



December 2022

SUDAN CLAIMS RESOLUTION ACT

State Verified
Eligibility, Determined
Compensation, and
Distributed Payments

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Why GAO Did This Study

In August 1998, the simultaneous suicide bombings of two U.S. embassies, in Nairobi, Kenya, and Dar es Salaam, Tanzania, killed hundreds of people and injured over a thousand. In October 2020, the United States and the Republic of Sudan signed the USSCSA, in which Sudan agreed to provide compensation to address the claims of certain U.S. citizens and foreign nationals related to the bombings. In December 2020, Congress enacted the SCRA, which replaced the USSCSA compensation process for certain eligible individuals. The act required the Secretary of State to determine compensation levels for, and distribute payments to, all eligible recipients.

The SCRA includes a provision for GAO to report on State's implementation of certain of the act's requirements. In this report, GAO examines the extent to which State ensured that it (1) verified potential recipients' eligibility for SCRA compensation, (2) determined compensation amounts for eligible recipients in accordance with the act's requirements, and (3) distributed payments to eligible recipients in accordance with the act's requirements.

GAO compared the act's requirements with State's processes for verifying eligibility, making compensation determinations, and distributing payments. GAO also analyzed relevant documentation from State and the bombing victims' legal counsel. In addition, GAO interviewed officials from State and the bombing victims' legal counsel.

View [GAO-23-105782](#). For more information, contact Chelsa Kenney at (202) 512-2964 or KenneyC@gao.gov.

What GAO Found

After the Sudan Claims Resolution Act (SCRA) was enacted in December 2020, the Department of State determined that 78 victims of the embassy bombings in Kenya and Tanzania were eligible for compensation under the act. Eligible victims were those who had been awarded a judgment in one of four U.S. court cases against Sudan. Eligible victims were further limited to (1) injured U.S. employees or contractors who became U.S. citizens after the bombings but before the SCRA was enacted, (2) family members of an injured U.S. employee or contractor who were U.S. citizens when the SCRA was enacted, and (3) family members of a killed foreign national U.S. employee or contractor who were U.S. citizens when the SCRA was enacted. The victims' legal counsel provided State with documentation listing potentially eligible individuals as well as supporting documents, such as U.S. passports, that State reviewed to verify eligibility.

To determine compensation amounts, State took steps that ensured, as the SCRA required, parity in compensation between individuals who became U.S. citizens after the bombings and those who were already U.S. citizens. For example, State determined compensation amounts for certain SCRA recipients partly by comparing their injuries with those sustained by certain recipients of compensation under the U.S.–Sudan Claims Settlement Agreement (USSCSA). GAO's analysis of State data found that those SCRA recipients received the same compensation as USSCSA recipients with similar injuries who, according to State, were U.S. citizens when the bombings occurred.

Compensation and Selected Examples of Injuries to Certain Recipients under Sudan Claims Resolution Act (SCRA) and U.S.–Sudan Claims Settlement Agreement (USSCSA)

Compensation	Examples of injuries to SCRA recipients	Examples of injuries to USSCSA recipients
\$10 million	Severe burns Vision impairment Laceration to body and limbs Emotional trauma	Severe burns Blindness Laceration to body and limbs Post-traumatic stress disorder/emotional trauma
\$5 million	Burns Loss of hearing Broken limbs Emotional trauma	Loss of hearing Broken limbs Post-traumatic stress disorder/emotional trauma
\$3 million	Cuts on body and limbs Emotional trauma Depression	Cuts and bruises on body and limbs Emotional trauma Depression

Source: GAO analysis of Department of State information. | GAO-23-105782

Note: For the purposes of this table, a SCRA recipient is a U.S. employee or contractor injured in the U.S. embassy bombings on Aug. 7, 1998, who became a U.S. citizen after that date but before the SCRA's enactment on Dec. 27, 2020, and received compensation under the SCRA. A USSCSA recipient is an individual injured in the bombings who was a U.S. citizen at that time and received compensation under the USSCSA.

Before distributing payments, State sent each recipient a letter stating the amount to be received, as the act required. State also obtained required documentation before distributing the payments. For example, State ensured that each recipient signed a waiver and release of all rights to, among other things, assert certain claims against Sudan related to the bombings.

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Abbreviations

ACH	Automated Clearing House
SCRA	Sudan Claims Resolution Act
USSCSA	United States–Sudan Claims Settlement Agreement

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December 8, 2022

Congressional Committees

In August 1998, simultaneous suicide bombings devastated the U.S. embassies in Nairobi, Kenya, and Dar es Salaam, Tanzania, killing hundreds of people and injuring more than a thousand. Victims of the bombings sued Sudan in U.S. courts for its alleged role in the attacks. In October 2020, the United States and the Republic of Sudan signed the United States–Sudan Claims Settlement Agreement (USSCSA), in which Sudan committed to provide \$335 million that would be used to address the claims against Sudan of certain U.S. citizens and foreign nationals related to the bombings.¹ In December 2020, Congress passed the Sudan Claims Resolution Act (SCRA) to provide separate compensation for a subset of victims of the bombings and their eligible family members.²

The SCRA authorized \$150 million for payment of compensation (which this report refers to as SCRA compensation) to certain U.S. employees or contractors who were injured in connection with the bombings and became U.S. citizens after the bombings but before the act's enactment. The SCRA also authorized payment of compensation to certain family members of U.S. employees or contractors injured in connection with or killed during the bombings if those family members were U.S. citizens when the act was enacted.³ In addition, the SCRA required the Secretary

¹Claims Settlement Agreement between the Government of the United States of America and the Government of the Republic of the Sudan, Signed at Washington Oct. 30, 2020, Entered into Force Feb. 9, 2021 (United States–Sudan Claims Settlement Agreement). Under the agreement, on receipt of the \$335 million, the U.S. government was to confirm the enactment of legislation providing Sudan with the same sovereign, diplomatic, and official immunity as is normally provided to other states and also agreed to bar all pending and future suits and actions against Sudan as specified in the agreement, among other things.

²Pub. L. No. 116-260, §§ 1701-1708, Div. FF, Title XVII, 134 Stat. 3291-97 (Dec. 27, 2020).

³In addition, the SCRA stipulated that only individuals who had been awarded a judgment in one of several cases listed in section (c) of the annex to the USSCSA were eligible to receive compensation under the act. Foreign nationals who had not met the act's citizenship requirement as of the date of the act's enactment were potentially able to receive compensation from separate private settlements with Sudan but were not eligible to receive compensation under the act.

of State to determine compensation levels for, and distribute payments to, all eligible recipients.

The SCRA included a provision for us to report on State's implementation of certain of the act's requirements for providing compensation to eligible victims of the embassy bombings.⁴ This report examines the extent to which State ensured that it (1) verified potential recipients' eligibility for SCRA compensation, (2) determined compensation amounts for eligible recipients in accordance with the act's requirements, and (3) distributed payments to eligible recipients in accordance with the act's requirements.

To address these objectives, we analyzed federal law as well as reports State submitted to Congress regarding State's implementation of the SCRA's requirements.⁵ We also reviewed relevant State policies and guidance. In addition, we analyzed documentation provided to State by the bombing victims' legal counsel, which State used to verify potential recipients' eligibility for SCRA compensation and to make compensation determinations and distribute compensation as the act required.⁶

To assess the reliability of data included in this documentation, we conducted manual and electronic testing to identify any missing data or logical errors. We determined that the data were sufficiently reliable for our purposes of examining the extent to which State verified eligibility as well as the extent to which State determined and distributed compensation in accordance with the act's requirements.

We compared State's implementation of the act's requirements with the criteria established in the act. In addition, we interviewed State officials

⁴Specifically, the SCRA includes a provision for us to submit a report to the appropriate congressional committees no later than December 31, 2022, assessing whether (1) all distributions were made in accordance with those requirements and (2) all eligible individuals received compensation from amounts made available for this purpose and in the manner described in the act. Pub. L. No. 116-260, § 1707(e).

⁵Department of State, *Report to Congress on Compensation for Certain Naturalized United States Citizens and Foreign Nationals, Section 1707(d)(1) of the Sudan Claims Resolution Act (Title XVII, Div. FF, P.L. 116-260)* (March 2021); and *Report to Congress on Compensation for Certain Naturalized United States Citizens and Foreign Nationals, Section 1707(d)(2) of the Sudan Claims Resolution Act (Title XVII, Div. FF, P.L. 116-260)* (December 2021).

⁶Throughout this report, "the bombing victims' legal counsel" refers to the counsel representing individuals injured in the embassy bombings and their families, as well as the families of individuals killed in the bombings, who were potentially eligible for SCRA compensation.

and the bombing victims' legal counsel to confirm the sufficiency of the documentation provided to State. See appendix I for a full description of our scope and methodology.

We conducted this performance audit from February 2022 to December 2022 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.

Background

Legal Provisions for Compensation to Victims of East African Embassy Bombings

Following the U.S. embassy bombings in Tanzania and Kenya on August 7, 1998, several hundred victims of the bombings, including family members of those injured or killed, filed lawsuits in U.S. court against the Republic of Sudan for its alleged role in these attacks. Although the allegations varied, the suits generally alleged that Sudan had provided material support to al Qaeda, such as funding, training, weapons, and sanctuary, and that this support had resulted in bombing victims' injuries and deaths.

On October 30, 2020, the United States and Sudan signed the USSCSA. Under that agreement, Sudan agreed to provide \$335 million as a basis for, among other things, addressing the claims of eligible bombing victims. The funds provided under the agreement (which this report refers to as USSCSA compensation) were to be distributed to compensate U.S. citizens (USSCSA recipients⁷) and to pay private settlements related to

⁷For the purposes of this report, USSCSA recipients are individuals injured in the bombings who were U.S. citizens on or before the date of the bombings, their family members, and family members of U.S. citizens killed during the bombings, who received compensation from funds made available under the USSCSA. USSCSA recipients could not also receive SCRA compensation.

several cases against Sudan.⁸ The USSCSA also provided for a process to compensate eligible foreign nationals whose claims had been addressed in one of four U.S. federal district court cases.⁹

In December 2020, the SCRA replaced the compensation process provided under the USSCSA for certain individuals injured in the embassy bombings and certain family members of those injured or killed.¹⁰ The SCRA established a process for providing compensation to these individuals (SCRA recipients¹¹). The SCRA authorized \$150 million, and the Consolidated Appropriations Act, 2021 appropriated these funds for payment of compensation to a subset of individuals who had been awarded a judgment in any of four court cases specified in the USSCSA.

SCRA Requirements for Compensation Eligibility, Determinations, and Distributions

Requirements for compensation eligibility. The SCRA limited eligibility for SCRA compensation to individuals who had been awarded a judgment in one of the four court cases specified in the USSCSA. The SCRA further limited eligibility to the following three categories of individuals:

- **Category 1.** U.S. employees or contractors who were injured in connection with the bombings and became U.S. citizens after the bombings but before the act was enacted

⁸The agreement provided for payment in connection with private settlements related to the following cases: *Owens v. Republic of Sudan* (D.D.C.), 01-cv-2244 (JDB); *Khaliq v. Republic of Sudan* (D.D.C.), 10-cv-356 (JDB); *Taitt v. Islamic Republic of Iran* (D.D.C.), 20-cv-1557 (RC); and *Granville v. Republic of Sudan*, Case No. 2018-28, in the Permanent Court of Arbitration. The agreement also provided for funds to be transferred to pay a private settlement related to *Mwila v. the Islamic Republic of Iran* (D.D.C.), 08-cv-1377 (JDB).

⁹The four cases are *Wamai v. Republic of Sudan* (D.D.C.), 08-cv-1349 (JDB); *Amaduso v. Republic of Sudan* (D.D.C.), 08-cv-1361 (JDB); *Onsongo v. Republic of Sudan* (D.D.C.), 08-cv-1380 (JDB); and *Opati v. Republic of Sudan* (D.D.C.), 12-cv-1224 (JDB).

¹⁰The SCRA established that individuals who were eligible under the act were not eligible to receive any compensation from the funds made available under the USSCSA. Those who were not eligible under the SCRA were potentially able to receive compensation from amounts made available under the USSCSA. In addition, the SCRA required that funds that would otherwise have been available to SCRA recipients under the agreement be redistributed either (1) among all other eligible foreign nationals pursuant to that agreement or (2) pursuant to any private settlement between Sudan and those individuals.

¹¹For the purposes of this report, SCRA recipients are U.S. employees or contractors injured in the bombings who became U.S. citizens after the bombings but before the act's enactment, as well as family members of a U.S. employee or contractor injured or killed in the bombings who were U.S. citizens as of the date of the act's enactment, who received compensation under the SCRA.

- **Category 2.** Family members of a U.S. employee or contractor injured in connection with the bombings who were U.S. citizens when the act was enacted
- **Category 3.** Family members of a foreign national U.S. employee or contractor killed during the bombings who were U.S. citizens when the act was enacted.

Requirements for compensation determinations. The SCRA required State to achieve parity in compensation between individuals who became U.S. citizens after the bombings and individuals who were U.S. citizens on or before the date of the bombings. The act specified how parity was to be achieved for each of the three categories of eligible recipients.

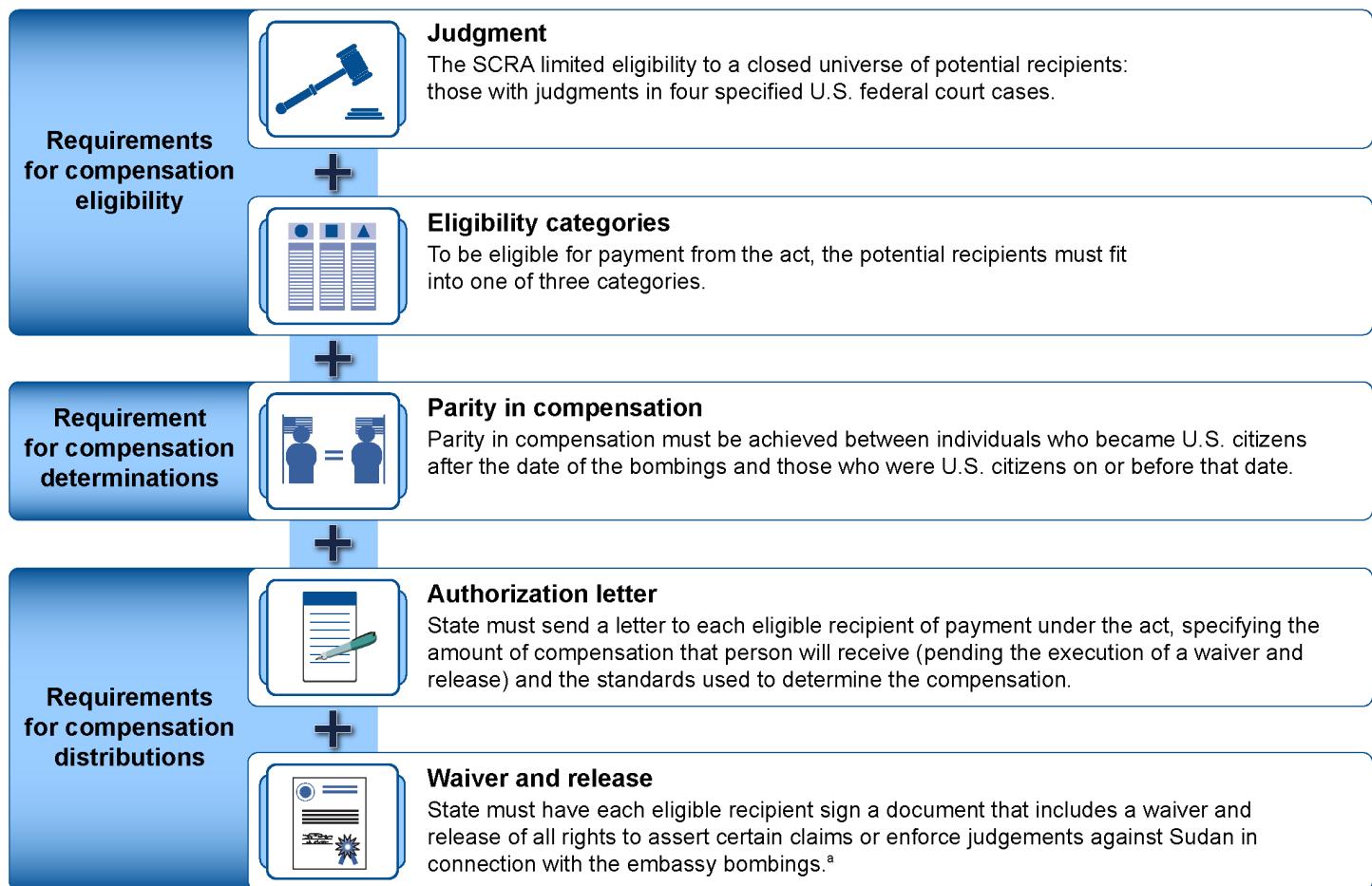
- For category 1, the SCRA required that compensation be based on the same standards used to determine compensation for an injured U.S. employee or contractor who was a U.S. citizen on or before the date of the bombings.
- For category 2, the SCRA required that compensation be on an equal basis to compensation for family members of a U.S. employee or contractor who was a U.S. citizen injured during the bombings.
- For category 3, the SCRA required that compensation be on an equal or, where applicable, a pro rata basis to compensation for family members of a U.S. employee or contractor who was a U.S. citizen killed during the bombings.

Requirements for compensation distributions. The SCRA required State to send an authorization letter and obtain a waiver and release from each eligible recipient before distributing compensation.

- **Authorization letter.** The SCRA directed State to send an authorization letter to each eligible individual who would receive compensation under the act. The authorization letter was required to inform the individual of (1) the amount of compensation that person would receive, pending the execution of a waiver and release of claims against Sudan and the United States related to the embassy bombings, and (2) the standards used to determine compensation, taking into account the individual's final judgment amount.
- **Waiver and release.** The SCRA directed State to require, before distributing payments to any individual, that each recipient sign a waiver and release of all rights to, among other things, assert certain claims or enforce judgments against Sudan related to the embassy bombings.

Figure 1 shows the SCRA's requirements regarding compensation eligibility, determinations, and distributions under the act.

Figure 1: Sudan Claims Resolution Act (SCRA) Requirements for Compensation Eligibility, Determinations, and Distributions



Source: GAO analysis of U.S. Department of State (State) information. | GAO-23-105782

^aThe SCRA directed the Department of State to require each eligible recipient to sign a waiver and release of all rights to assert claims for compensatory or other relief in any form or to enforce any judgment against Sudan in connection with, and any claims against the United States related to, any claim, suit, or action specified in Article II of the United States–Sudan Claims Settlement Agreement.

State's SCRA Reporting Requirement and Entity Responsible for Implementing SCRA Requirements

The SCRA required the Secretary of State to provide Congress with two detailed reports describing State's implementation of the requirements in the act.¹² State's initial report, submitted in March 2021, included a detailed description of its plan to make compensation determinations and distribute payments to eligible recipients.¹³ State's second report, submitted in December 2021, included a detailed description of its determinations of compensation and distribution of payments.¹⁴

State's Office of the Legal Adviser took the lead in carrying out the SCRA's requirements related to providing compensation to victims of the embassy bombings.¹⁵ The office first determined whether individuals met one of the three eligibility categories identified in the SCRA. The office then determined the amount of compensation each person would receive from funds made available to carry out the act's requirements. The office also prepared both of State's reports to Congress describing State's implementation of those requirements.

¹²Under the SCRA, State was required to provide two reports to the U.S. Senate Committee on Foreign Relations and Committee on the Judiciary and to the House of Representatives Committee on Foreign Affairs and Committee on the Judiciary. The first report was due 90 days after the enactment of the SCRA (i.e., by March 27, 2021) and was required to include a description of State's plan for the distribution of payments to each eligibility category, including how State determined compensation levels for each individual and the amount of compensation each individual would receive. The second report was due by December 31, 2021, and was required to include a description of whether the distribution plan in the first report was carried out and whether compensation levels were provided as described in the first report. State submitted both reports by their respective deadlines.

¹³Department of State, *Report to Congress on Compensation for Certain Naturalized United States Citizens and Foreign Nationals, Section 1707(d)(1) of the Sudan Claims Resolution Act (Title XVII, Div. FF, P.L. 116-260)* (March 2021).

¹⁴Department of State, *Report to Congress on Compensation for Certain Naturalized United States Citizens and Foreign Nationals, Section 1707(d)(2) of the Sudan Claims Resolution Act (Title XVII, Div. FF, P.L. 116-260)* (December 2021).

¹⁵The Secretary of State delegated the authorities and functions under section 1707(b) of the SCRA to the department's Legal Adviser and Deputy Legal Advisers. These authorities and functions include distributing payments, sending authorization letters, and requiring eligible individuals to execute waivers and releases. Delegation of Authority Sudan Claims Resolution Letters, 86 Fed. Reg. 54278 (Sept. 30, 2021).

State Verified the Eligibility of Potential SCRA Recipients Identified by Victims' Legal Counsel

State Determined 78 Individuals Identified by Victims' Legal Counsel Were Potentially Eligible for SCRA Compensation

After reviewing documentation provided by the bombing victims' legal counsel, State officials determined that 78 individuals were potentially eligible for compensation under the SCRA. The SCRA limited the universe of potentially eligible individuals to those who had met the act's U.S. citizenship requirements and had been awarded a judgment in one of the four U.S. federal court cases it referenced.¹⁶ According to State officials, they requested that the bombing victims' legal counsel identify their clients who met the SCRA's eligibility criteria from among those who had been awarded a judgment in one of the four cases. The victims' legal counsel provided State with documentation listing individuals that the counsel considered potentially eligible.

According to State officials, they initially determined that 77 individuals listed in the documentation provided by the bombings victims' legal counsel were potentially eligible for SCRA compensation. These included 68 people whom the victims' legal counsel had identified and whom State officials determined, after reviewing the documentation, met all of the SCRA's eligibility criteria, according to State officials.¹⁷ State officials said they also determined that an additional nine people whom the victims' legal counsel had listed as eligible for USSCSA compensation were potentially eligible for SCRA compensation instead.

¹⁶The SCRA required all potential recipients to be U.S. citizens. Individuals who had themselves been injured in connection with the bombings were required to have become U.S. citizens after the bombings but before the enactment of the SCRA on December 27, 2020. Family members of individuals injured or killed during the bombings were required to be U.S. citizens as of the date of the SCRA's enactment.

¹⁷According to State officials, the documentation listed 11 other individuals whom State determined did not meet the SCRA's U.S. citizenship requirement and were therefore ineligible for SCRA compensation. In addition, State determined that two individuals that the documentation listed as eligible for SCRA compensation had not been awarded a judgment in any of the four cases referenced in the SCRA and were therefore ineligible.

State officials subsequently determined that a 78th person was potentially eligible for SCRA compensation.¹⁸ According to State officials, they made this determination as a result of reviewing additional information that the bombing victims' legal counsel provided after identifying that person as a U.S. citizen related to a U.S. employee or contractor injured in the bombing.

State Reviewed Various Supporting Documents to Verify Potential Recipients' Eligibility

To verify that each of the 78 potentially eligible individuals met the criteria for one of the three eligibility categories established by the act, State officials reviewed an assortment of supporting documents¹⁹ that the bombing victims' legal counsel provided.²⁰ For example, for all three categories, State officials said they reviewed U.S. federal court records to ensure that each person had been awarded a judgment in one of the four cases referenced by the SCRA. In addition, State officials reviewed U.S. naturalization certificates, birth certificates, or passports to verify that the 78 individuals met the SCRA's U.S. citizenship criteria.²¹

According to State officials, they reviewed numerous supporting documents to verify that potential recipients met SCRA criteria specific to each eligibility category. For example:

¹⁸State received the initial documentation to support the claims of the 77 potentially eligible recipients in May 2021. The SCRA required that State send all SCRA recipients an authorization letter by December 31, 2021. According to State officials, they verified the eligibility of the 78th person in October 2021 and sent an authorization letter before the deadline.

¹⁹State guidance listed types of acceptable documents, specific to each eligibility category, that could support potential SCRA recipients' eligibility for compensation.

²⁰The three eligibility categories are (1) a U.S. employee or contractor injured in connection with the embassy bombings who became a U.S. citizen after the bombings and before the date of enactment of the SCRA; (2) a family member of a U.S. employee or contractor injured in connection with the bombings who was a U.S. citizen as of the date of enactment of the SCRA; and (3) a family member of a foreign national U.S. employee or contractor killed during the bombings who was a U.S. citizen as of the date of enactment of the SCRA. Pub. L. No. 116-260, § 1707(a)(1)(B). According to State documentation, State officials operationalized the SCRA eligibility criteria by developing a process to verify the 78 potentially eligible recipients.

²¹The documents State reviewed to verify U.S. citizenship varied by eligibility category. For category 1, State reviewed U.S. naturalization certificates for all 15 potential recipients. For categories 2 and 3, State reviewed eligible family members' U.S. naturalization certificates, U.S. birth certificates, U.S. passports, or some combination of the three to verify their citizenship.

- **Category 1.** State officials said they reviewed court-ordered Special Masters reports to identify injuries sustained in the bombings.²²
- **Category 2.** State officials said they reviewed various personal documents, such as birth and marriage certificates, to verify familial relationships between potential recipients and U.S. employees or contractors injured in connection with the bombings.²³
- **Category 3.** State officials said they reviewed estate-related documents to verify familial relationships between potential recipients and foreign national U.S. employees or contractors killed in the bombings and to determine whether the potential recipients were beneficiaries of the deceased individuals' estates.²⁴

According to State officials, the supporting documents provided by the bombing victims' legal counsel were first reviewed by a paralegal and an attorney-adviser in State's Office of the Assistant Legal Adviser for International Claims and Investment Disputes and then reviewed by the Assistant Legal Adviser from that office. State officials told us that this review process was consistent with the office's longstanding practice when certifying compensation for individuals in connection with a bilateral claims settlement, such as the USSCSA. State officials said that they also contacted the victims' legal counsel to request additional relevant information as needed.

After reviewing the supporting documents, State officials determined that all 78 individuals were eligible for compensation under one of the three eligibility categories established by the act. Table 1 shows examples of the supporting documents State officials reviewed to verify eligibility as well as the number of individuals they verified as eligible in each of the three categories.

²²Given the extensive and varied nature of injuries sustained by victims of the embassy bombings, the U.S. district court presiding over the four cases filed against Sudan and referenced in the SCRA appointed seven Special Masters to aid its fact-finding. The Special Masters conducted individual damages assessments and submitted written reports to the court.

²³The documents provided for individuals in category 2 included birth certificates for 30 people, marriage certificates for 12 people, and a will.

²⁴According to State data, eight of the 21 individuals in category 3 were relatives of a killed foreign national U.S. employee or contractor but were not beneficiaries of the employee or contractor's estate.

Table 1: Examples of Documents State Reviewed to Verify Eligibility for Compensation under Sudan Claims Resolution Act (SCRA) and Number of Individuals Verified as Eligible, by Eligibility Category

Eligibility category	Examples of documents used to verify eligibility	Number of individuals verified as eligible
1. U.S. employees or contractors injured in connection with the bombings who became U.S. citizens after the bombings but before the SCRA was enacted ^a	U.S. naturalization certificate Copy of federal district court judgment ^b Special Masters reports ^c	15
2. Family members of a U.S. employee or contractor injured in connection with the bombings who were U.S. citizens when the SCRA was enacted ^a	U.S. naturalization certificate U.S. passport Birth certificate Copy of federal district court judgment ^b Special Masters reports ^c	42
3. Family members of a foreign national U.S. employee or contractor killed during the bombings who were U.S. citizens when the SCRA was enacted ^a	U.S. naturalization certificate U.S. passport Birth certificate ^d Copy of federal district court judgment ^b Special Masters reports ^c Death certificate Estate-related documents issued by the High Court of Kenya, Nairobi ^e Opinion letters from local counsel concerning the application of local estate laws	21
Total number of recipients verified as eligible for compensation		78

Source: GAO analysis of Department of State data. | GAO-23-105782

^aAccording to State officials, they referred to internal department sources to verify that individuals injured in connection with or killed during the bombings were U.S. employees or contractors.

^bAccording to State officials, they reviewed federal district court judgments for four cases against Sudan to determine that each potentially eligible individual was named in one of the judgments, as required by the SCRA.

^cGiven the extensive and varied nature of injuries sustained by victims of the embassy bombings, the U.S. district court presiding over the four cases filed against Sudan and referenced in the SCRA appointed seven Special Masters to aid its fact-finding. The Special Masters conducted individual damages assessments and submitted written reports to the court. According to State officials, they reviewed Special Masters reports to identify injuries sustained by the bombing victims.

^dState reviewed birth certificates to verify potential recipients' familial relationship to U.S. employees or contractors injured in connection with or killed during the bombings, according to State officials.

^eAccording to State officials, they reviewed estate-related documents to verify familial relationships between potential recipients and foreign national U.S. employees or contractors killed in the bombings and to determine whether potential recipients were beneficiaries of the deceased individuals' estates.

State Took Steps to Determine SCRA Compensation Amounts as the Act Required

In determining SCRA compensation amounts, State took steps that ensured, as the act required,²⁵ parity in compensation between individuals who became U.S. citizens after the bombings and those who were already U.S. citizens. According to State officials, they based SCRA compensation amounts for eligibility categories 1 and 3 on amounts provided to USSCSA recipients, and they based SCRA compensation for eligibility category 2 on the amount negotiated in private settlements between Sudan and bombing victims.²⁶ Table 2 shows the amounts of SCRA compensation and number of recipients that State determined were eligible in each category.

Table 2: Amounts of Sudan Claims Resolution Act (SCRA) Compensation and Number of Recipients State Determined Were Eligible, by Eligibility Category

Eligibility category	SCRA compensation amount	Number of eligible recipients
1. U.S. employees or contractors injured in connection with the bombings who became U.S. citizens after the bombings but before the SCRA was enacted	\$3 million–\$10 million	15
2. Family members of a U.S. employee or contractor injured in connection with the bombings who were U.S. citizens when the SCRA was enacted	\$170,000	42
3. Family members of a foreign national U.S. employee or contractor killed during the bombings who were U.S. citizens when the SCRA was enacted	Pro rata share of \$10 million or \$500,000 ^a	21

Source: GAO analysis of Department of State data. | GAO-23-105782

Note: The SCRA required all eligible individuals to have been awarded a judgment in one of four court cases referenced in the act.

^aState distributed a pro rata share of \$10 million to each eligible family member whom State found to be a beneficiary of the estate of a foreign national U.S. employee or contractor killed during the bombings. According to State officials, the amount provided to each beneficiary was consistent with the beneficiary's pro rata share of the estate. State provided \$500,000 to each eligible family member of a foreign national U.S. employee or contractor killed during the bombings if State determined that the family member was not a beneficiary of the victim's estate.

Category 1: Injured U.S. Employees and Contractors

To ensure compensation parity for category 1 SCRA recipients, State officials compared injuries and treatment recorded for those individuals

²⁵Pub. L. No. 116-260, §1707(a)(2)(A)-(C).

²⁶According to State officials, State used compensation amounts provided under the Libya Claims Program to determine USSCSA compensation and to indirectly inform its determinations of SCRA compensation for eligibility categories 1 and 3. The Libya Claims Program, which commenced in March 2009 and concluded in April 2018, adjudicated U.S. nationals' claims against Libya for physical injury related to certain terrorist incidents that occurred before June 30, 2006, according to the Department of Justice.

with injuries and treatment recorded for certain USSCSA recipients, according to State officials. The SCRA required that compensation for category 1 recipients be based on the same standards used to determine compensation for injured employees or contractors who were U.S. citizens when the bombings occurred.

State officials told us that they conducted qualitative analyses of injury descriptions and medical procedures as well as, if applicable, any hospitalization or disability documented in the Special Masters reports. The officials said that they compared this information with information about injuries, medical procedures, hospitalization, and disabilities for USSCSA recipients documented in Special Masters reports. According to the officials, the purpose of the comparison was to identify amounts of compensation paid to U.S. citizens with similar injuries, which could be used as a baseline for ensuring parity in compensation payments to SCRA recipients.²⁷ State officials said that they used an “on par” approach for these comparisons because no two sets of injuries sustained in the bombings were absolutely identical.²⁸

State officials determined SCRA compensation amounts that ranged from \$3 million to \$10 million for eligible recipients in category 1.²⁹ According to State officials, the same range of compensation was provided to USSCSA recipients who were U.S. citizens when injured during the bombings. Our analysis of State data confirmed that SCRA recipients in category 1 received compensation based on the same standards used to determine compensation for USSCSA recipients who sustained similar injuries (see table 3). State officials and the bombing victims’ legal

²⁷According to State officials, when determining SCRA compensation amounts for individuals in category 1, they considered damages for pain and suffering awarded in the four cases referenced by the SCRA. The officials said that if an individual had been awarded substantial damages for pain and suffering in one of those cases, State likely would have assigned a higher level of SCRA compensation to that person than to one who had not been awarded such damages.

²⁸According to State officials, the “on par” approach is consistent with the SCRA requirement that compensation payments for eligible injured naturalized U.S. employees or contractors be based on the same standards used for determining compensation amounts for injured individuals who were U.S. citizen employees or contractors on the date of the bombing.

²⁹According to State officials, the department awarded one SCRA recipient \$1.5 million—50 percent of State’s standard minimum SCRA compensation of \$3 million for category 1 SCRA recipients—because State was unable to identify a similarly situated USSCSA recipient. According to State data, the SCRA recipient was not physically present in Kenya or Tanzania at the time of the bombings but was awarded a judgment related to emotional trauma sustained while participating in embassy rescue and clean-up efforts.

counsel told us that they believed parity in compensation between these two groups of victims was achieved.

Table 3: Compensation and Selected Examples of Injuries to Certain Recipients under Sudan Claims Resolution Act (SCRA) and United States–Sudan Claims Settlement Agreement (USSCSA)

Compensation	Examples of injuries to category 1 SCRA recipients	Examples of injuries to USSCSA recipients
\$10 million	Severe burns Vision impairment Laceration to body and limbs Emotional trauma	Severe burns Blindness Laceration to body and limbs Post-traumatic stress disorder/emotional trauma
\$5 million	Burns Loss of hearing Broken limbs Emotional trauma	Loss of hearing Broken limbs Post-traumatic stress disorder/emotional trauma
\$3 million ^a	Cuts on body and limbs Emotional trauma Depression	Cuts and bruises on body and limbs Emotional trauma Depression

Source: GAO analysis of Department of State information. | GAO-23-105782

Note: A category 1 SCRA recipient is a U.S. employee or contractor injured in connection with the embassy bombings on August 7, 1998, who became a U.S. citizen after the bombings but before the SCRA's enactment and received compensation under the SCRA. For the purpose of the parity analysis shown, a USSCSA recipient is an individual injured in connection with one of the bombings who was a U.S. citizen at that time and received compensation under the USSCSA.

^aAccording to State officials, the department awarded one SCRA recipient \$1.5 million—50 percent of State's standard minimum SCRA compensation (\$3 million) for category 1 SCRA recipients—because State was unable to identify a similarly situated USSCSA recipient. According to State officials, the SCRA recipient was not physically present in Kenya or Tanzania at the time of the bombings but was awarded a judgment related to emotional trauma sustained while participating in embassy rescue and clean-up efforts.

Category 2: Family Members of Injured U.S. Employees and Contractors

To ensure parity in SCRA compensation for category 2 recipients, State officials based their compensation determination on amounts distributed to USSCSA recipient family members in private settlements between the bombing victims and Sudan, according to the officials.³⁰ The SCRA required that compensation for category 2 recipients be on an equal basis

³⁰According to State officials, the private settlements, which addressed the claims of family members of U.S. employees or contractors who were U.S. citizens injured during the bombings, were in connection with the cases of *Owens v. Republic of Sudan* (D.D.C.), 01-cv-2244 (JDB); and *Khaliq v. Republic of Sudan* (D.D.C.), 10-cv-356 (JDB).

to compensation for family members of a U.S. employee or contractor who was a U.S. citizen injured during the bombings.³¹

State officials told us that to determine SCRA compensation for category 2, they (1) summed the amounts provided under the private settlements for family members of a U.S. employee or contractor who was a U.S. citizen injured in connection with the bombings and (2) divided that sum by the number of such family members.

State officials determined compensation for eligible category 2 recipients as a lump sum of \$170,000 for each category 2 eligible individual. According to the officials, they determined that family members who were USSCSA recipients had received that amount through the private settlements. Our analysis of State data confirmed that State determined the same amount of compensation—\$170,000—for SCRA recipients in category 2 as for family members of an injured U.S. employee or contractor who was a U.S. citizen and received USSCSA compensation. State officials and the bombing victims' legal counsel told us that they believed parity in compensation was achieved.

Category 3: Family Members of Killed Foreign National U.S. Employees and Contractors

To ensure parity in compensation for category 3 recipients, State officials determined compensation for both SCRA and USSCSA recipients on the basis of whether the recipient was a beneficiary of the killed U.S. employee's or contractor's estate, according to the officials.³² The SCRA required that compensation for category 3 recipients be on an equal or, where applicable, a pro rata basis to compensation received by family members of a U.S. employee or contractor who was a U.S. citizen killed during the bombings.³³

According to State officials, they based their determinations of SCRA compensation for category 3 recipients on USSCSA compensation provided to beneficiaries of a killed U.S. employee's or contractor's estate and to nonbeneficiary family members. State officials told us that they provided the USSCSA compensation as a \$10 million lump-sum payment

³¹Pub. L. No. 116-260, § 1707(a)(2)(B). According to State officials, the Sudanese government and eligible individuals agreed to the private settlement amounts and communicated them to the U.S. government in discussions concerning the claims settlement.

³²State officials told us that they had received copies of Kenyan court records or, as needed, legal opinions from local counsel from Kenya to identify beneficiaries and nonbeneficiaries.

³³Pub. L. No. 116-260, § 1707(a)(2)(C).

to a killed U.S. citizen's estate, to be divided among the estate beneficiaries in amounts consistent with their shares of the estate. The officials said that State provided the SCRA compensation directly to estate beneficiaries in amounts equal to what would have been each beneficiary's pro rata share of a \$10 million payment to the estate. For SCRA and USSCSA recipients identified as nonbeneficiaries, State provided each with a \$500,000 lump-sum payment. State officials and the bombing victims' legal counsel told us that they believed parity in compensation was achieved.

State Distributed Payments to Eligible Recipients as the Act Required

State Sent Authorization Letters and Obtained Required Documentation before Distributing SCRA Payments

Before distributing SCRA payments, State sent authorization letters and obtained waivers and releases from each eligible recipient, as the SCRA required.

- **Authorization letters.** The SCRA directed State to send an authorization letter to each recipient, stating the amount of compensation that person would receive and describing the standards used to determine the compensation, taking into account the individual's final judgment amount. We confirmed that State sent each of the 78 eligible recipients an authorization letter that included the information required by the act.³⁴
- **Required documentation.** The SCRA directed State to, before distributing compensation payments, require each recipient to execute a waiver and release of all rights to, among other things, assert certain claims or enforce judgments against Sudan in connection with the bombings.³⁵ According to State officials, State attached a waiver

³⁴State sent 77 of the authorization letters by the required date—December 31, 2021—and sent the remaining authorization letter on March 7, 2022, after confirming that recipient's eligibility with the bombing victims' legal counsel.

³⁵The SCRA directed State to require each recipient to sign a waiver and release of all rights to assert claims for compensatory or other relief in any form or to enforce any judgment against Sudan in connection with, and any claims against the United States related to, any claim, suit, or action specified in Article II of the USSCSA.

and release form to each authorization letter.³⁶ As of July 2022, State had received notarized waivers and releases from all 78 eligible recipients.³⁷ State officials told us that the waivers and releases were independently reviewed by a paralegal, a staff attorney, and State's Assistant Legal Adviser.³⁸

State Provided SCRA Compensation to All Eligible Recipients and Confirmed Receipt of Distributions

State distributed SCRA payments to the 78 eligible recipients and received confirmation that each payment had been received.

- **Distribution of compensation.** According to State officials, as of July 2022, State had released compensation funds to all 78 eligible recipients pursuant to the payment instructions provided by the bombing victims' legal counsel.
- **Confirmation of receipt.** After State distributed the payments, the bombing victims' legal counsel confirmed by email the compensation amount each person had received.

State provided information showing that the distributions to eligible recipients amounted to just over \$102 million of the \$150 million appropriated for SCRA compensation.³⁹ According to State officials, State

³⁶State also attached a form to each authorization letter for the bombing victims' legal counsel to use to provide Automated Clearing House (ACH) payment instructions. An ACH payment is an electronic funds transfer between financial institutions, made through the ACH network.

³⁷State officials told us that State relied on the bombing victims' legal counsel to ensure that SCRA recipients received appropriate compensation and would not also obtain USSCSA compensation. According to State officials, the legal counsel understood that the SCRA prohibited their clients from receiving both SCRA and USSCSA compensation.

³⁸According to State officials, the Assistant Legal Adviser sent memoranda to State's Bureau of the Comptroller and Global Financial Services describing the statutory bases for the compensation and attaching the signed authorization letters, the notarized waivers and releases, and ACH payment instructions provided by the victims' legal counsel.

³⁹According to State officials, the \$150 million appropriated to carry out the SCRA was never expected to be fully disbursed. The officials told us that after consulting with State and the bombing victims' legal counsel, Congress had identified—on the basis of information available when the SCRA was being drafted—\$150 million as providing a sufficient buffer to cover all claims that could fall within the scope of the act.

plans to return the excess funds to the U.S. Treasury, as required by law.⁴⁰

Agency Comments

We provided a draft of this report to State for review and comment. State provided technical comments, which we incorporated as appropriate.

We are sending copies of this report to the appropriate congressional committees, the Secretary of State, and other interested parties. In addition, the report is available at no charge on the GAO website at <https://www.gao.gov>.

If you or your staff have any questions about this report, please contact me at (202) 512-2964 or kenneyc@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 made key contributions to this report are listed in appendix II.



Chelsa L. Kenney
Director, International Affairs and Trade

⁴⁰The Department of State, Foreign Operations, and Related Programs Appropriations Act, 2021 provides that the \$150 million to carry out the SCRA is available until expended. The act also states that “any unexpended balances remaining following the distributions [under the SCRA] that are determined by the Secretary of State, not later than September 30, 2030, and at the close of each fiscal year thereafter, to be excess to the needs of such distributions, shall be returned to the general fund of the Treasury.” Pub. L. No. 116-260, Div. K, Title IX, 134 Stat. 1821.

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Appendix I: Objectives, Scope, and Methodology

This report examines the extent to which the Department of State ensured that it (1) verified potential recipients' eligibility for Sudan Claims Resolution Act (SCRA) compensation, (2) determined compensation amounts for eligible recipients in accordance with the act's requirements, and (3) distributed payments to eligible recipients in accordance with the act's requirements.

To examine the extent to which State ensured that it verified potential recipients' eligibility under the criteria set forth in the act, we analyzed federal law and State reports, policies, and guidance.¹ We compared State's implementation of the SCRA's requirements for eligibility, as documented by State's Office of the Legal Adviser, with the criteria established in the act. Specifically, we analyzed data and information in documents provided to us by State officials, which State had received from the bombing victims' legal counsel and used to verify potential recipients' eligibility. These documents included copies of U.S. naturalization certificates, U.S. passports, and U.S. birth certificates, which State used to verify citizen status, as well as copies of birth certificates, marriage certificates, estate-related documents, and Special Masters reports, which State used to verify familial relationships.² We also reviewed documents to confirm that each individual had been awarded a judgment in one of the four U.S. federal court cases referenced in the SCRA.³

To understand how State verified each potential recipient's eligibility for compensation, we cross-referenced the documents State received from the victims' legal counsel with the criteria for the three eligibility categories established in the SCRA. For each of the 78 potentially eligible recipients, we first recorded the documents the bombing victims' legal counsel

¹Department of State, *Report to Congress on Compensation for Certain Naturalized United States Citizens and Foreign Nationals, Section 1707(d)(1) of the Sudan Claims Resolution Act (Title XVII, Div. FF, P.L. 116-260)* (March 2021); and *Report to Congress on Compensation for Certain Naturalized United States Citizens and Foreign Nationals, Section 1707(d)(2) of the Sudan Claims Resolution Act (Title XVII, Div. FF, P.L. 116-260)* (December 2021).

²Given the extensive and varied nature of injuries sustained by victims of the embassy bombings, the U.S. district court presiding over the four cases filed against Sudan and referenced in the SCRA appointed seven Special Masters to aid its fact-finding. The Special Masters conducted individual damages assessments and submitted written reports to the court.

³The four cases are *Wamai v. Republic of Sudan* (D.D.C.), 08-cv-1349 (JDB); *Amduso v. Republic of Sudan* (D.D.C.), 08-cv-1361 (JDB); *Onsongo v. Republic of Sudan* (D.D.C.), 08-cv-1380 (JDB); and *Opati v. Republic of Sudan* (D.D.C.), 12-cv-1224 (JDB).

provided to State, to confirm that State had received all of the information it determined was necessary to verify SCRA eligibility. Another analyst then reviewed and confirmed that State had received the documents, and a third analyst reviewed any discrepancies to ensure that our analysis was complete. This analysis allowed us to confirm that State established and used a consistent process to verify eligibility.

We assessed the reliability of data in this documentation by conducting manual and electronic testing to identify any missing data or logical errors. We determined that the data were sufficiently reliable for our purpose of examining the extent to which State verified potential recipients' eligibility for SCRA compensation. We also corroborated, through interviews with State officials and the bombing victim's legal counsel, that the documentation the legal counsel provided to State was sufficient to meet State's guidance for verifying eligibility.

To examine the extent to which State determined compensation amounts in accordance with the act's requirements, we analyzed federal laws, State reports, relevant State policies and guidance, and documents provided by the bombing victims' legal counsel. Specifically, we analyzed the SCRA's requirements and State's congressional reporting to understand the compensation and parity requirements that State followed for each of the eligibility categories established by the act.⁴ We also analyzed policies and guidance on State's processes to ensure parity in compensation determinations for recipients of SCRA and United States–Sudan Claims Settlement Agreement (USSCSA) compensation.

Further, we reviewed supporting documentation provided by the bombing victims' legal counsel, such as copies of court-ordered Special Masters reports that described the victims' injuries and experiences, which State used to assess eligible employees' or contractors' injuries and determine

⁴For eligible recipients in category 1, the SCRA required that compensation be based on the same standards used to determine compensation for employees or contractors injured in the bombings who were U.S. citizens when the bombings occurred. For the purpose of the category 1 parity analysis for similarly situated individuals, a comparable United States–Sudan Claims Settlement Agreement (USSCSA) recipient is an individual injured in connection with the bombings who was a U.S. citizen at the time of the attacks and received compensation from amounts made available under USSCSA. For eligible recipients in categories 2 and 3, the SCRA required that compensation be on an equal basis or, where applicable for certain category 3 recipients, a pro rata basis with compensation for USSCSA recipient family members of U.S. employees or contractors injured in connection with or killed during the bombings who were U.S. citizens when the bombings occurred.

SCRA compensation for them and their eligible family members. Specifically, to assess the extent to which State ensured parity in compensation for category 1 SCRA recipients, we compared those recipients' injuries and compensation amounts with injuries and compensation amounts for certain USSCSA recipients.⁵ To determine whether injuries were similar, we reviewed injury descriptions and related medical information pertaining to SCRA and USSCSA recipients documented in the Special Masters reports.⁶ To assess the extent to which State ensured parity in compensation for category 2 and 3 SCRA recipients, we compared the compensation amounts provided to SCRA and USSCSA recipients.

We assessed the reliability of data in this documentation by conducting manual and electronic testing to identify any missing data or logical errors. We determined that the data were sufficiently reliable for our purpose of examining the extent to which State determined compensation in accordance with the act's requirements. Moreover, we interviewed State officials and the bombing victims' legal counsel to corroborate our understanding of State's processes for determining SCRA compensation and ensuring parity.

To examine the extent to which State distributed compensation payments in accordance with the act's requirements, we reviewed predistribution requirements outlined in the SCRA. We reviewed the authorization letters required by the SCRA—outlining the amount of compensation the individual would receive and the standards used to determine that amount, taking into account the individual's final judgment amount—that

⁵For the purposes of this report, SCRA recipients are U.S. employees or contractors injured in the bombings who became U.S. citizens after the bombings but before the act's enactment, as well as family members of U.S. employees or contractors injured or killed in the bombings who were U.S. citizens as of the date of the act's enactment, who received compensation under the SCRA. USSCSA recipients are individuals injured in the bombings who were U.S. citizens on or before the date of the bombings, their family members, and family members of U.S. citizens killed during the bombings, who received compensation from funds made available under the USSCSA.

⁶According to State officials, parity of compensation required that injuries sustained in the bombings were qualitatively similar but not absolutely identical.

State sent to SCRA recipients. We also reviewed the waivers and releases required by the SCRA and executed by all 78 eligible recipients.⁷

In addition, we reviewed email communications between State and the bombing victims' legal counsel verifying the distribution of SCRA compensation and the amounts received. We assessed the reliability of the compensation data by conducting manual and electronic testing to identify any missing data or logical errors. On the basis of this review, we determined that the data were sufficiently reliable for our purpose of examining the extent to which State distributed SCRA compensation in accordance with the act's requirements. We also interviewed State officials and the bombing victims' legal counsel regarding State's processes for distributing SCRA compensation as required by the act.

We conducted this performance audit from February 2022 to December 2022 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.

⁷The SCRA directed State to require, before making a compensation payment to an eligible recipient, that the individual sign a waiver and release of all rights to assert claims for compensatory or other relief in any form or to enforce any judgment against Sudan in connection with, and any claims against the United States related to, any claim, suit, or action specified in Article II of the USSCSA.

Appendix II: GAO Contact and Staff Acknowledgments

GAO Contact	Chelsa Kenney, (202) 512-2964 or kenneyc@gao.gov
Staff Acknowledgments	In addition to the contact named above, Godwin Agbara (Assistant Director), Carolina Morgan (Analyst in Charge), Juan Pablo Ávila-Tournut, Maia O'Meara, Pamela Davidson, Neil Doherty, Reid Lowe, David Lutter, and Alex Welsh made key contributions to this report.

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