United States Government Accountability Office

Report to Congressional Committees

August 2018

FOREIGN ASSISTANCE

U.S. Assistance for the West Bank and Gaza, Fiscal Years 2015 and 2016

GAO-18-612

GAO Highlights

Highlights of GAO-18-612, a report to congressional committees

August 2018

FOREIGN ASSISTANCE

U.S. Assistance for the West Bank and Gaza, Fiscal Years 2015 and 2016

Why GAO Did This Study

Since 1993, the U.S. government has committed more than $5 billion in bilateral assistance to the Palestinians in the West Bank and Gaza. According to the Department of State, this assistance to the Palestinians promotes U.S. economic and political foreign policy interests by supporting Middle East peace negotiations and financing economic stabilization programs. USAID is primarily responsible for administering ESF assistance to the West Bank and Gaza.

Appropriations acts for fiscal years 2015 and 2016 included provisions for GAO to review the treatment, handling, and uses of funds provided through the ESF for assistance to the West Bank and Gaza. This report examines (1) the status of ESF assistance and projects provided to the West Bank and Gaza for fiscal years 2015 and 2016, including project assistance and payments to PA creditors, and (2) the extent to which USAID conducted required vetting of PA creditors to ensure that this assistance would not support entities or individuals associated with terrorism and assessed PA ministries' capacity to use ESF assistance as intended. GAO reviewed relevant laws and regulations and USAID financial data, policies, procedures, and documents. GAO also interviewed USAID and State Department officials.

What GAO Recommends

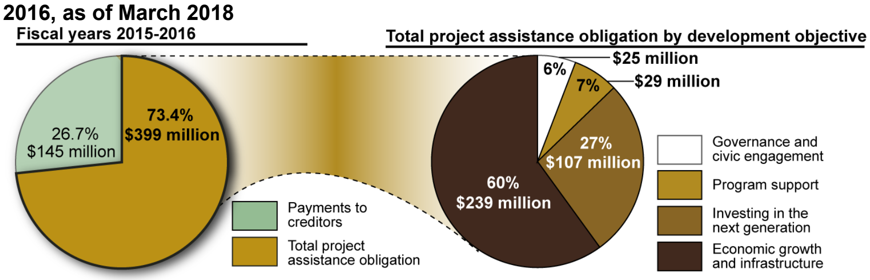
GAO is not making recommendations in this report.

View GAO-18-612. For more information, contact David Gootnick, (202) 512-3149 or gootnickd@gao.gov.

What GAO Found

As of March 2018, the U.S. Agency for International Development (USAID) had allocated about $545 million of funding appropriated to the Economic Support Fund (ESF) for assistance in the West Bank and Gaza for fiscal years 2015 and 2016. USAID obligated about $544 million (over 99 percent) and expended about $351 million (over 64 percent) of the total allocations. Project assistance accounted for approximately $399 million of the obligated funds, while payments to Palestinian Authority (PA) creditors accounted for $145 million (see figure). USAID's obligations for project assistance in the West Bank and Gaza for fiscal years 2015 and 2016 supported three development objectives—Economic Growth and Infrastructure ($239 million), Investing in the Next Generation ($107 million), and Governance and Civic Engagement (about $25 million). In fiscal years 2015 and 2016, USAID made payments directly to PA creditors—two Israeli fuel companies, to cover debts for petroleum purchases, and a local Palestinian bank, to pay off a line of credit used for PA medical referrals to six hospitals in the East Jerusalem Hospital network.

USAID Economic Support Fund Obligations for the West Bank and Gaza, Fiscal Years 2015-2016, as of March 2018



Source: GAO analysis of United States Aid for International Development (USAID) data. | GAO-18-612

USAID vetted PA creditors to ensure that the program assistance would not provide support to entities or individuals associated with terrorism and also conducted external assessments and financial audits of PA ministries of Health and Finance and Planning. USAID documentation showed that, as required, officials checked the vetting status of each PA creditor within 12 months before USAID signed its debt relief grant agreements with the PA. In addition, although USAID determined that it was not legally required to assess the PA Ministry of Health's medical referral services and the Ministry of Finance and Planning's petroleum procurement system, the agency commissioned external assessments of both ministries. These assessments found some weaknesses in both ministries' systems; however, USAID mission officials stated that these weaknesses did not affect USAID debt relief payments to the PA creditors. Nevertheless, USAID took additional steps to mitigate the identified weaknesses. For example, a USAID contractor worked with the Ministry of Health to update, revise, and approve guidelines for medical referrals. In addition, USAID commissioned financial audits of the debt relief grant agreements between USAID and the PA for direct payments to PA creditors in fiscal year 2015 and 2016. The audits did not identify any ineligible costs, reportable material weaknesses in internal control, or material instances of noncompliance with the terms of the agreements.

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Abbreviations

ESF	Economic Support Fund
PA	Palestinian Authority
State	Department of State
USAID	U.S. Agency for International Development

U.S. GOVERNMENT ACCOUNTABILITY OFFICE
441 G St. N.W.
Washington, DC 20548

August 8, 2018

The Honorable Lindsey Graham
Chairman
The Honorable Patrick J. Leahy
Ranking Member
Subcommittee on State, Foreign Operations, and Related Programs
Committee on Appropriations
United States Senate

The Honorable Hal Rogers
Chairman
The Honorable Nita Lowey
Ranking Member
Subcommittee on State, Foreign Operations, and Related Programs
Committee on Appropriations
House of Representatives

The West Bank and Gaza cover about 2,400 square miles and have a combined population of about 4.6 million people. The Palestinian Authority (PA) and Israel administer areas in the West Bank, and Hamas-controlled *de facto* authorities control Gaza. According to the Department of State (State), U.S. economic and humanitarian assistance to the Palestinians promotes the economic and political foreign policy interests of the United States by supporting Middle East peace negotiations and financing economic stabilization programs. The U.S. Agency for International Development (USAID) has primary responsibility for administering assistance for the West Bank and Gaza, most of which is appropriated through the Economic Support Fund (ESF). In addition to providing project assistance to the Palestinians in the West Bank and Gaza, USAID entered into debt relief grant agreements with the PA using fiscal year 2015 and 2016 funds. Under these agreements, according to USAID, it agreed to pay PA creditors who provided goods and services to the PA rather than to transfer cash directly to the PA for this purpose.[1]

[1]According to USAID officials, before fiscal year 2014, USAID provided direct budget support to the PA through cash transfers from the ESF, which the PA used to service debt to commercial suppliers and commercial banks. In fiscal year 2014, USAID ceased making cash payments directly to the PA and began making payments directly to PA creditors.

Appropriations acts for fiscal years 2015 and 2016 included provisions for GAO to review the treatment, handling, and uses of funds provided through the ESF—in this report, "ESF assistance"—for the West Bank and Gaza.[2] This report examines (1) the status of ESF assistance to the West Bank and Gaza for fiscal years 2015 and 2016, including project assistance and payments to PA creditors, and (2) the extent to which USAID conducted required vetting of PA creditors to ensure that assistance would not support entities or individuals associated with terrorism and assessed PA ministries' capacity to use ESF assistance as intended.

To address our objectives, we reviewed appropriations legislation, related budget justification documents, and fiscal year 2015 and 2016 financial data, including expenditures as of March 31, 2018, that USAID provided. We also reviewed relevant USAID documents, including notifications to Congress, regarding the obligation of allocated funds. In addition, we interviewed USAID and State officials in Washington, D.C., and conducted telephone interviews with USAID West Bank and Gaza mission officials in Tel Aviv, Israel. In addition, we reviewed statutory requirements and relevant USAID documentation, such as USAID's antiterrorism policies and procedures, for vetting PA creditors to ensure that assistance does not support entities or individuals associated with terrorism. See appendix I for more information on our scope and methodology.

We conducted this performance audit from September 2017 to August 2018 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

[2]See Pub. L. No. 113-235, Consolidated and Further Continuing Appropriations Act, 2015, §7039(e), Dec. 16, 2014; and Pub. L. No. 114-113, Consolidated Appropriations Act, 2016, §7039(e), Dec. 18, 2015. Appropriations acts for fiscal years 2012, 2013, and 2014 included similar provisions. In September 2015, we reported on the status of USAID's allocations, obligations, and expenditures of ESF assistance to the Palestinians for fiscal years 2012, 2013, and 2014 and the extent to which USAID complied with key legal requirements and its antiterrorism policies and procedures for cash transfers to the PA and its creditors. See GAO, *Foreign Aid: U.S. Assistance for the West Bank and Gaza for Fiscal Years 2012-2014*, GAO-15-823 (Washington, D.C.: Sept. 22, 2015).

Background

Since 1993, USAID has obligated more than $5 billion in bilateral assistance to the Palestinians in the West Bank and Gaza, primarily using funds appropriated through the ESF.[3] According to State officials, through the ESF, USAID provides project assistance and debt relief payments to PA creditors. USAID, with overall foreign policy guidance from State, implements most ESF programs, including programs related to private sector development, health, water and road infrastructure, local governance, civil society, rule of law, education, and youth development. According to USAID officials, this assistance to the West Bank and Gaza contributes to building a more democratic, stable, prosperous, and secure Palestinian society—a goal that USAID described as being in the interest of the Palestinians, the United States, and Israel. Figure 1 shows the location of the West Bank and Gaza relative to surrounding countries.

[3]Funds appropriated to the ESF generally remain available for obligation for 2 fiscal years. Funds obligated during the initial period of availability remain available for obligation for an additional 4 years from the date when the availability of such funds would otherwise have expired. Obligated funds remain available for expenditure for 5 years after the extended period of availability.

Figure 1: Map of the West Bank and Gaza and Surrounding Countries

Source: Map Resources (map). | GAO-18-612

USAID assistance to the West Bank and Gaza is conducted under antiterrorism policies and procedures outlined in an administrative policy document known as Mission Order 21.[4] The stated purpose of the mission order, as amended, is to describe policies and procedures to ensure that the mission's program assistance does not inadvertently provide support to entities or individuals associated with terrorism.[5]

[4]USAID–West Bank/Gaza, *Amended and Restated Mission Order No. 21*, Oct. 3, 2007. The West Bank and Gaza mission adopted Mission Order 21 in March 2006, in response to federal laws and executive orders prohibiting assistance to entities or individuals associated with terrorism, and amended it in October 2007.

[5]Policies and procedures described in Mission Order 21 include (1) vetting procedures; (2) antiterrorism certification requirements; and (3) requirements for mandatory clauses in solicitations and awards for contracts, grants, and cooperative agreements. Vetting requirements apply to certain contractors and subcontractors, recipients of grants and cooperative agreements, and other recipients of ESF assistance.

We have previously reported on the status of ESF assistance to the Palestinians and USAID's antiterrorism policies and procedures in the West Bank and Gaza.[6]

Status of ESF Assistance to the West Bank and Gaza for Fiscal Years 2015 and 2016, Including Project Assistance and Payments to PA Creditors

As of March 31, 2018, USAID had obligated about $544.1 million (over 99 percent) and expended about $350.6 million (over 64 percent) of approximately $544.5 million in ESF assistance allocated for the West Bank and Gaza in fiscal years 2015 and 2016 (see table 1).[7] USAID obligated portions of the allocated funds for direct payments to PA creditors—specifically, payments to two Israeli fuel companies, to cover debts for petroleum purchases, and to a local Palestinian bank, to pay off a line of credit used for PA medical referrals to six hospitals in the East Jerusalem Hospital network.

[6]For example, see GAO, *Foreign Aid: U.S. Assistance for the West Bank and Gaza for Fiscal Years 2012-2014*, GAO-15-823 (Washington, D.C.: Sept. 22, 2015); and *Foreign Assistance: U.S. Assistance to the West Bank and Gaza for Fiscal Years 2010 and 2011*, GAO-12-817R (Washington, D.C.: July 13, 2012).

[7]According to State and USAID officials, allocations of assistance for the West Bank and Gaza were reduced in response to provisions in the annual appropriation acts for fiscal years 2015 and 2016. These provisions required the Secretary of State to reduce the amount of PA assistance by an amount that the Secretary determined to be equivalent to the amount that the PA expended as payment for acts of terrorism by individuals imprisoned after being fairly tried and convicted of acts of terrorism and by individuals who died committing acts of terrorism during the previous calendar year. See Consolidated and Further Continuing Appropriations Act, 2015, Pub. L. No. 113-235, § 7041(i)(3), Dec. 16, 2014; and Consolidated Appropriations Act, 2016, Pub. L. No. 114-113, § 7041(j)(3), Dec. 18, 2015.

Table 1: USAID Allocations, Obligations, and Expenditures of Economic Support Fund (ESF) Assistance for the West Bank and Gaza, Fiscal Years 2015-2016, as of March 2018

Dollars in thousands

Fiscal year	Allocations[a] (A)	Total obligations (B)	Unobligated balance (A-B)	Obligated balance (B-C)	Expenditures (C)
2015	290,334	**290,128**[b]	—[c]	64,029	226,099
2016	254,203[d]	**253,985**[e]	210[e, f]	129,519	124,466
2015-2016	**544,537**[d]	**544,113**[b, e]	**210**[c, e, f]	**193,548**	**350,565**

Source: GAO analysis of U. S. Agency for International Development (USAID) data. I GAO-18-612

Note: Because of rounding, numbers in columns may not sum precisely to totals shown.

[a]Allocations shown include amounts available for new obligations during each fiscal year. These amounts include funds appropriated for assistance to the West Bank and Gaza in each fiscal year as well as prior-year funds available for new obligations.

[b]Total obligations shown for fiscal year 2015 do not include deobligations totaling $206,090.

[c]The unobligated balance shown for fiscal year 2015 does not include deobligations totaling $206,090, because, according to the USAID West Bank and Gaza mission, those deobligated amounts are not available to the mission for reobligation pending further action.

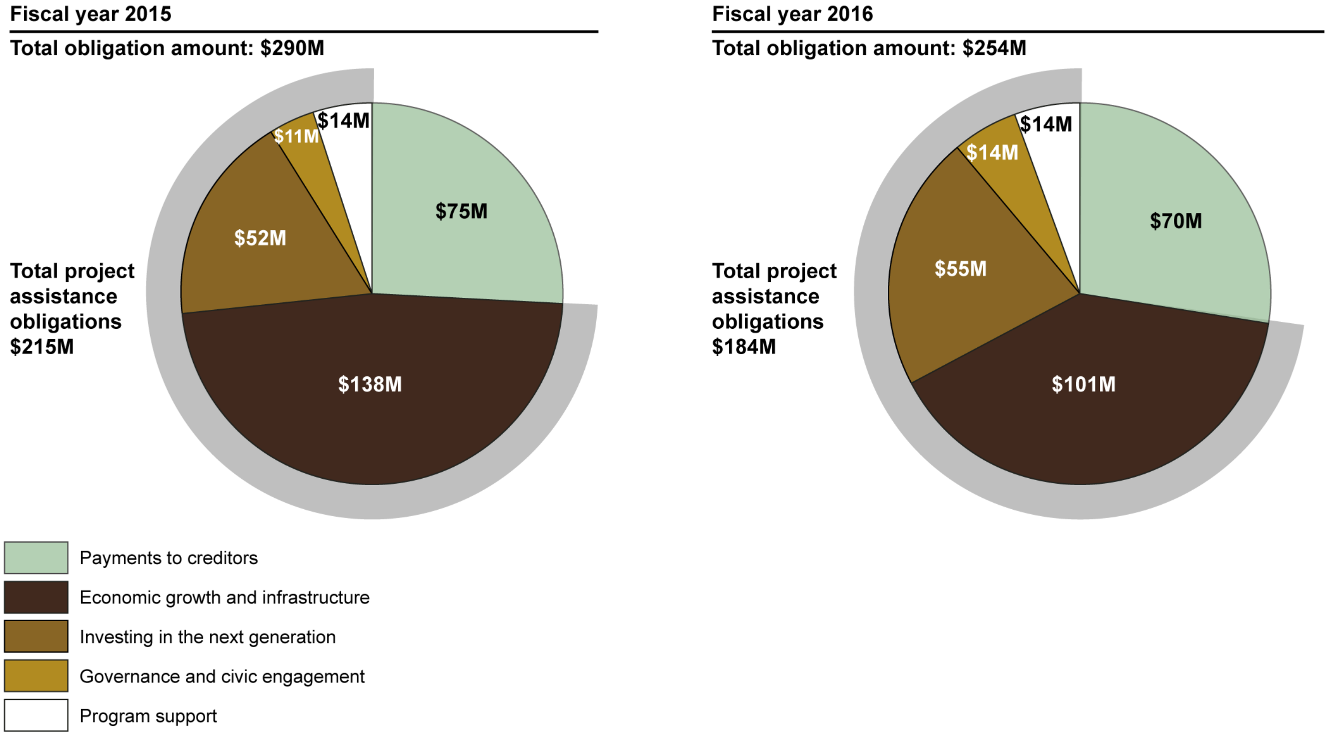
[d]Allocations shown for fiscal year 2016 reflect a reduction of $6,797,000 due to the transfer of ESF assistance for another purpose.

[e]Total obligations shown for fiscal year 2016 do not include deobligations totaling $7,968.

[f]The unobligated balance shown for fiscal year 2016 does not include deobligations totaling $7,968, because, according to officials of USAID's West Bank and Gaza mission, amounts that are deobligated are not available to the mission for reobligation pending further action. However, the unobligated balance shown for fiscal year 2016 includes $210,000 that was obligated but later deobligated, because, according to the Department of State (State), these funds were carried forward to fiscal year 2018 with the intent that the mission will reobligate the funds in 2018. According to a State official, these funds, which were obligated during their initial period of availability but later deobligated, remain available for new obligations under what is commonly referred to as deobligation–reobligation authority. Under that authority, which is generally granted in the Department of State, Foreign Operations, and Related Programs Appropriations Act, if funds from certain accounts are obligated within the initial period of availability, they remain available for obligation for an additional 4 years.

Project assistance obligated for fiscal years 2015 and 2016 accounted for about $215 million (74 percent) and $184 million (72 percent), respectively, of USAID's obligations of ESF assistance for the West Bank and Gaza for those fiscal years (see fig. 1). Payments to the PA's creditors accounted for the remaining obligations—about $75 million (26 percent) of fiscal year 2015 obligations and about $70 million (28 percent) of fiscal year 2016 obligations.

Figure 2: USAID Economic Support Fund Obligations for the West Bank and Gaza, Fiscal Years 2015 and 2016, as of March 2018



Source: GAO analysis of United States Aid for International Development (USAID) data. | GAO-18-612

According to USAID documents, ESF project assistance for the West Bank and Gaza for fiscal years 2015 and 2016 was obligated for three USAID development objectives: Economic Growth and Infrastructure (about $239 million), Investing in the Next Generation (about $107 million), and Governance and Civic Engagement (about $25 million). Program support—which sustains all development objectives, according to USAID—accounted for about $29 million (see table 2).

Table 2: USAID Economic Support Fund Obligations for Project Assistance to the West Bank and Gaza, by Development Objective, Fiscal Years 2015 and 2016

Dollars in thousands

USAID development objective	Obligations: Fiscal year 2015	Obligations: Fiscal year 2016	Total obligations, fiscal years 2015-2016
Economic Growth and Infrastructure	**137,766**	**101,100**	**238,866**
Investing in the Next Generation	**52,369**	**54,591**	**106,960**
Governance and Civic Engagement	**10,800**	**13,800**	**24,600**
Program support	**14,193**	**14,494**	**28,687**
Total	**215,128**	**183,985**	**399,113**

Source: GAO analysis of U.S. Agency for International Development (USAID) data. | GAO-18-612

Note: Fiscal year 2016 obligations include $28,476,000 in prior-year funding from overseas contingency operations that was transferred to the Economic Growth and Infrastructure objective and to program support. Program support funds are used for all three development objectives.

- **Economic Growth and Infrastructure.** The largest share—about 60 percent—of USAID's ESF project assistance for the West Bank and Gaza for fiscal years 2015 and 2016 supported the agency's Economic Growth and Infrastructure development objective. According to USAID documents, as of March 31, 2018, the agency had obligated about $239 million and expended approximately $89 million (about 37 percent) for projects under this objective. USAID officials stated that the agency funded these projects under the following standard State-budgeted program areas: health (including water), infrastructure, private sector competiveness, and stabilization operations and security sector reform.[8] The largest project—the Architecture and Engineering Services project—received about $20 million of fiscal year 2015 ESF assistance and $17 million of fiscal year 2016 ESF assistance. The purpose of the project was to rehabilitate and construct infrastructure through the procurement of infrastructure services, including engineering design and construction management, among other things. The contractor was required to

[8]According to USAID officials, the agency's funding for the Economic Growth and Infrastructure development objective included about $8 million in fiscal year 2015 ESF assistance to improve security at two border crossing points near active areas for suicide bombings. The crossing-point interventions improved access and have contributed to an increase in stability in the surrounding communities, according to USAID officials.

coordinate with relevant PA and Israeli entities, as well as with USAID, to assist in the selection of PA water and wastewater projects and in the planning and design of water projects such as small- to large-scale water distribution systems, water treatment systems, and institutional capacity building.

- **Investing in the Next Generation.** The second-largest share—about 27 percent—of USAID's fiscal years 2015 and 2016 ESF project assistance for the West Bank and Gaza supported the agency's Investing in the Next Generation development objective. According to USAID documents, as of March 31, 2018, the agency had obligated about $107 million and expended approximately $79 million (about 74 percent) for projects under this objective. Program areas funded included education, health, social and economic services and protection of vulnerable populations. The largest project funded under this objective—a grant to the World Food Program for assistance to vulnerable groups—received $12 million in fiscal year 2015 and $15 million in fiscal year 2016 ESF assistance. The project focused on ensuring food security, including meeting food needs, of the nonrefugee population; increasing food availability and dietary diversity for the most vulnerable and food-insecure nonrefugee population; and establishing linkages with the Palestinian private sector (shopkeepers, farms, and factories) to produce and deliver the aid being provided to Palestinians.[9] For example, the project directly distributed a standard food ration through both direct food distribution and electronic food vouchers to vulnerable nonrefugee families.
- **Governance and Civic Engagement.** The smallest share—about 6 percent—of USAID's fiscal years 2015 and 2016 ESF project assistance for the West Bank and Gaza supported the agency's Governance and Civic Engagement development objective. According to USAID documents, as of March 31, 2018, USAID had obligated about $24.6 million and expended approximately $14.5 million (about 60 percent) for projects in program areas that included civil society, good governance, and rule of law. The largest project funded under this objective—a contract for the Communities Thrive Project—received about $5.2 million and $8 million in fiscal years 2015 and 2016 ESF assistance, respectively. The project aimed to help 55 West Bank municipalities improve fiscal management, fiscal accountability

[9]According to USAID officials, USAID supports vulnerable nonrefugees who generally do not receive assistance from the United Nations Relief and Works Agency for Palestinian Refugees.

and transparency, and delivery and management of municipal services, among other things.

Under debt relief grant agreements with the PA, USAID made direct payments of ESF assistance to PA creditors totaling about $75 million from fiscal year 2015 funds and $70 million from fiscal year 2016 funds. USAID paid about $40 million from fiscal year 2015 funds and $45 million from fiscal year 2016 funds to two oil companies to cover debts for petroleum purchases. In addition, USAID paid about $35 million from fiscal year 2015 funds and $25 million from fiscal year 2016 funds to the Bank of Palestine, to pay off a PA line of credit that was used to cover PA medical referrals to six hospitals in the East Jerusalem Hospital network.

USAID Vetted PA Creditors and Conducted External Assessments and Financial Audits of PA Ministries

Before using fiscal years 2015 and 2016 ESF assistance to pay PA creditors, USAID vetted the creditors to ensure that the assistance would not provide support to entities or individuals associated with terrorism, as required by its policies and procedures. USAID determined that certain legal requirements, including the requirement for an assessment of the PA Ministry of Finance and Planning, were not applicable for direct payments of these funds to PA creditors. Nevertheless, USAID continued to commission external assessments and financial audits of the PA Ministries of Health and Finance and Planning.

USAID Vetted PA Creditors as Required by Its Policies and Procedures for Direct Payments to Creditors

USAID documentation for payments to creditors shows that before signing debt relief agreements with the PA, mission officials checked, as required by Mission Order 21, the vetting status of PA creditors who would receive direct payments under the agreements, to ensure their eligibility before any payment was made. USAID Mission Order 21 requires that before payments to PA creditors are executed, the creditors must be vetted—that is, the creditors' key individuals and other identifying information must be checked against the federal Terrorist Screening Center database and other information sources to determine whether they have links to terrorism.[10] According to USAID policies and procedures, each PA creditor must be vetted if more than 12 months have passed since the last time the creditor was vetted and approved to receive ESF payments. We found that for payments made to PA creditors using fiscal years 2015 and 2016 ESF assistance, USAID vetted each PA creditor that received payments and completed the vetting during the 12-month period before the debt relief agreements with the PA were signed (see table 3).

[10]Mission Order 21 cites several legal authorities for its antiterrorism procedures. These include (1) Executive Order 13,224 (66 Fed. Reg. 49079, Sept. 23, 2001), which blocks property and prohibits transactions with persons who commit, threaten to commit, or support terrorism; (2) sections 2339A and 2339B of Title 18 of the U.S. Code, which prohibit the provision of material support or resources for terrorist acts or to designated foreign terrorist organizations; and (3) Executive Orders 12,947 (60 Fed. Reg. 5079, Jan. 23, 1995) and 13,099 (63 Fed. Reg. 45167, Aug. 20, 1998), which prohibit transactions with terrorists who threaten to disrupt the Middle East peace process.

Table 3: USAID Vetting of Palestinian Authority Creditors for Debt Payments for Fiscal Years 2015 and 2016

Fiscal year[a]	Creditor	Vetting date	Debt relief grant agreement date[b]
2015	Paz Oil Company	July 16, 2015	Feb. 4, 2016
	Paz Oil Company	July 11, 2016	July 12, 2016
	Oil Refineries Ltd.–BAZAN	Jan. 11, 2016	Feb. 4, 2016
	Oil Refineries Ltd.–BAZAN	Jan. 11, 2016	July 12, 2016
	Bank of Palestine	Jan. 7, 2016	Feb. 4, 2016
	Bank of Palestine	Jan. 7, 2016	July 12, 2016
	Augusta Victoria Hospital	June 30, 2015	Feb. 4, 2016
	Augusta Victoria Hospital	June 9, 2016	July 12, 2016
	Al Makassed Islamic Charitable Society Hospital	Jan. 6, 2016	Feb. 4, 2016
	Al Makassed Islamic Charitable Society Hospital	Jan. 6, 2016	July 12, 2016
	Palestinian Red Crescent Society Hospital	Jan. 13, 2016	Feb. 4, 2016
	Palestinian Red Crescent Society Hospital	Jan. 13, 2016	July 12, 2016
	Jerusalem Princess Basma Centre for Disabled Children	Jan. 6, 2016	Feb. 4, 2016
	Jerusalem Princess Basma Centre for Children with Disabilities	Jan. 6, 2016	July 12, 2016
	St. John Eye Hospital	Jan. 11, 2016	Feb. 4, 2016
	St. John Eye Hospital	Jan. 11, 2016	July 12, 2016
	St. Joseph Hospital	Jan. 7, 2016	Feb. 4, 2016
	St. Joseph Hospital	Jan. 7, 2016	July 12, 2016
2016	Paz Oil Company	July 11, 2016	Jan. 19, 2017
	Oil Refineries Ltd.–BAZAN	Dec. 21, 2016	Jan. 19, 2017
	Bank of Palestine	Dec. 29, 2016	Jan. 19, 2017
	Augusta Victoria Hospital	June 9, 2016	Jan. 19, 2017
	Al Makassed Islamic Charitable Society Hospital	Dec. 30, 2016	Jan. 19, 2017
	Palestinian Red Crescent Society Hospital	Dec. 29, 2016	Jan. 19, 2017
	Jerusalem Princess Basma Centre for Children with Disabilities	Dec. 29, 2016	Jan. 19, 2017
	St. John Eye Hospital	June 24, 2016	Jan. 19, 2017
	St. Joseph Hospital	Dec. 29, 2016	Jan. 19, 2017

Source: GAO analysis of U.S. Agency for International Development (USAID) data. | GAO-18-612

[a]Fiscal year in which the funds used for the payments shown were appropriated to the Economic Support Fund.

[b]For each creditor, a grant agreement voucher payment was approved 1 to 13 days after the debt relief payment agreement date.

USAID Determined Certain Legal Requirements Were Not Applicable to Payments to PA Creditors

USAID determined that certain legal requirements applicable to cash transfers to the PA were not applicable to direct payments to PA creditors of fiscal years 2015 and 2016 ESF assistance. In September 2015, we reported that USAID ceased making cash payments directly to the PA in 2014 and began making payments of ESF assistance directly to PA creditors.[11] In reviewing USAID's compliance with key legal requirements, we found that USAID had complied with the requirements when making cash transfers to the PA in fiscal year 2013. However, USAID had determined that some requirements were not applicable to direct payments made to PA creditors in fiscal year 2014, because no funds were being provided directly to the PA.

After fiscal year 2015, USAID further defined the scope of statutory requirements it deemed applicable to payments to PA creditors using fiscal years 2015 and 2016 ESF assistance, under the rationale that these payments do not constitute direct payments to the PA.[12] Specifically, according to USAID, the agency determined that the following statutory requirements discussed in our prior report were not applicable to direct payments to PA creditors.

- A requirement to notify the Committees on Appropriations 15 days before obligating funds for a cash transfer to the PA[13]
- A requirement for the PA to maintain cash transfer funds in a separate account[14]

[11] GAO-15-823.

[12] In memorandums issued on February 1, 2016, and January 19, 2017, the USAID West Bank and Gaza mission's Resident Legal Officer, in consultation with USAID's Office of General Counsel and State's Office of the Legal Adviser, determined that certain statutory requirements applicable to cash transfers to the PA were inapplicable to fiscal year 2015 and 2016 ESF payments made directly to PA creditors, because support funds would not be transferred directly to the PA.

[13] Consolidated and Further Continuing Appropriations Act, 2015, Pub. L. No. 113-235, § 7026(b)(3), Dec. 16, 2014; and Consolidated Appropriations Act, 2016, Pub. L. No. 114-113, § 7026(b)(3), Dec. 18, 2015.

[14] Consolidated and Further Continuing Appropriations Act, 2015, Pub. L. No. 113-235, § 7026(b)(1), Dec. 16, 2014; and Consolidated Appropriations Act, 2016, Pub. L. No. 114-113, § 7026(b)(1), Dec. 18, 2015.

- A requirement for the President to waive the prohibition on providing funds to the PA and to submit an accompanying report to the Committees on Appropriations[15]
- A requirement for the Secretary of State to provide a certification and accompanying report to the Committees on Appropriations when the President waives the prohibition on providing funds to the PA[16]
- Requirements for direct government-to-government assistance, including an assessment of the PA Ministry of Finance and Planning[17]

According to USAID officials, they currently do not plan to resume cash payments to the PA, because making direct payments to creditors minimizes the misuse of funds and assures full transparency and appropriateness of transfers.

[15]Consolidated and Further Continuing Appropriations Act, 2015, Pub. L. No. 113-235, § 7040(a)-(d)Dec. 16, 2014; and Consolidated Appropriations Act, 2016, Pub. L. No. 114-113, § 7040(a)-(d), Dec. 18, 2015.

[16]Consolidated and Further Continuing Appropriations Act, 2015, Pub. L. No. 113-235, § 7040(e), Dec. 16, 2014; and Consolidated Appropriations Act, 2016, Pub. L. No. 114-113, § 7040(e), Dec. 18, 2015.

[17]Consolidated and Further Continuing Appropriations Act, 2015, Pub. L. No. 113-235, § 7031(a), Dec. 16, 2014; and Consolidated Appropriations Act, 2016, Pub. L. No. 114-113, § 7031(a), Dec. 18, 2015.

USAID Commissioned External Assessments and Financial Audits of PA Creditors before Executing Payments

Although USAID concluded that the statutory requirement mandating assessments of the PA Ministry of Finance and Planning did not apply to direct payments to PA creditors, the West Bank and Gaza mission commissioned external assessments of the PA Ministry of Health's medical referral services and Ministry of Finance and Planning's petroleum procurement system.[18] According to a USAID document, while the payments to the creditors did not constitute direct budget support to the PA, the agency chose to commission external assessments to determine whether the PA's financial systems were sufficient to ensure adequate accountability for USAID funds consistent with legislative requirements for direct budget support funds. These external assessments identified weaknesses in both systems.

- **Ministry of Health medical referrals.** The assessment report stated that the ministry did not have approved policies and procedures for the medical referral process, a list of medical services covered by the referral system, and written criteria for selecting referral hospitals in the medical referral systems.[19] In response, in a January 2016 internal memorandum, the West Bank and Gaza mission officials concluded, among other things, that the findings did not pose a significant risk to USAID funds. They also stated that the Ministry of Health's medical referral system had adequate policies and procedures for referrals to local hospitals. However, after the assessment report was issued, a USAID contractor worked with the Ministry of Health to update, revise, and approve guidelines for medical referrals.
- **Ministry of Finance and Planning petroleum procurements.** The assessment report stated that the ministry lacked specific policies and procedures to prevent or detect fraud in the petroleum procurement systems. In the West Bank and Gaza mission's January 2016

[18]PricewaterhouseCoopers Palestine Limited, *United States Agency for International Development (USAID) West Bank and Gaza Mission: Assessment of the Medical Referral Services at the Palestinian Ministry of Health* (Ramallah, West Bank: Jan. 15, 2016); PricewaterhouseCoopers Palestine Limited, *United States Agency for International Development (USAID) West Bank and Gaza Mission: Assessment of the Government to Government Assertions* (Ramallah, West Bank: Jan. 14, 2016).

[19]According to a January 2016 West Bank and Gaza mission memorandum, the mission assessed whether the Ministry of Health had a clear, objective, and transparent system for the referral of medical services to East Jerusalem hospitals that is being implemented as designed. In addition, it assessed whether the Ministry of Health personnel in charge of referring medical services were qualified and competent to handle the referrals.

memorandum, USAID mission officials disagreed with the assessment's findings regarding the petroleum procurement system, stating that the assessment did not take into account sufficient and adequate internal controls at the ministry as a first line of defense against fraud. The memorandum also stated that the finding did not affect USAID debt relief payments to the PA creditors.[20]

USAID officials told us that, while they did not believe the external assessments' findings affected the integrity of USAID's debt relief payment process, they took four additional steps to mitigate findings noted in the assessment of the Ministry of Finance and Planning's fuel procurement processes. According to USAID officials, they (1) confirmed that the fuel companies had controls and systems to ensure an objective and transparent system in receiving and recording PA orders, (2) dispatched orders with official and properly signed shipping delivery and receipt documents, (3) obtained written confirmation from the fuel companies of the costs of the fuel provided to the PA, and (4) confirmed the PA's petroleum debt with the fuel companies before initiating the payments and after making the payments.

In addition, in 2016, USAID commissioned two routine financial audits of the debt relief grant agreed to by USAID and the PA for the use of fiscal year 2015 ESF assistance to make direct payments to PA creditors. According to USAID officials, the auditors were to examine the PA Ministry of Finance and Planning's recording of USAID payments to PA creditors in its financial records as well as the ministry's and USAID's compliance with the terms of the grant agreement and related implementation letters. The audits did not identify any questioned or ineligible costs, reportable material weaknesses in internal control, or material instances of noncompliance with the terms of the debt relief grant. Also, in 2017, USAID contracted for a financial audit of the fiscal year 2016 debt relief grant agreed to by USAID and the PA. According to a USAID document, in May 2018, USAID held an entrance conference with the PA Ministry of Finance and Planning for the audit of the fiscal year 2016 grant. In July 2018, USAID sent the final audit report to the Regional Inspector General for review. According to the USAID document, the report did not identify any questioned or ineligible costs,

[20]The external assessment included assertions by the Ministry of Finance and Planning that it had effective monitoring and evaluation system to ensure that payments were used for intended purposes and that the ministry had systems in place to prevent and detect fraud.

reportable material weaknesses in internal controls, or material instances of noncompliance with the terms of the grant.

Agency Comments

We provided a draft of this report to USAID and State for review and comment. USAID provided comments, which we have reproduced in appendix II, as well as technical comments, which we incorporated as appropriate. State did not provide comments.

We are sending copies of this report to the appropriate congressional committees, the Administrator of USAID, and the Secretary of State. In addition, the report is available at no charge on the GAO website at http://www.gao.gov

If you or your staff have any questions about this report, please contact me at (202) 512-3149 or gootnickd@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who contributed to this report are listed in appendix III.

David B. Gootnick
Director, International Affairs and Trade

Appendix I: Objectives, Scope, and Methodology

Appropriations acts for fiscal years 2015 and 2016 included provisions for GAO to review the treatment, handling, and uses of funds provided through the ESF for assistance to the West Bank and Gaza.[1] This report examines (1) the status of ESF assistance and projects provided to the West Bank and Gaza for fiscal years 2015 and 2016, including payments to PA creditors, and (2) the extent to which USAID conducted required vetting of PA creditors to ensure that assistance would not support entities or individuals associated with terrorism and assessed PA ministries' capacity to use ESF assistance as intended.

To address our first objective, we reviewed appropriations legislation, related budget justification documents, and financial data for fiscal years 2015 and 2016, including expenditures as of March 31, 2018, provided by USAID's West Bank and Gaza mission in Tel Aviv, Israel. We reviewed data that USAID provided on obligations and expenditures of all ESF assistance for the West Bank and Gaza as of March 31, 2018, from annual allocations for fiscal years 2015 and 2016. We also reviewed relevant USAID documents, including notifications to Congress regarding the use of appropriated funds. In addition, we interviewed USAID and State officials in Washington, D.C., and Tel Aviv.

To determine whether the data were sufficiently reliable for the purposes of this report, we requested and reviewed information from USAID officials about their procedures for entering contract and financial information into USAID's data system. We determined that the USAID data were sufficiently reliable. For the project information included in this report, we relied on data that USAID provided, showing its obligations and expenditures of fiscal year 2015 and 2016 ESF assistance for West Bank and Gaza. For illustrative purposes, we requested and obtained from USAID descriptions of projects that, according to USAID officials, represented the largest financial obligations for each development objective in fiscal years 2015 and 2016.

To address our second objective, we identified and reviewed relevant legal requirements as well as USAID policies and procedures to comply

[1]Appropriations acts for fiscal years 2012, 2013, and 2014 included similar provisions. In September 2015, we reported on the status of USAID's allocations, obligations, and expenditures of ESF assistance to the Palestinians for fiscal years 2012, 2013, and 2014 and the extent to which USAID complied with key legal requirements and its antiterrorism policies and procedures for cash transfers to the PA and its creditors. See GAO, *Foreign Aid: U.S. Assistance for the West Bank and Gaza for Fiscal Years 2012-2014*, GAO-15-823 (Washington, D.C.: Sept. 22, 2015).

with those requirements. USAID Mission Order 21 is the primary document that details USAID procedures to ensure that the mission's assistance program does not provide support to entities or individuals associated with terrorism, consistent with the prohibition on such support found in relevant laws and executive orders. In addition, we reviewed 27 USAID determinations of compliance for payments to PA creditors and discussed with USAID mission officials their efforts to comply with the policies and procedures in Mission Order 21 before executing payments to hospitals, companies, and banks that facilitated the payments. We also reviewed the timing of USAID's vetting of each PA creditor that received payments, to ensure that, as required by Mission Order 21, the vetting occurred within 12 months before USAID signed the relevant debt relief grant agreement with the PA. Further, we reviewed external assessments of the PA Ministries of Health and Finance and Planning and financial audits of the PA Ministry of Finance and Planning, and we discussed the assessments' and audits with USAID officials responsible for payments to PA creditors.

We conducted this performance audit from September 2017 to August 2018, in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for findings and conclusions based on our audit objectives.

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

USAID
FROM THE AMERICAN PEOPLE

July 23, 2018

David B. Gootnick
Director, International Affairs and Trade
United States Government Accountability Office
441 G Street, N.W.
Washington, D.C. 20548

Re: *FOREIGN ASSISTANCE: U.S. Assistance for the West Bank and Gaza for Fiscal Years 2015-2016 (GAO-18-612)*

Dear Mr. Gootnick:

I am pleased to provide the formal response of the United States Agency for International Development (USAID) to the draft report prepared by the GAO entitled, *"FOREIGN ASSISTANCE: U.S. Assistance for West Bank and Gaza for Fiscal Years 2015-2016"* (GAO-18-612).

We appreciate the chance to participate in such a complete and thorough evaluation of our program in the West Bank and Gaza. While the report does not include any recommendations for USAID, we applaud that the GAO noted that the Agency exceeds all legal requirements to ensure our program assistance does not inadvertently support entities or individuals associated with terrorism. By proactively commissioning external assessments of the cognizant Ministries of the Palestinian Authority (PA), USAID safeguards the investments made by U.S. taxpayers, and ensures they continue to fulfill their intended purpose. Moreover, when USAID or our partners discover deficiencies, the Agency takes the necessary steps to resolve them. Specifically, the GAO found that USAID vetted 100 percent of our implementers in the West Bank and Gaza; conducted additional external assessments to ensure the PA had adequate systems and internal controls in place for medical referrals and petroleum procurements prior to making debt payments to PA creditors; and took additional steps to address and mitigate the weaknesses identified in these assessments. We hope the final version of the GAO's report will continue to reflect USAID's significant commitment to the proper stewardship of U.S. taxpayer dollars.

I am transmitting this letter from USAID for incorporation as an appendix to the GAO's final report. Thank you for the opportunity to respond to your draft report, and for the courtesies extended by your staff while conducting this engagement. The GAO's evaluations provide a valuable opportunity to assess and improve upon our policies, procedures, and programs.

Sincerely,

Angelique M. Crumbly
Acting Assistant Administrator
Bureau for Management

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

Appendix III: GAO Contact and Staff Acknowledgments

GAO Contact

David Gootnick, (202) 512-3149 or gootnickd@gao.gov

Staff Acknowledgments

In addition to the contact named above, Judith McCloskey (Assistant Director), Tom Zingale (Analyst-in-Charge), Eddie Uyekawa, Jeff Isaacs, and Nicole Willems made significant contributions to this report. David Dornisch, Neil Doherty, Reid Lowe, and Roger Stoltz also contributed to the report.

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Strategic Planning and External Liaison

James-Christian Blockwood, Managing Director, spel@gao.gov, (202) 512-4707
U.S. Government Accountability Office, 441 G Street NW, Room 7814,
Washington, DC 20548