s expectations of IPs. The lack of such reporting standards can result in underreporting by IPs, reduced access to substantiating evidence, and process delays.

Findings:

- Agency reporting guidance for IPs lacks coherence across multiple clauses/provisions and other Agency guidance, resulting in IP confusion and redundant reporting to multiple actors.
  - IPs must report SEA violations to the relevant Mission Director and CO/AO who in turn must notify the OIG.\(^{22}\)
  - IPs must report credible allegations of C-TIP to the relevant CO/AO and to the OIG, which may include some instances of SEA.\(^{23}\)
  - The Child Safeguarding provision requires no reporting.\(^{24}\)
- The Agency does not provide supporting guidance to IPs in its standard provisions about the timing with which they should report SEA allegations. For example, FAR clause 52.222-50(d) states the contractor must inform the OIG and CO immediately. Agency standard provisions also provide minimal information as to what must be provided in the notification.
- IPs have expressed confusion about what constitutes a “credible” allegation for reporting purposes.
- The Agency is not clear as to what information or documentation it expects to receive for all reported allegations.\(^{25}\)
- The Agency’s initial SEA policy statement emphasizes a survivor-centered approach without providing a clear expectation for a response at the Agency, operating unit, or individual actor levels. This lack of guidance inherently results in staff confusion and inconsistencies in the responses, and the extent to which they are survivor-centered.

Recommendations:

The Agency should designate or establish a single operating unit to coordinate Agency resolution of SEA cases. It would be responsible for:

- Disseminating guidance to implementing partners and Agency staff on how to respond to SEA allegations;
- Owning and maintaining an Agency operational policy and procedure for handling SEA allegations reported by implementing partners;
- Coordinating and monitoring the Agency’s response to cases to ensure consistency and effectiveness; and

\(^{22}\) See Regulations Governing Employees (2018) provision in assistance awards for U.S. NGOs, the Recipient and Employee Conduct provision in assistance awards for Non-U.S. NGOs (see ADS 303.3.33), and the Contractor-Mission Relationships (June 2018) clause in contracts (see AAPD 18-03), all of which flow down to sub-awardees.

\(^{23}\) See Trafficking in Persons (April 2016) standard provision in assistance awards (ADS 303.3.32) and the Combating Trafficking in Persons clause in contracts (48 U.S.C. 52.222-50).

\(^{24}\) See Child Safeguarding (June 2015) provision in assistance awards for U.S. and Non-U.S. NGOs.

\(^{25}\) See Issue 3: Investigation and Action for further discussion.
● Developing and delivering periodic training to USAID staff, and resources for use by IPs.

Rationale: 
Policy clarifications and additional guidance alone will not solve the challenges facing the Agency in addressing SEA allegations. The solution requires a dedicated team to manage and drive changes in policy and process throughout USAID and the partner community. This recommended team (hereafter referenced as “Unit X”) will provide SEA advisory support through policy development and interpretation, issuance of guidance, and technical support to CO/AOs, Mission Directors, and M/MPBP/COMP; coordinate and monitor cases to facilitate consistent responses; support case reporting and analysis; and identify areas for improvement for the Agency and its partners.

The overarching problems with the current approach are that it is not replicable or scalable, lacks communication and coordination between key process stakeholders, and perpetuates a lack of transparency into allegations at the Agency level, which hinders external reporting and use of data to inform Agency decision-making. The creation of Unit X will ensure that the right stakeholders are involved in every case and that information is shared efficiently and only with those who have a need to know. This coordination is necessary to eliminate duplication of effort for internal staff and IPs in responding to Agency requests for information, and to ensure that survivors’ sensitive information is protected appropriately. Further, Unit X will maintain a corporate-level view across all cases that would allow it to identify trends within regions, countries, programs, or IPs. For example, if there are multiple allegations with regard to a specific program or there is an IP repeatedly providing unsatisfactory responses, Unit X would be able to coordinate with M/MPBP/COMP to explore what further action the Agency may take.

Despite existing training and internal guidance, it would be a challenge to build the competencies of all frontline Agency staff (i.e., CO/AOs) to make them experts in responding to a report of SEA and assessing the extent to which the IP’s actions in response to SEA allegations were appropriately survivor-centered. The latter would require CO/AOs to determine whether IPs sufficiently protected survivor confidentiality, ensured their safety and security, respected the survivor’s choices, and that all actions were culturally sensitive over the life of the case. Unit X, however, would be able to consult and advise on all incoming cases. It would be the first point of contact for CO/AOs or Mission Directors after they receive an allegation, and it would be able to advise on what information the Agency needs and ensure documentation of what actions the IP has taken in response, including those related to supporting the survivor.

This centralized approach would be more efficient in concentrating subject matter expertise in a smaller group who would provide guidance throughout the Agency. This approach would also be more effective in ensuring that the Agency, and IPs by extension, provide consistent responses to the maximum extent practical. Most importantly, Unit X could be responsible for determining if the Agency has taken all

26 See the To-Be Process Map in Appendix C.
27 See Issue 2: Case Management for further discussion.
28 Submitting information to USAID would not eliminate an IP’s obligation to submit, upon request or via subpoena, information to OIG. However, the records collected and maintained by Unit X could minimize the need for additional or duplicative requests by OIG.
29 See Issue 3: Investigation and Action for further discussion.
possible appropriate action and a case can be closed for the purposes of the CMS. This process could be a combination of standardized review processes and expert judgement on the part of Unit X staff.

In addition, with a full view of all the cases coming into the Agency, Unit X will be able to identify trends on a country, regional, or partner basis. If a partner appears to have a repeated issue with SEA, the Unit could engage M/MPBP/COMP to determine if there are more systemic issues with the IP that warrant an Agency response.

The creation of a dedicated unit would be in line with international best practice. Other donor organizations have teams that range in size from a handful of coordinators to a team of nearly 20 FTEs responsible for both policy and case management. USAID has approximately triple the number of total personnel as the donor with the largest operating unit. Donors have reported a wide number of reported cases they have received, but all have noted an increase over the last year and anticipate further increases as partners gain more trust in the reporting systems. In addition, several leading donors have recruited external experts to form the foundation of their units.

Unit X could also lead Agency efforts to incorporate SEA mitigation measures into programming and move the focus from reacting to cases to SEA prevention. Unit X would develop training and job aids not only on what to do in response to a report of SEA, but how to work with IPs to build strong reporting mechanisms and prevention methods. As the broader development community creates tools and mechanisms to address SEA, such as efforts to prevent the recirculation of bad actors, Unit X would be a natural entity to support Agency engagement. When the Agency must respond to public allegations of misconduct by IPs, Unit X will be able to help develop messaging and talking points that address the issue appropriately.

In order to maximize the efficiency and effectiveness of creating a new, centralized unit, the Agency should strongly consider consolidating C-TIP and child safeguarding in the responsibilities of Unit X, as noted in Recommendation 2 below, given the overlapping nature of all three types of misconduct. Further, the Agency should carefully consider where Unit X should reside and what is the scope of its role if the case management system recommended in Issue 2 is eventually used to intake and manage cases of all types of misconduct.

Standing up a Unit X will take time, and the Agency will need a clear plan for how it will fill this coordinating role in the interim. The AAPSM is time limited, and currently a mostly volunteer effort with two FTEs responsible for coordinating. It will be difficult for it to take on the full workload envisioned by this recommendation. The AAPSM can, however, be the body for developing some of the additional details for Unit X such as where it would be housed, writing position descriptions, and managing policy development.

The Agency should seek to consolidate, to the maximum extent practicable, all safeguarding policies, including SEA, including Counter-Trafficking in Persons (C-TIP) and child safeguarding, into a comprehensive safeguarding policy, process, and set of award requirements for implementing partners.
Rationale:

As the Agency assists partner countries on their Journey to Self-Reliance, it delivers programming to assist some of the world’s most vulnerable populations, including women and children, as well as people most at risk of discrimination on the basis of disability, gender identity and sexual orientation, race, ethnicity, age or religion. Safeguarding vulnerable populations should be a central tenet of all USAID programs as the Agency delivers aid on behalf of the American people. Consistent with that commitment, USAID should make every effort to streamline its disparate SEA policies applicable to its programming and implementing partners under one Safeguarding Policy to allow a robust and coordinated approach across all SEA-related or safeguarding allegations received by the Agency. This consolidated approach to safeguarding should also be reflected in the Agency’s award provisions by streamlining the disparate provisions into one Safeguarding Provision that mirrors the current C-TIP regulations. This would institute standardization in reporting across allegation types, improve clarity for IPs, assist with Agency and partner accountability, improve response to incidents of SEA, and enhance response to survivors. This will require updates to the AIDAR.

Adopting a Safeguarding Policy inclusive of preventing SEA, C-TIP, and child safeguarding aligns USAID with development and humanitarian assistance best practices, including that which was recommended by the OECD DAC. Adopting a unified safeguarding policy will also address a key concern shared by staff and IPs stemming from confusion about what policy or requirement applies in a given situation. IPs have indicated they want to be active partners in rooting out SEA, but need a clear standard and set of expectations.

The Agency should develop a comprehensive operating policy with clear standards, operating procedures and roles and responsibilities for the review of and response to SEA allegations and case management.

Rationale:

While USAID’s Policy Against Sexual Exploitation and Abuse emphasizes its zero-tolerance position for inaction and partners’ obligation to report SEA, it does not sufficiently articulate Agency procedures for managing allegations because Agency policies are not intended to be operational. The most effective means of disseminating SEA procedures, responsibilities, and standards is by creating an operational policy included in the Agency’s Automated Directives System (ADS).

The purpose of the ADS is to reflect the Agency’s organization and functions, in addition to the policies and essential procedures that guide the Agency’s programs and operations. Per ADS Chapter 501, The Automated Directives System (ADS), the ADS, “is intended to provide the information that employees need to carry out their responsibilities and to achieve Agency goals, consistent with applicable laws, regulations, and policy decisions.” All ADS Chapters include sections that directly address SEA guidance gaps, including a section that outlines roles and responsibilities, main content that outlines procedures and exceptions to procedures, and a glossary to ensure consensus for key terms.

Adherence to the directives and standards included in ADS Chapters and mandatory references is required by staff, and it would promote consistent application of guidance in executing SEA case management in Washington and overseas. Further, each ADS Chapter has an established chapter owner, which provides Agency staff a single operating unit that serves as a point-of-contact or institutional owner responsible for supporting staff in interpreting guidance, policy revisions, and
additional staff support that facilitate policy adoption. If Recommendation 1 is accepted, Unit X would be the appropriate ADS Chapter owner.

An ADS Safeguarding operational policy should include a process workflow from the point at which the Agency receives an allegation through the conclusion of potential Agency actions and case closure. Section IV of this report presents a possible process map developed in consultation with stakeholders from across the Agency. This Chapter and its mandatory references would serve as a critical starting point of reference for any Agency staff receiving a report of SEA by outlining potential first steps, important considerations for the survivor, and clarifying the path forward.

**Related Agency Considerations**

While this recommendation emphasizes the need for an SEA operational policy (*i.e.*, ADS Chapter) that holds staff accountable to a set of internal procedures to manage SEA allegations, such a Chapter does not exist to delineate how the Agency should respond to other forms of misconduct (*i.e.*, fraud, waste, and abuse). If the Agency creates an operational policy for SEA (or Safeguarding more broadly) but does not concurrently address all other forms of misconduct, then the Agency will face more instances of inconsistent, non-standardized policies and processes across misconduct types, similar to what currently exists across C-TIP, Child Safeguarding, and SEA. While other misconduct types are outside the scope of this BPR, in order to mitigate this issue, the Agency should consider an operational policy that addresses misconduct more holistically and that encompasses SEA and all forms of fraud, waste, and abuse. A more comprehensive policy and process will reduce duplicative processes, improve coordination, facilitate the use of a single system to handle all misconduct cases, and improve internal and external reporting.
Issue 2: Case Management

This issue paper examines how the Agency manages allegations of SEA from a technology perspective, and the limitations of the current fragmented system. It discusses findings and recommendations to procure a comprehensive CMS, while raising important considerations such as proper system management, appropriate controls on the information held in the system, and the ultimate scope of a CMS.

Issue Statement
USAID lacks a technical system able to support the management and coordination of the Agency’s response to an allegation of SEA from the point at which the Agency receives a report to the conclusion of a case. By extension, USAID is unable to report to internal leadership and external stakeholders the number of SEA allegations received and cases resolved or assess trends and systemic issues among Missions and partners.

Background
Who may be involved in a response to an SEA case?
Currently, a broad range of offices and positions could become involved in an SEA case. See Issue Paper 1 (page X) for a complete discussion.

Who manages SEA cases?
There are two components within the Agency that could be said to “manage” cases. The Offices of U.S. Foreign Disaster Assistance and Food for Peace within DCHA, and M/MPBP/COMP collect information on the awards they manage; however, neither tracks a case over its “lifetime”, and neither has a comprehensive view of all cases the Agency receives. DCHA/OFDA and DCHA/FFP primarily collect allegations related to the awards it manages. Both rely on team-specific spreadsheets that have evolved over time and that continue to be enhanced to better capture data appropriate for SEA cases.

Other smaller units dedicated to certain elements of SEA, such as the C-TIP team, do not collect significant data on ongoing cases. Instead, these units are responsible for overseeing programming to address these issues writ large.

The OIG/I maintains its own case management system that captures the reports OIG receives. The Agency has no visibility into that system, and its knowledge of OIG/I cases is limited to what OIG/I refers to the Agency for action.

How does USAID collect data on SEA for internal and external reporting purposes?
Currently, USAID collects and reports all SEA data on an ad-hoc basis. The preparation of these reports does not draw on a central database or collection of reports.

USAID is subject to several reporting requirements related to SEA. The Senate report accompanying appropriations for Fiscal Year (FY) 2019 included a requirement that the Secretary of State and USAID Administrator submit a joint report to the appropriate Congressional committees detailing allegations and steps taken to prevent and respond to SEA committed by IPs supported by funds appropriated for
the Department of State and USAID in fiscal years 2017 and 2018. While not a legislative requirement, the Agency follows such guidance as if it were law. The AAPSM and the Department of State’s Bureau for Population, Refugees, and Migration prepared this report.

The 2019 reauthorization of the Trafficking Victims Protection Act established a requirement that the Administrator submit a report about allegations of human trafficking related to USAID programs. This report must include:

- the number of allegations of severe forms of trafficking in persons received,
- the source of the allegations,
- the number of such allegations investigated by the Agency,
- a summary of any findings from such investigations,
- any improvements recommended by the Agency to prevent such conduct from recurring; and
- the number of such allegations referred to the Attorney General for prosecution, and the results of those referrals.

M/OAA prepared this report. In the most recent report, USAID reported the OIG received three allegations of trafficking.

**Problem Analysis**

**Problem 1: The Agency Lacks the Technology Necessary to Support Robust Case Management**

The various units within the Agency that address SEA have separate data collection methods that are largely ad-hoc, fragmented, and incomplete. It will be difficult for the Agency to implement its stated goal of zero tolerance for inaction adequately absent a robust, comprehensive CMS able to support coordination among stakeholders and thorough case tracking over the life of the case.32

**Findings:**

- The Agency does not currently have an existing technology solution that enables coordination and information sharing over the course of an allegation’s life cycle or “case.”
- No single tool employed by any of the units engaged on SEA allegations captures the full extent of reports received by the Agency. None of the tools are linked together or exchange information.
- DCHA/OFDA’s Award, Audit and Risk Management (AARM) Team is beginning to use a spreadsheet to track allegations of waste and fraud that includes allegations of SEA. DCHA/OFDA’s Protection and AARM Teams provide guidance to DCHA/OFDA AOR/CORs on what actions they should take when in receipt of an SEA allegation, specific to humanitarian assistance. DCHA/OFDA AORs and program management staff should upload allegations or other reports into Abacus33 or USAID’s Agency Secure Image and Storage Tracking (ASIST) in

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31 PL 115-425, section 112. [https://www.congress.gov/115/bills/hr2200/BILLS-115hr2200enr.pdf](https://www.congress.gov/115/bills/hr2200/BILLS-115hr2200enr.pdf)
32 Among the commitments made at the Safeguarding Summit 2018 was a commitment to “review and if necessary strengthen core oversight and management systems for tackling sexual exploitation and abuse and sexual harassment.”
33 DCHA/OFDA’s Abacus system is designed to track programmatic activities, including initial budget allocations, budget tracking, the submission of applications, required reporting, and the review and approval, and automatic generation of associated award documents.
order to associate the information with an award per AARM guidance, however, this is not systematic.

- DCHA/FFP uses a spreadsheet to track program irregularities such as allegations of waste, fraud, and abuse. FFP captures SEA incidents via a listserve when there are reported cases. All incidents are tracked and reported to the OIG.
- M/MPBP/COMP uses a shared spreadsheet to track cases.
- The spreadsheets used by AARM and M/MPBP/COMP are not representative of all of the allegations individuals and teams receive. Typically, the respective unit only enters cases into a spreadsheet if it considers taking action. For instance, a USAID staff member may share an SEA-related allegation with a member of M/MPBP/COMP because he or she worked with M/MPBP/COMP in the past and thought it would be helpful to pass the information along; however, the information may not be sufficient for M/MPBP/COMP to take action, and therefore, M/MPBP/COMP does not capture it.
- OIG/I uses a CMS, but it is not well-designed to address SEA cases. Emblematic of this system’s challenges is the fact that OIG/I staff shared widely different estimates of the number of SEA cases captured within OIG/I’s CMS with different stakeholders and experts consulted by the BPR team.
- In its FY 2020 Top Management Challenges report, OIG reported receiving 48 SEA-related tips in FY 2019. This number is an order of magnitude lower than an estimate OIG shared with GC staff of the number of cases it receives. In response to a follow-up request for additional information, OIG/I stated it had received 40 SEA complaints for the same time period.
- The Agency has no view into the information contained in OIG’s CMS. Within the last year, the OIG has referred one SEA case to M/MPBP/COMP for which it conducted an investigation. In response to a follow-up request, OIG/I stated that it made five SEA-related referrals to the Agency, though it is unclear to which part of the Agency OIG/I forwarded the additional referrals or whether OIG/I investigated these cases.
- The OIG CMS is unable to connect to or share data with other data platforms such as ServiceNow.
- ServiceNow is the underlying software for several Agency programs, including the new internal misconduct reporting portal, and is a case management platform that could serve as the basic platform for a CMS to handle misconduct cases.
- DFID has a specialized, custom-built system for tracking SEA cases designed to meet its business requirements. It is an extension of DFID’s system for tracking cases of fraud, waste, and abuse, but has additional protections and controls. In contrast to USAID’s capability today, DFID was able to share a precise count of the number of allegations it has received to date.
- The Department of Homeland Security (DHS) uses a Joint Integrity Case Management System (JICMS) that is managed by Customs and Border Patrol (CBP) Office of Professional Responsibility (OPR) and Immigration and Customs Enforcement (ICE) OPR. Several additional offices and elements have access to JICMS, including: 1) CBP Labor and Employee Relations, 2) ICE Employee Labor Relations, 3) DHS OIG, 4) the National Protection and Programs Directorate, and 5) DHS Office of the Chief Security Officer.

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34 In August of 2019, OIG/I shared 18 files with M/MPBP/COMP that contained brief summaries of IP SEA disclosures and related IP investigations. OIG/I did not conduct investigations of these allegations, and the provided information was insufficient for recommending suspension or debarment.
• Pursuant to DHS policy, OPRs are required to promptly advise the DHS OIG of allegations of specific types of misconduct. For cases falling outside those specified categories, the responsible office initiates the investigation upon receipt of the allegation and notifies DHS OIG within five business days. The DHS OIG uses JICMS to review initial allegations to determine whether to exercise its right to investigate.

• JICMS is able to provide data used for reporting to management. It includes enhanced querying and sorting capabilities that enable routine and ad hoc reports using primary data elements. For example, JICMS is used to inform an annual report to Congress on all sexual abuse and sexual assault perpetrated by CBP employees.

• DFID’s Investigation team reported DFID received 260 cases in FY 2018, and it anticipates a higher number of cases in FY 2019. Note—USAID’s programming spend is nearly three times DFID’s annual spending on programming.

• DFAT’s team reported receiving 16 notifications of SEAH in the previous fiscal year, and this year to date, it has received 14 notifications. In addition, the team reported 60 child protection cases last year, and 21 as of September 2019.

• The Netherlands coordinator reported receiving 25 cases this calendar year as of October 2019.

Recommendations:

The Action Alliance for Preventing Sexual Misconduct (AAPSM), in coordination with the Office of Inspector General Office of Investigations (OIG/I); the Bureau for Management, Office of Management Policy, Budget and Performance, Compliance Division (M/MPBP/COMP); and the Bureau for Management, Office of the Chief Information Officer (M/CIO) should procure a dedicated CMS to support a coordinated, streamlined, and consistent response to all SEA allegations and cases, and that lays the foundation for a CMS that can be used for all forms of misconduct, to the maximum extent practicable.

Rationale:
Creating a joint USAID-OIG intake system feeding into a central repository of cases for SEA allegations will make it clear where partners should share all allegations and where staff should record any allegations they receive. Rather than requiring individual reports, OIG and USAID would simultaneously receive a single report which would allow OIG and USAID to follow its procedures in a timely fashion once a report is received, increase transparency into case status by both organizations and allow for a more coordinated response internally within USAID. OIG has expressed interest in the creation of a “joint intake system.” It will be important that a common system has the appropriate technical divisions to respect the independent role of the OIG.

Beyond a shared intake system, the Agency should procure a case management system that OIG/I would also use or with which it would directly share information. If the Agency procures a CMS that operates

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independently of OIG/I, it is likely a gap would form between the reports of SEA OIG receives versus USAID. It could also lay the foundation for a CMS that can be used for all forms of misconduct.

A single system will allow the Agency to identify trends across different variables, including, but not limited to country, region, programmatic sector and implementing partner. This would allow the Agency to develop best practices for prevention and response. It would also ensure the Agency is able to better meet its reporting obligations and increase transparency within the Agency, with Congress and the American public.

The system should be reasonably robust and will likely require custom development. It should be able to handle a range of functions such as receiving allegations through an online portal or hotline, sending automated notifications, storing files securely with appropriate access controls, and generating reports. These elements will allow the staff involved to focus on case management and resolution rather than technical details or forwarding information the system could share automatically and securely.

The CMS should also have sophisticated permissions settings, allowing case information to be accessed only on a “need to know” basis. Unit X should have full access to the details of all (SEA) case files. M/MPBP/COMP could have high-level access to basic case details (e.g., reporting partner, name of alleged perpetrator) and could request additional access from Unit X if necessary.

**Related Agency Considerations**

The Agency must give serious consideration to proper management of the system, developing strong policies governing the use of the data in the system, and the scope of a CMS to potentially include other forms of misconduct.

**System Management**

There are a number of potential issues that will require human oversight of the CMS, from resolving incomplete or duplicative reports, managing access to case files, and ensuring prompt follow up and coordination. With its central role in the Agency’s response to SEA, Unit X will be best positioned to manage the CMS. The team will review incoming cases, identify appropriate next steps, and ensure the information gets to the necessary personnel.

The CMS could automatically remind key actors when it is time to follow up on a report with an IP. However, without human oversight, there is a risk these alerts will be ignored or not followed up on promptly, which creates a risk that the Agency will violate its policy of zero tolerance for inaction. Unit X could monitor when it is appropriate for the Agency, through CO/AOs, to follow up with IPs for status updates on cases. Rather than programming alerts for a standard window of time (e.g., 30 days) Unit X would be able to respond to the specifics of the case, the capabilities of the IP, and other contextual factors to ensure this follow up is well-timed and actionable.

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38 If a CMS eventually includes other forms of fraud, waste, and abuse, then it is recommended that Unit X only be responsible for managing solely cases primarily involving SEA.
Unit X could be responsible for determining if the Agency can “close” a case in the system. If the process does not include an expert human review of the case file, it risks becoming a box checking exercise designed to manage appearances rather than hold perpetrators and partners accountable.

**Proper Data Usage**

As discussed in greater detail in Issue 3: Investigation and Action, there are numerous challenges surrounding substantiating allegations of SEA. The Agency will likely succeed in “closing” only a fraction of the allegation reports it receives. USAID will collect allegations against IP staff that are not substantiated to a point that the Agency can suspend or debar that individual. There will also potentially be cases where the IP takes remedial action (e.g., firing perpetrator), and USAID may not be able to recommend suspension or debarment. Nevertheless, IPs and the Agency may consider those staff for positions on future projects, creating scenarios in which USAID may have reservations about potential personnel, and must decide whether and how to share those concerns in a fair and transparent manner.

USAID cannot make public any case except through SAM.gov or the Federal Awardee Performance and Integrity Information System (FAPIIS) after going through the suspension and debarment process. Unit X must develop stringent internal standards that it cannot share information with staff that could improperly influence decision-making. It will be important to communicate to all USAID staff involved in the award process that they cannot use the information contained in the system, either through direct or indirect access. In conjunction with Recommendation 3 of Issue 3: Investigation and Action, the Agency should be transparent with IPs about how it uses information, under what circumstances it would share information with IPs, and the inability of the Agency to create a “blacklist” that is separate from the exclusions listed in SAM.gov.

While maintaining caution, as the Agency’s capabilities to track and manage SEA cases grow and evolve, it may consider additional actions it could take or require based on the information it has in the CMS. For example, the Agency could consider if and how it might share information when reviewing key personnel that would be consistent with a more robust framework for reference checks, that would still avoid an Agency “blacklist.” The Agency could also consider if the information in the CMS could in some form be used to require additional prevention and mitigation measures on awards. These further considerations for how to best and most appropriately use the data contained within the CMS are beyond the scope of this BPR, and require input from senior leadership, the AAPSM, GC, and others.

**CMS Scope Beyond SEA**

SEA is only one form of misconduct to which the Agency must respond in coordination with OIG/I and represents a smaller proportion of the caseload. As such, developing a CMS solely for SEA allegations could lead to fragmented, inconsistent, and inefficient responses to IP misconduct and create the need to go to multiple data sources to consolidate information across all forms of misconduct. Although

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39 Reviewing public data from the United Nations, well over half of the allegations the organization receives are unsubstantiated, even years later. See [https://conduct.unmissions.org/sea-investigations](https://conduct.unmissions.org/sea-investigations).

40 USAID’s ability to suspend or debar depends on whether the documentary evidence in its possession meets the evidentiary threshold requirements in federal regulations governing suspension and debarment. For example, an IPs may be able to terminate the employment of an individual based on far less information than USAID would need to exclude them.
fraud, waste and abuse were not part of the scope of this BPR, the BPR Team recommends that any CMS developed address the business and technical requirements for SEA and all forms of fraud, waste and abuse that require Agency attention and action -- especially since SEA cases often involve other forms of fraud or misconduct and one CMS would allow for the information to be located centrally. Following DFID’s example, the Agency should be sure that the system is versatile enough that it could ultimately process a wide variety of misconduct cases, but also be specialized enough to address the unique requirements demanded in cases of SEA. In addition, if the system automates certain aspects of reporting, this will impact existing internal reporting requirements and guidance, which should be consistent for all categories of misconduct.

As the system develops and potentially grows to include all fraud, waste, and abuse, USAID could consider making M/MPBP/COMP responsible for the system as a whole, with Unit X specifically managing the SEA-related cases. For this reason, it will be important for M/MPBP/COMP to be an active partner in the procurement and development of the CMS.
Issue 3: Investigation and Action

This issue paper examines how relevant actors substantiate allegations of SEA through investigations, and how the timing, quality, and consistency of that substantiation impacts the ability of USAID and IPs to take action. It discusses findings and makes recommendations to provide flexibility in the process, improve documentation and timeliness, and ensure that the Agency can take appropriate action.

Issue Statement

Agency-wide information about the breadth and scope of SEA and what can be done about allegations is unclear. Currently, the Agency relies on OIG/I, to conduct investigations into allegations of SEA, investigations which are unlikely to take place due to difficulties in reaching locations in which the allegations were reported, jurisdictional limitations, and competing investigative priorities. Additionally, IPs conduct their own investigations of SEA allegations and submit varying levels of information and documentation to the Agency and OIG/I. Further, some Agency stakeholders are unclear as to what action they may take in response, and many IPs are unsure what actions to take to stop repeat offenders. The limitations on OIG/I investigations, the Agency’s unwillingness to rely on the validity of IP investigations, and a lack of understanding of how to respond make it difficult for the Agency to take administrative action, to pursue appropriate action with the IP, or to ensure that cases are closed-out after examination and receipt of reasonably comprehensive information.

Background

What must happen with SEA allegations?

USAID has a policy of zero tolerance for inaction on SEA allegations that requires the Agency to pursue appropriate action in conjunction with the IP. An allegation is “...uncorroborated information pointing to the possible occurrence of misconduct or a crime” and has yet to be proven. To substantiate an allegation means that an “investigation concluded that there is sufficient evidence to establish that misconduct occurred “by objective data or other proof of evidence”. Therefore, in order to adhere to policy, action must be taken to both substantiate an allegation, if possible, and respond appropriately if an allegation is substantiated.

Who is responsible for substantiating allegations of SEA?

USAID relies primarily on two external entities to potentially investigate and substantiate an allegation of SEA: OIG/I and the IP.

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41 While USAID’s Office of Security (SEC) has investigators on staff, they do not investigate misconduct, but rather focus on counterintelligence and security clearance issues. SEC is generally responsible for personnel security clearances, security-related functions at USAID overseas facilities, physical security at USAID facilities in Washington, DC, and counterterrorism activities. See ADS 101.3.1.4.

42 See Draft USAID Protection from Sexual Exploitation and Abuse Policy.

43 See United Nations Glossary on Sexual Exploitation and Abuse at 15.


45 See United Nations Glossary on Sexual Exploitation and Abuse at 17.

USAID’s OIG/I has sole authority to investigate fraud, waste, and abuse of the programs and operations of USAID.\(^{47}\) OIG/I is specifically vested with law enforcement authority to conduct investigations\(^{48}\), allowing them to execute search and arrest warrants.\(^{49}\)

Most IPs investigate misconduct, including SEA, in their organizations and programs. How those investigations take place and who conducts them varies by organization as discussed below.\(^{50}\)

While it is possible for SEA allegations to be substantiated in other ways, those types of substantiation will be infrequent for a variety of reasons outside the scope of this review (e.g., by local law enforcement).

**What type of actions may be taken in response to substantiated allegations?**

Actions in response to a substantiated SEA allegation are generally going to be taken primarily by the relevant IP and secondarily by USAID.

Aside from reporting SEA violations to USAID\(^{51}\), there is no federally mandated single action or set of actions that must be taken by an IP in response to an SEA allegation. IPs may take a variety of actions, which will greatly depend on the facts of the particular case, including the survivor’s needs, and what is appropriate given the local environment, including local culture, laws, and security. IP actions may include, but are not limited to, the following general areas:

- Survivor-centered\(^{52}\) services and actions that address the survivor’s wishes, rights, safety, dignity, and well-being including, but not limited to medical care, psychosocial support, or legal assistance;
- Investigation of the allegation, typically by either a member of the IP staff or a third-party investigator;
- Termination of employment of the wrongdoer;
- Referral to local law enforcement;
- Amendments to, or non-renewal of, employment contracts or other subawards;
- Improvements to internal controls, including increased training and policy updates; and
- Increased security or monitoring.

USAID may also potentially take action depending on the facts of the case, the availability of information and documentation, and the interests of the U.S. Government. While a number of Bureaus or

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\(^{48}\) Ibid. at §6(a)(2) and §6(e)(3)


\(^{50}\) While there is no mandatory investigative requirement for all IPs, there is guidance that encourages and promotes timely and thorough internal investigations, including the U.S. Department of Justice’s “Evaluation of Corporate Compliance Programs” released in April 2019. Some organizations have committed to conducting investigations via other means, including the Inter-Agency Standing Committee’s (IASC) [Minimum Operating Standards](https://www.inter-agencystandingcommittee.org/resources/mos) and InterAction’s [CEO Pledge on Preventing Sexual Abuse, Exploitation, and Harassment by and of NGO Staff](https://www.interaction.org/about-us/ceo-pledge). Furthermore, the IASC’s “[Plan for Accelerating Protection from Sexual Exploitation and Abuse (PSEA) in Humanitarian Response at Country-Level](https://www.inter-agencystandingcommittee.org/resources/mos)” focuses on three outcomes, the third of which is more accountable investigations.

\(^{51}\) See Issue 1: Agency Approach to SEA Allegations Response.

\(^{52}\) See [Safeguarding Summit 2018](https://safeguardingsummit.org/), commitment 5.
Independent Offices (B/IOs) may provide advice or guidance in response to an SEA allegation or have a stake in the outcome, any action taken by USAID falls generally within two categories:

- Administrative action recommended to the SDO by M/MPBP/COMP, including, but not limited to:
  - Requests for Information or Show Cause letters;
  - Administrative agreements between the Agency and the IP; and
  - Consideration of suspension and debarment, which excludes an individual or organization from receiving federal funding for a period of time that generally does not exceed three years.
- Action taken by the relevant CO/AOs including, but not limited to:
  - Award remedies, such as award termination and disallowance of costs; and
  - Referral to M/MPBP/COMP for consideration of administrative action.

It is important to note that the ability and authority to suspend or debar individuals is of critical importance in the effort to ensure that perpetrators of SEA are not able to move on to other federally-funded organizations and programs.

Problem Analysis

**Problem 1: USAID Reliance on OIG/I Investigations Limits the Agency's Ability to Take Action or Pursue Appropriate Action with IPs.**

USAID has historically relied on OIG/I investigations to substantiate allegations of misconduct for the purposes of recommending administrative action. However, it is difficult for the Agency to know what allegations OIG/I has investigated or have a comprehensive understanding of what OIG/I has referred to different parts of the Agency as a result of inconsistent and inadequate information sharing. Furthermore, OIG/I is an independent entity that, due to limited resources and difficulties in conducting on-the-ground investigations of SEA, cannot reasonably be relied upon to investigate all, or even most, of the SEA allegations it receives, decreasing the Agency’s ability to know if an allegation is substantiated and to take appropriate action, especially suspension or debarment, as a result.

**Findings:**
- OIG/I has approximately 65-75 investigators and investigative analysts worldwide, including Foreign Service National investigators.

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53 M/MPBP/COMP is responsible for recommending action to the Suspending and Debarring Official (SDO), who is the ultimate decision-maker in these types of actions. At USAID, the SDO is the Assistant Administrator, or designee, for the Bureau for Management. ADS 101.3.1.6(f)(5) and 103.3.10.1(c)(7).
54 Requests for Information and Show Cause letters are part of a category of actions recognized by the Interagency Suspension and Debarment Committee (ISDC) known as “Pre-notice Letters”, which gives the recipient time to respond to concerns or assertions of misconduct prior to formal action from the SDO. See ISDC’s FY2017 report to Congress pursuant to Section 873 of Public Law 110-417 at 3.
56 Suspension and debarment regulations governing contracts are found in the Federal Acquisition Regulation (FAR) Subpart 9.4 (48 CFR Subpart 9.4), and suspension and debarment regulations governing non-procurement awards are found at 2 CFR 180 et seq.
57 See Safeguarding Summit 2018 commitment 3 regarding avoiding the hiring and recirculation of perpetrators in the aid sector.
The OIG has no standing requirement to share information with the Agency; consequently, the Agency has little visibility into how many SEA allegations OIG/I has received or is currently investigating.

OIG/I stated that it prioritizes cases that involve a clear felony that can be prosecuted in a U.S. court, that have a clear nexus to a U.S. jurisdiction, in which the host government is likely to prosecute, or that involve systemic internal control failures, including a failure to report SEA allegations in a timely manner. Since many SEA cases will not fall into one of these categories, OIG/I is unlikely to investigate SEA allegations as a result.

OIG/I stated that it has received approximately 7,000 complaints inclusive of SEA and all other misconduct on its hotline, though it is unclear what time period this covers. In response to a follow-up request, OIG/I stated that it had received 164 complaints in FY 2019 related to sexual harassment, SEA, and other employee-related misconduct; this number does not appear to include other types of complaints related to fraud, waste, and abuse.

There are discrepancies in data reported by OIG across information requests or provided in documents available to the public. In its Top Management Challenges Facing USAID in Fiscal Year 2020 report, OIG reported receiving 48 SEA-related tips in FY 2019. In response to a follow-up request, OIG/I stated it had received 40 SEA complaints for the same time period. In a Congressional Research Service (CRS) article, the OIG reported receiving 32 SEA allegations in FY 2019.

To date, OIG/I has only investigated one SEA case that has also been referred to M/MPBP/COMP for consideration of administrative action. In response to a follow-up request, OIG/I stated that it had made five SEA-related referrals to the Agency, though it is unclear to which part of the Agency OIG/I forwarded the additional referrals or whether OIG/I investigated these cases. In the CRS article, the OIG reported investigating three SEA cases and referring 12 cases to the Agency in FY 2019. It is unknown to whom these referrals were made.

OIG/I has four staff dedicated to managing those hotline allegations, thus increasing the likelihood of process bottlenecks and slow response time, particularly when an IP initially submits insufficient information. With limited staff, OIG/I’s management of these allegations can potentially slow down the process and thus inhibit the Agency’s ability to take timely action.

OIG/I currently has a large hotline backlog, and it takes approximately 1-2 months to review an allegation, which may cause delays in potentially referring cases to USAID for action.

USAID staff tend to operate under the assumption that OIG/I is investigating far more cases, including those involving SEA allegations, than it actually does or realistically can given its limited resources and other considerations noted above.

The OIG’s FY 2019 and FY 2020 Top Management Challenges reports place a high priority on detecting and reporting SEA and protecting beneficiaries from SEA. However, SEA investigations are not a regular subset of the OIG Semiannual Report to Congress, which is intended to highlight the OIG’s focus, accomplishments, and significant findings.

When OIG/I receives an allegation of misconduct that shows the IP took action, OIG/I will refer that allegation, without necessarily conducting an investigation, to various parts of the Agency outside of M/MPBP/COMP, including to Missions and other B/IOs. These referrals are made at its discretion, and, as stated earlier, the Agency has no central insight into how many referrals have been made and to whom.

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58 For more information on OIG/I case tracking, please see Issue 2: Case Management.
60 Ibid.
• In FY 2019, OIG/I shared 18 files with M/MPBP/COMP that contained brief summaries of IP SEA disclosures and related IP investigations. OIG/I did not conduct investigations of these allegations and the provided information was insufficient for recommending suspension or debarment.

• In most cases, M/MPBP/COMP needs investigatory documentation to be able to recommend suspension or debarment of a perpetrator for committing SEA or of an organization for SEA-related internal control failures. Without it, it is less likely that M/MPBP/COMP will be able to do so, impeding USAID’s ability to prevent bad actors from receiving U.S. federal funds by moving to a different organization or project.

• While M/MPBP/COMP has initiated six SEA cases for administrative action without an investigation or referral from OIG/I, it has historically been reluctant to act without an OIG/I investigation referred to it. This reluctance is rooted in the minimal capacity of M/MPBP/COMP to handle a large influx of cases and hesitation related to the possible risks related to relying on IP investigative information.

• The cases initiated by M/MPBP/COMP include cases based on a mix of media reports, information provided by other USAID offices, and an IP disclosure.

• OIG/I believes that most of the SEA allegations it receives, if substantiated, will result in primarily administrative remedies taken by the IP, such as employment termination, and that in such cases, OIG/I will be of little assistance.

• Only a limited number of OIG/I investigators have specific training to conduct SEA investigations, which may require specialized knowledge, particularly related to survivor needs and a survivor-centered approach.

• Other donors—including DFID, DFAT, and the Netherlands’ Ministry of Foreign Affairs—do not have the equivalent of an OIG or of a suspension and debarment administrative remedy. They primarily rely on IPs to conduct investigations of SEA allegations and share the information with the donor.

Problem 2: IPs Conduct Investigations of Widely Differing Quality and Complexity, and IPs Inconsistently Share Information with the Agency.

There is no requirement for IPs to have an investigative function, no standard for how IPs structure their investigative functions, and no minimum skill set required for investigators. As a result, IP investigations vary greatly in sophistication. In addition to the difficulties inherent in investigating SEA allegations—including specialized survivor-related concerns, location, and local culture—and the need for a consolidated reporting requirement, issues related to data privacy may hinder the type and breadth of information submitted by IPs to USAID. The varying quality of information provided makes it difficult for USAID to determine what sort of action it should take and if the action taken is robust enough, and may delay resolution.

Findings:
• OIG/I does not provide general investigative standards for use by the IP community, though some IPs utilize third-party guidance for conducting both SEA and fraud investigations.

• OIG/I engages in worldwide outreach efforts to discuss expectations of IPs to submit timely and substantial reports of SEA allegations to the OIG.62

61 See Issue 1: Agency Approach to SEA Allegations Response

62 As noted in Issue 1, IPs are not currently required to report SEA allegations to the OIG. Nevertheless, OIG/I strongly encourages IPs to submit reports of SEA allegations to it.
- IPs have widely varying investigative processes and resources, depending on the size of the organization, resources dedicated by management, and the type and location of their programs.
- The quantity and quality of information submitted by IPs is inconsistent and often insufficient, resulting in back-and-forth communication with the IP, which takes time.
- M/MPBP/COMP generally will not accept referrals directly from IPs, as it believes there is too much risk in doing so due to questions about the quality of data and investigative processes.
- M/MPBP/COMP has requested OIG/I assessments of IP investigative reports and materials in the past in order to determine if the IP investigation was sound. Given OIG/I’s workload and limited resources, it is unlikely it will be able to provide such assurances without causing delays in the process.
- OIG/I believes that validation of an IP investigation does not require their specialized judgment and expertise, but rather simply “good judgment.”
- The UK’s DFID, Australia’s DFAT, and the Netherlands’ Ministry of Foreign Affairs all receive information from IPs of varying quality and quantity. These donors also provide assistance and guidance in conducting investigations and taking action in response to substantiated allegations.
- Data privacy considerations, such as the European Union’s General Data Protection Regulation (GDPR), may hinder IPs’ ability to share with the Agency certain data gathered in the course of an investigation.
- There is inconsistency in the IP community about how, and to what extent, to implement data privacy restrictions and how those restrictions apply specifically to SEA allegations.
- OIG’s Office of General Counsel (OIG/GC) and USAID’s GC are discussing how to respond to these concerns, with a focus on ensuring that OIG/I receives all information necessary to investigate a particular matter.
- A survivor-centered approach may inhibit what information is shared or may be acted upon, because a survivor of SEA has a right to privacy and confidentiality and may not want an investigation to proceed, creating tension between a survivor-centered approach and USAID policy.

Problem 3: IPs Lack Understanding About How to Prevent the Circulation of Bad Actors When There is No Single Method Outside of Suspension and Debarment.

While suspension and debarment is a powerful tool in preventing suspected SEA offenders from continuing to receive federal funding, USAID cannot use it with every substantiated SEA allegation due to specific evidentiary requirements that it may not be possible to meet in each instance.63 Outside of suspension and debarment, there is no single, systematic practice or mechanism to achieve this goal. With a multitude of potential, disparate methods of protecting development programs and beneficiaries from perpetrators of SEA, but no other comprehensive, structured process similar to suspension and debarment, IPs are uncertain how to limit the ability of SEA offenders to continue to repeat the same misconduct within the aid community. This confusion increases the risk that SEA will take place on USAID projects and jeopardize beneficiaries.

Findings:
- Suspension and debarment is the only method by which USAID may be able to prevent offenders from moving to a new organization or project.
- IPs have expressed frustration at the limited number of suspension and debarment actions taken by USAID against perpetrators of SEA.

63The decision to suspend or debar is a discretionary action; there are no circumstances under which USAID must exclude an entity. FAR 9.402, 2 CFR 180.845 and 180.705(c).
Given the wide range of conduct that can fall under the umbrella of SEA, IPs are confused about what types of remedial action would be considered sufficient by USAID, such that they would not be considered to have violated policy or not be presently responsible for purposes of suspension and debarment.

IPs are unsure how to use references in the hiring process to stop wrongdoers from circulating in the development community and further express a desire for direction and guidance from USAID in this area.

The current draft PSEA Policy proposes expanding awards to include requirements that IPs provide transparency on their employment procedures, including how they intend to handle employment referencing and the information they will share regarding an employee’s eligibility for hiring or transfer other organizations. This approach is intended to balance the need for transparency, without being overly prescriptive.

The AAPSM will hold a forum for donors and IPs in early 2020 in order to discuss ways in which partners can prevent perpetrators from circulating in the development community.

At the Safeguarding Summit 2018, DFID announced an effort to work with Interpol to improve background checks of aid employees and provide guidance on vetting employees and identifying high-risk individuals.64

Under discussion in the development community is the concept of a “humanitarian passport” by which aid workers would be registered and accredited. Inappropriate behavior or misconduct would cause individuals to lose their accreditation and therefore their ability to move to a new position in a different organization.65

The Steering Committee for Humanitarian Response developed a scheme whereby organizations that opt-in agree to share information, as part of the recruitment process, about people who have been found to have committed sexual misconduct (SEA and sexual harassment).66

The Netherlands implements a program67 whereby applicants from virtually any profession may apply for a certificate of conduct, which they may obtain after a background check reveals that the applicant has committed no criminal offenses.

The Inter-Agency Standing Committee (IASC) released a report summarizing efforts by various organizations to prevent transgressors from moving freely from one entity to another, including the use of screening questions, candidate self-declarations and self-certifications, declarations from referees, and certified organizational referee lists.68

**Problem 4: CO/AOs Lack Understanding About What Action They Should Take When in Receipt of an SEA Allegation.**

CO/AOs have a crucial role to play in how USAID takes action in response to substantiated SEA allegations. However, CO/AO uncertainty about how to handle a report of an SEA allegation from an IP and what type of award remedies they should consider limits USAID’s ability to take action, which increases the Agency’s risk of not meeting its stated policy of zero tolerance for inaction.

**Findings:**

- CO/AOs are primary recipients of reported SEA allegations involving USAID programs.

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65 Ibid.
66 See The Inter-Agency Scheme for the Disclosure of Safeguarding-related Misconduct in Recruitment Process within the Humanitarian and Development Sector
67 See Verklaring Omtrent het Gedrag
The majority of CO/AOs interviewed have never received a report of an allegation of SEA from an IP.

CO/AOs receive no training specifically related to SEA.

CO/AOs are unsure what other offices to involve if they were to receive a report of an SEA allegation. CO/AOs variously stated that they would involve any of the following: Mission Director, Deputy Mission Director, COR/AOR, GC/RLO, the OIG, the Regional Inspector General, and M/MPBP/COMP.

CO/AOs are not clear on how SEA differs from other sexual misconduct, such as sexual harassment, or from trafficking in persons.

Many CO/AOs interviewed have never dealt with OIG/I and do not have an understanding of what to expect of OIG/I in terms of what action it might take or how it might, or might not, follow-up with the CO/AO. In many instances, the CO/AO would have no idea whether OIG/I decided to take an action or not.

CO/AOs have authority to enforce an award, but most are not clear on what their authority would be to take action in response to a substantiated SEA allegation, including what type of award remedies would be appropriate.

GC currently provides guidance to CO/AOs on a case-by-case basis regarding possible award remedies.

**Recommendations:**

1. **M/MPBP/COMP should develop a plan for accepting investigative materials directly from IPs for consideration of administrative action on substantiated SEA allegations.**

**Rationale:**
Suspension and debarment regulations require documentation and evidentiary proof to satisfy due process in order to move forward in excluding an individual or organization. These requirements have typically been utilized to take action in more standard fraud cases, though M/MPBP/COMP has used it in a few cases to address SEA violations. If the primary method of obtaining the necessary documentation is by receiving it directly from an OIG/I investigation, then USAID’s ability to analyze such information will be extremely limited, given a history of very few OIG/I investigations and referrals in this area and the low likelihood of OIG/I conducting SEA investigations in the future. IPs, on the other hand, are conducting investigations and gathering evidence regarding SEA violations. By not accepting investigatory information from IPs, USAID is potentially missing opportunities to recommend administrative action.

Therefore, M/MPBP/COMP should, in conjunction with the Office of General Counsel (GC), develop a plan to accept materials resulting from IP investigations without waiting for OIG/I to assess or provide validation of the investigations. The plan should develop procedures for accepting materials from IPs more systematically within the bounds of M/MPBP/COMP’s resources and how it will coordinate with OIG/I as necessary to prevent any infringement upon OIG/I’s mandate. It should identify the potential risks of relying on information derived from an IP investigation and steps to mitigate those risks. To be clear, receipt of IP investigations directly from the IP would not, and should not, guarantee that M/MPBP/COMP will recommend an administrative action. Even with a central unit as described
previously\(^69\), M/MPBP/COMP, with its current limited resources, would be unable to analyze or engage with IPs in every instance where an IP or central unit submitted investigative materials. Therefore, it should consider developing criteria to assess and triage information as necessary to manage the Division’s workload. If a central unit and case management system eventually encompasses all misconduct, and not just SEA, M/MPBP/COMP should simultaneously consider how it can accept referrals and investigations from IPs on those same issues.

As M/MPBP/COMP engages in this process over time, and there is a better understanding of the resulting issues and additional case load, it should determine if additional resources are necessary. Given a policy of “zero tolerance for inaction” and the importance of administrative action as part of that policy, senior leadership at USAID should ensure that M/MPBP/COMP is appropriately resourced to manage this critical task.

### M/MPBP/COMP should provide information to IPs about the requisite evidentiary thresholds for suspension and debarment and provide clarity and examples of the type of documentation necessary to take such action.

**Rationale:**
M/MPBP/COMP should develop tools or guidance for IPs on the evidentiary thresholds for suspension and debarment and what types of information and documentation are effective in supporting a recommendation to suspend or debar. M/MPBP/COMP should include guidance and examples that provide clarity on what would call an IP’s present responsibility into question as it pertains to its handling of SEA allegations. Any tools or training developed should keep in mind the needs of smaller IPs with more limited knowledge and experience or with lower capacity to conduct investigations. Further, clarity and guidance about what type of information may be shared and how, as it pertains to data privacy, and the GDPR specifically, should be shared.\(^70\) The extent to which data privacy guidance may be included will necessarily depend on ongoing dialogue and analysis in GC and the OIG. Providing this guidance to IPs should help ensure that IPs are taking sufficient and appropriate steps, that the documents IPs submit to M/MPBP/COMP are useful and reliable, and that the amount of time spent engaging in back-and-forth communication with the IP is limited, thus reducing the burden on both USAID and the IP.

Providing this type of guidance is a first step in assisting partners with providing accurate, useful, quality documentation. In the long term, the Agency should consider how it can support and build IP capacity to conduct investigations.

Further, the extent to which the Agency needs information from an IP when it reports allegations to the Agency should be considered, along with any relevant Paperwork Reduction Act requirements, during any potential rulemaking efforts to streamline IP reporting requirements.

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\(^69\) See Issue 1: Agency Approach to SEA Allegations Response

\(^70\) See Safeguarding Summit 2018, commitment 4, regarding the importance of confidentiality of information and safety of individuals.
The AAPSM, in coordination with GC and M/MPBP/COMP, should gather and disseminate methods and best practices regarding preventing the rehiring of perpetrators of SEA in the development community.

**Rationale:**
While taking action to resolve an allegation of SEA is of critical importance in the short-term, preventing the recidivism of perpetrators is crucial in the long-term and is a commitment made by donors, including USAID. With a zero tolerance for inaction, it is essential that those with the ability to take action in response to substantiated allegations of SEA are not only able to do so, but are aware of the types of actions that may be taken, particularly as it concerns hindering the reemployment of wrongdoers elsewhere in the aid sector. Therefore, AAPSM, in coordination with relevant stakeholders, should explore different methods, aside from suspension and debarment, of achieving that goal within the bounds of due process and avoiding de facto debarments. This may include, but is not limited to, guidance about how IPs can manage the potential liabilities associated with sharing information, how to conduct and respond to reference checks, how to prevent retaliation, the exploration of parallels to partner vetting, and consideration of how key personnel requirements may be utilized in this effort. It should gather together and disseminate broadly tips, frequently asked questions, best practices, lessons learned, case studies, and potential risks and mitigation efforts. Unit X, recommended in Issue 1, should take over this responsibility once the Agency establishes it.

Additionally, the draft PSEA Policy’s proposal to require IPs to be transparent on their employment procedures, including how they intend to handle employment referencing and information sharing regarding an employee’s hiring eligibility, should be considered during any potential rulemaking efforts to streamline IP reporting requirements.

The AAPSM, in coordination with GC, The Bureau for Management’s Office of Acquisition and Assistance (M/OAA), and M/MPBP/COMP, should develop guidance for Contracting Officers/Agreement Officers (CO/AOs) to be issued by M/OAA regarding appropriate actions to take in response to substantiated SEA allegations.

**Rationale:**
Acquisition and assistance staff are essential to both how USAID handles and manages SEA allegations and how USAID takes action in response. Under current IP reporting requirements, IPs must report SEA violations to CO/AOs in addition to the Mission Director. Furthermore, in the range of actions that the Agency can carry out, CO/AOs are of vital importance. Therefore, it is imperative that they understand what immediate response USAID expects of them when they receive a report of SEA and what actions are available to consider from an award perspective. This knowledge will help ensure a consistent, cohesive approach from USAID.

It is important to note that any response to a substantiated SEA allegation, whether it be from the IP or the Agency, should be made on a case-by-case basis; there will never be a single set of actions that will

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71 See [Safeguarding Summit 2018](#), commitment 3.
72 See [Safeguarding Summit 2018](#), commitment 10, regarding strengthening recruitment and referencing processes.
be applicable in every instance. The AAPSM should compile and disseminate tools for CO/AOs that includes guidance and examples that may include, but is not limited to, the following:

- Responses from the CO/AO to the IP when an allegation is first received;
- Clarity about the role of the COR/AOR in responding to SEA allegations;
- Information about the role of M/MPBP/COMP and when it may be involved;
- How and when to engage other B/IOs at USAID, including the RLOs at post;
- Guidance on the flow down of clauses to sub-awardees and the prime award’s responsibility for monitoring compliance with those requirements;
- Types and examples of award amendments that may be applicable to instances of SEA;
- What costs are reasonable, allowable, and allocable under an award regarding PSEA implementation requirements;
- Creation of mitigating factors that a CO/AO should consider in determining appropriate remedies, similar to the C-TIP factors\(^\text{73}\); and
- Appropriate usage of information contained in a case management system, as outlined in Issue 2: Case Management.

Once the Agency establishes Unit X, it should take over responsibility for updating and disseminating this guidance.

The Agency should pursue a Memorandum of Understanding (MOU) with the Office of Inspector General, Office of Investigations to establish guidelines and processes for coordination and information sharing for SEA, and for all other forms of misconduct, to the maximum extent practicable.

**Rationale:**
The Agency should pursue an MOU with OIG/I to establish general guidelines and criteria that outline when OIG will and will not investigate allegations of SEA, and the procedures by which OIG shares SEA case information with the Agency. An MOU will ensure that the proper coordination takes place between USAID and OIG/I, allowing each to fulfil its mandate. It should delineate information sharing parameters, relevant timelines and timeframes, quantity and quality of information, points of contact, processes, communication, and when coordination is required. Just as it is important for USAID to define more clearly the roles and responsibilities of different staff, it is important that USAID and OIG have clear expectations of each other for addressing SEA.

Appendix A: Interview Participant List

1. Margaret Benavente  
   Contracting Officer USAID

2. Courtney Boiler  
   Senior Disaster Operations 
   Specialist DCHA/OFDA 
   USAID

3. Deborah Broderick  
   Deputy Director M/OAA USAID

4. Emily Bussigel  
   Deputy Chief Compliance 
   Officer International Medical 
   Corps

5. Andrea Capellan  
   Contracting and Agreement Officer 
   USAID/Peru

6. Wayne Cohee  
   Procurement Analyst M/OAA/Policy USAID

7. Adam Cox  
   Contracting Officer 
   USAID/Guatemala

8. Jaime Dominguez  
   OAA Deputy Director 
   USAID/Jordan

9. Sonje Franklin  
   Director for Child Protection Aid 
   Risk Management & Fraud 
   Control Branch 
   Department of Foreign Affairs 
   and Trade, Australia

10. Bailey Funderburk  
    Procurement Analyst 
    M/MPBP/Compliance USAID

11. Suzann Gallagher  
    Deputy Assistant Inspector 
    General Office of the Inspector 
    General, USAID

12. Bonnie Glick  
    Deputy Administrator 
    USAID

13. Linda Gregory  
    Executive Officer 
    USAID/Madagascar

14. Lauren Hansen  
    Procurement Analyst 
    M/MPBP/Compliance 
    USAID

15. Sarah Hechtman  
    Process Improvement Specialist 
    HCTM 
    USAID (Deloitte)

16. Melissa Horn Albuja  
    Lead Protection Sector Advisor 
    DCHA/OFDA 
    USAID

17. Michelle Jurkovich  
    Assistant Professor of Political 
    Science 
    Univ. of Massachusetts, Boston

18. Adam Kaplan  
    Senior Counsel 
    Office of the Inspector General, 
    USAID

19. Taryn Kurtanich  
    Program Assistant 
    GC USAID

20. Sarah Lavin  
    Attorney Advisor 
    Acquisitions & Assistance 
    GC USAID

21. Michele Maxilien  
    Contract Specialist 
    M/OAA/EGAT 
    USAID

22. Laura McNeil  
    Head of Safeguarding Investigations 
    Internal Audit Investigation 
    Section 
    Dept. for International Development (DFID), United Kingdom

23. Anita Menghetti  
    Senior Policy Advisor 
    DCHA USAID

24. Tracy Miller  
    Supervisory Contract Officer 
    USAID/MERP

25. David Moore  
    (Former) General Counsel 
    GC 
    USAID

26. Keetah Salazar-Thompson  
    AAPSM Coordinator AAPSM 
    USAID

27. Paul Schilder  
    Policy Officer 
    bij Ministerie van Buitenlandse 
    Zaken (Netherlands)

28. Craig Smith  
    Contracting Officer 
    USAID/MERP

29. Taylor Stager  
    Budget Finance and Information 
    Technology Teamlead 
    DCHA/OFDA 
    USAID

30. Kathleen Stohs  
    Division Chief 
    M/MPBP/Compliance USAID

31. Lara Sulzman  
    Humanitarian Protection Specialist 
    DCHA/OFDA 
    USAID

32. Peter Taylor  
    Head of Safeguarding Unit 
    DFID, United Kingdom

33. Natalie Thunberg  
    Contracting Officer 
    USAID/Guatemala

34. Christos Tsentas  
    Legal Officer 
    GC 
    USAID

35. Gerda Vrielink  
    Special Coordinator under the 
    Secretary General 
    Ministry of Foreign Affairs, 
    Netherlands
Appendix B: As-Is Sexual Exploitation and Abuse Allegation Response Process
APPENDIX B: “As-Is” Business Process for SEA Allegation Intake, Tracking, and Response

**IP**
- Start: Receive allegation of SEA
- Confusion about reporting: to whom, when, and what info

**OIG**
- Reviews information provided
- Enough info?
  - Yes: Duplicate reports to OIG
  - No: Request additional info from IP
- Lack of clarity on OIG role & engagement
- Conducts Investigation
- Allegation substantiated?
  - Yes: Investigate?
    - Yes: Investigate?
      - Yes: Conducts investigation
        - Allegation substantiated?
          - Yes: Takes appropriate action
            - Yes: Takes appropriate action
            - No: Send referral to Agency; close-out case
          - No: Send referral to Agency, wait for Agency response; close-out case
        - No: Send referral to Agency, close-out case
      - No: Send referral to Agency, close-out case
    - No: Additional action necessary?
      - Yes: Action taken: RFI, Show Cause, S&D, AA, etc. If S&D, enter into SAM.
      - No: No action

**A&A**
- Reviews information provided
- Forward to: OIG GC/RLO, Chief of Mission/MD
- No lead/owner/coordinator of response within Agency
- Request report or further details from IP
- Review investigation results from OIG or IP
- A&A action appropriate?
  - Yes: Takes appropriate award action
  - No: No action

**Compliance**
- Reviews initial info
- ID's through independent means
- Share information with OIG
- Bottleneck: No guidance on what info or documents are needed by Agency
- Sufficient info to take any action?
  - Yes: Take action?
    - Yes: Take action
    - No: Take action
  - No: Close-out case
- Action taken: RFI, Show Cause, S&D, AA, etc. If S&D, enter into SAM.
- Additional action necessary?
  - Yes: Take action
  - No: Take action
- No one in Agency responsible for making sure action is taken and that response is survivor-centric

Inconsistent communications cause confusion and time delays; lack of internal comms and IP dialogues with OIG and Agency OUs separately
No threshold for when A&A issue becomes Compliance issue
No centralized case management system
Confusion about reporting: to whom, when, and what info
Duplicate reports to OIG
Lack of clarity on OIG role & engagement
Request additional info from IP
Takes appropriate action
Takes appropriate action
Appendix C: To-Be Sexual Exploitation and Abuse Allegation Response Process
Appendix D: Bibliography


USAID. "Administrator's Action Alliance for Preventing Sexual Misconduct Fact Sheet." February 2019.  


—. "Counter-Trafficking in Persons Policy." February 2012.  

