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## OFFICE OF INSPECTOR GENERAL

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# AUDIT OF COMPLIANCE WITH THE TIAHRT AMENDMENT UNDER USAID/GUATEMALA'S COOPERATIVE AGREEMENTS WITH THE FAMILY WELFARE ASSOCIATION OF GUATEMALA (APROFAM)

AUDIT REPORT NO.1-520-06-007-P  
AUGUST 21, 2006

SAN SALVADOR, EL SALVADOR



**USAID**  
FROM THE AMERICAN PEOPLE  
*Office of Inspector General*

August 21, 2006

**MEMORANDUM**

**TO:** USAID/Guatemala Acting Director, Todd Amani  
Regional Contracting Officer, Luis Garcia

**FROM:** Regional Inspector General/San Salvador, Timothy E. Cox "/s/"

**SUBJECT:** Audit of Compliance with the Tiahrt Amendment under USAID/Guatemala's Cooperative Agreements with the Family Welfare Association of Guatemala (APROFAM) (Report No. 1-520-06-007-P)

This memorandum transmits our final report on the subject audit. We have carefully considered your comments on the draft report in finalizing the audit report and have included your response in Appendix II of the report.

The report includes six recommendations intended to help prevent future violations of the Tiahrt Amendment and better ensure that comprehensible information is given to clients considering voluntary sterilization. Based on your comments and documentation provided, final action has been taken on Recommendation Nos. 2, 3, and 5. Management decisions for Recommendation Nos. 1, 4, and 6 can be recorded when we have agreed with USAID/Guatemala on a firm plan of action, with target dates, for implementing the recommendations. In this regard, please advise us in writing, within 30 days, of the actions planned to implement these recommendations. Determination of final action on the recommendations currently without final action will be made by the Audit, Performance, and Compliance Division (M/CFO/APC).

Again, I want to express my appreciation for the cooperation and courtesy extended to my staff during the audit.

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# SUMMARY OF RESULTS

The Regional Inspector General/San Salvador conducted this audit to determine if activities under USAID/Guatemala's Cooperative Agreements with APROFAM (*la Asociación Pro-Bienestar de la Familia de Guatemala* or the Family Welfare Association of Guatemala) complied with the Tiahrt Amendment. (See page 4.)

The Tiahrt Amendment's provisions that are relevant to USAID/Guatemala and APROFAM are that:

(1) Service providers or referral agents in the project shall not implement or be subject to quotas, or other numerical targets, of total number of births, number of family planning acceptors, or acceptors of a particular method of family planning (this provision shall not be construed to include the use of quantitative estimates or indicators for budgeting and planning purposes).

(2) The project shall not include payment of incentives, bribes, gratuities, or financial reward to (A) an individual in exchange for becoming a family planning acceptor, or (B) program personnel for achieving a numerical target or quota of total number of births, number of family planning acceptors, or acceptors of a particular method of family planning.

(3) The project shall not deny any right or benefit, including the right of access to participate in any program of general welfare or the right of access to health care, as a consequence of any individual's decision not to accept family planning services.

(4) The project shall provide family planning acceptors comprehensible information on the health benefits and risks of the method chosen, including those conditions that might render the use of the method inadvisable and those adverse side effects known to be consequent to the use of the method. (See page 3.)

APROFAM did not comply with the first two Tiahrt Amendment restrictions described above. From September 2002 through June 2005, APROFAM violated the Tiahrt Amendment by establishing quotas for numbers of sterilizations and paying promoters in its marketing department bonuses based on the number of sterilizations actually performed. These quotas and bonuses were ended in July 2005, after they were discovered by USAID/Guatemala in June 2005. None of the sterilization clients interviewed indicated that they had been pressured to submit to sterilization, and none of them expressed regret at having undergone the procedure. All of the sterilization clients interviewed stated that they paid for the sterilization procedure, paid for their own transportation to and from the operating site, and had not received any gifts or rewards in return for undergoing sterilization. All of the clients stated that they had received information on the risks and benefits of the sterilization procedure and all of them had signed an informed consent form for the procedure. (See page 5.)

In addition to the Tiahrt Amendment violations described above, the audit also identified opportunities to better ensure that individuals receive sufficient information to make an informed decision. (See page 10.)

The audit report contains six recommendations to help prevent future violations of the Tiahrt Amendment and better ensure that comprehensible information is given to clients considering voluntary sterilization. (See pages 8 and 11.) USAID/Guatemala is in basic agreement with these recommendations. Our evaluation of USAID/Guatemala's comments is provided after each finding and recommendation in the report, and USAID/Guatemala's comments in their entirety are included in Appendix II.

# BACKGROUND

The Tiahrt Amendment (named after its author, Representative Todd Tiahrt of Kansas) legislates specific requirements for international family planning service delivery projects supported by USAID beginning in 1999. The amendment has consistently been included in subsequent appropriations and is expected to remain a part of appropriation law for the foreseeable future. The Tiahrt Amendment's provisions that are relevant to USAID/Guatemala and APROFAM (*la Asociación Pro-Bienestar de la Familia de Guatemala* or the Family Welfare Association of Guatemala) require that:

(1) Service providers or referral agents in the project shall not implement or be subject to quotas, or other numerical targets, of total number of births, number of family planning acceptors, or acceptors of a particular method of family planning (this provision shall not be construed to include the use of quantitative estimates or indicators for budgeting and planning purposes).

(2) The project shall not include payment of incentives, bribes, gratuities, or financial reward to (A) an individual in exchange for becoming a family planning acceptor, or (B) program personnel for achieving a numerical target or quota of total number of births, number of family planning acceptors, or acceptors of a particular method of family planning.

(3) The project shall not deny any right or benefit, including the right of access to participate in any program of general welfare or the right of access to health care, as a consequence of any individual's decision not to accept family planning services.

(4) The project shall provide family planning acceptors comprehensible information on the health benefits and risks of the method chosen, including those conditions that might render the use of the method inadvisable and those adverse side effects known to be consequent to the use of the method.

USAID is required to report violations to the Congress within 60 days after the Administrator of USAID determines that a violation has occurred.

APROFAM is Guatemala's largest non-governmental organization and provides family planning information, products, and services to all 22 departments of Guatemala. APROFAM provides family planning services to almost a third of the current family planning users in Guatemala.

APROFAM has three major organizational components that promote and provide family planning information, products and services: (1) Clinical Services, which includes a network of 30 clinics as well as four mobile surgical units; (2) the Rural Development Project, which includes about 60 educators and 3,200 rural promoters; and (3) the Marketing Department, which includes 11 service promotion/referral agents and three supervisors who work with the APROFAM mobile surgical units. APROFAM offers a wide range of family planning methods including contraceptive pills, condoms, injectable contraceptives, implants, intra-uterine devices (IUDs), and sterilization.

USAID/Guatemala has financed APROFAM for almost 40 years. Under a previous cooperative agreement with APROFAM (1998-2005), USAID provided \$20.1 million in financing and family planning supplies to APROFAM. Under the current \$9.5 million cooperative agreement (2005-2009), USAID/Guatemala provides support to help APROFAM provide a wide range of family planning and other reproductive health services primarily, but not exclusively, to lower-income families in Guatemala. During the period covered by this audit, September 2002 through May 2006, USAID spent \$8.1 million for APROFAM activities.

## **AUDIT OBJECTIVE**

The Office of Inspector General (OIG) was informed of possible violations of the Tiahrt Amendment following discussions between the Global Health Bureau and USAID/Guatemala concerning a planned OIG audit of the family planning program in Guatemala. That audit focused on effectiveness and efficiency issues affecting the family planning program and will be the subject of a separate report. This audit, focusing on compliance with the Tiahrt Amendment, was designed to answer the following question:

- Did activities under USAID/Guatemala's cooperative agreements with APROFAM comply with the Tiahrt Amendment?

Appendix I contains a discussion of the audit's scope and methodology, including a significant limitation on the scope of the audit.

# AUDIT FINDINGS

## **Did activities under USAID/Guatemala's cooperative agreements with APROFAM comply with the Tiaht Amendment?**

Activities under USAID/Guatemala's cooperative agreements with APROFAM did not comply with the Tiaht Amendment. From September 2002 through June 2005, APROFAM violated the Tiaht Amendment by establishing quotas for numbers of sterilizations and paying promoters in its marketing department bonuses based on the number of sterilizations actually performed. This much is well established. However, we received conflicting information on the details of how the quotas and bonuses worked. While there were numerous inconsistencies between what we were told by APROFAM officials and what supporting documents indicated, and between different supporting documents, the weight of the evidence examined indicates that APROFAM:

- (1) Established quotas of 25, 37, or 45 sterilizations per month, depending on the timeframe, region, and number of promoters in each region, for promoters in its marketing department.
- (2) Paid the promoters a bonus of \$344 (62 percent of their total monthly compensation of \$553) if the specified numbers of sterilizations were performed. If the specified numbers of sterilizations were not performed, the promoters received a pro-rated bonus based on the number of sterilizations that were performed.

Based on interviews with 103 current sterilization clients, 96 former sterilization clients, and 107 APROFAM staff, as well as a review of APROFAM records, we have concluded that these quotas and bonuses were ended in July 2005, after USAID/Guatemala discovered them and instructed APROFAM to end them in June 2005. During our audit, we found no evidence that that would indicate that the other provisions of the Tiaht Amendment were violated. (These other provisions prohibit the payment of incentives or financial rewards to family planning clients and the denial of rights or benefits to individuals who decline to use family planning, and require that potential family planning clients be given comprehensible information on the benefits and risks of the family planning method chosen). None of the sterilization clients we interviewed provided information indicating that they had been pressured to submit to sterilization, and none of them expressed regret at having undergone the procedure. All of the sterilization clients interviewed stated that they paid for the sterilization procedure, paid for their own transportation to and from the operating site, and had not received any gifts or rewards in return for undergoing sterilization. Most clients stated that they had received information on the risks and benefits of the sterilization procedure and all of them had signed an informed consent form for the procedure.

Based on visits to 9 of 30 APROFAM clinics and 7 sites where mobile surgical units were performing sterilization procedures, as well as interviews with APROFAM staff as mentioned in the previous paragraph, we concluded that APROFAM service providers were knowledgeable about family planning and were experienced in providing information comprehensible to potential family planning acceptors. Their knowledge



about family planning methods was accurate and included knowledge of the health benefits, risks, and side effects of available family planning methods.

The Tiahrt violations that occurred from September 2002 through June 2005 are discussed in the following section. The subsequent section does not deal with compliance with the Tiahrt Amendment. Rather, it deals with opportunities for better ensuring that family planning clients provide their informed consent, a principle that underlies the Tiahrt Amendment and forms the basis for USAID support for any family planning program.

## **Tiahrt Requirements Were Violated**

Summary: The Tiahrt Amendment prohibits targets or quotas for service providers and referral agents and prohibits the payment of incentives to program personnel based on the number of family planning acceptors or the number of acceptors of a particular method. APROFAM violated these provisions by establishing quotas and paying bonuses to promoters in its marketing department based on the number of sterilizations performed. USAID/Guatemala did not monitor compliance with the Tiahrt Amendment, contributing to a weak control environment where violations could occur and not be detected. As a result, the principles of voluntarism and informed consent were compromised and \$66,287 in USAID funds were used for an ineligible purpose: that is, for payment of bonuses to APROFAM promoters based on the number of sterilizations performed.

The specific requirements of the Tiahrt Amendment apply to projects that receive USAID funds (money, technical assistance, or commodities) in support of family planning service delivery projects. The provisions of the Tiahrt Amendment that were violated require that in family planning projects:

- Service providers and referral agents not implement or be subject to quotas relating to the number of births, the number of family planning acceptors, or the number of acceptors of a particular family planning method. (Quantitative estimates or indicators used for budgeting or for planning purposes are permissible.)
- No incentives be offered to individuals in exchange for becoming acceptors of a particular family planning method or to program personnel<sup>1</sup> for achieving targets or quotas related to the number of births, the number of family planning acceptors, or the number of acceptors of a particular family planning method.

These requirements were also incorporated into the cooperative agreements between USAID/Guatemala and APROFAM in a standard provision entitled “Voluntary Population Planning.”

During the period from September 2002 though June 2005, APROFAM violated these requirements. The evidence we obtained from APROFAM indicates that health promoters working for the marketing department received financial incentives or

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<sup>1</sup> The term “program personnel” applies not only to service providers and referral agents, but also to persons who manage or perform other functions for an organization that implements a service delivery project.

bonuses for achieving a monthly quota of 25, 37, or 45 sterilizations depending on the region, the year, and the number of promoters working in each region. The promoters received a bonus of \$344 (62 percent of their total monthly compensation of \$553) if they achieved their quotas.<sup>2</sup> Where the quotas were not met, the promoters received a prorated bonus based on the number of sterilizations performed.<sup>3</sup> As a result, the principles of voluntarism and informed consent were compromised and a total of \$66,287 in USAID funds were used for an ineligible purpose: that is, to pay bonuses to APROFAM promoters based on the number of sterilizations performed.

This situation came about because USAID/Guatemala did not monitor the APROFAM family planning program for compliance with the Tiahrt Amendment. Key USAID/Guatemala staff told us that they were not familiar with Tiahrt Amendment requirements, and APROFAM staff members that we interviewed had a low awareness of specific Tiahrt requirements. USAID/Guatemala did not provide guidance or training on a regular basis to APROFAM to ensure their compliance with the Tiahrt Amendment. None of USAID/Guatemala's trip reports contained evidence that USAID staff checked for compliance with the Tiahrt Amendment, and USAID/Guatemala's monitoring checklist did not contain provisions for monitoring compliance with the Tiahrt Amendment.

In compliance with the terms of the cooperative agreements, annual financial audits of APROFAM were conducted, and the external financial auditors were responsible for identifying instances of non-compliance with the cooperative agreement terms or applicable laws and regulations that could have a direct and material effect on APROFAM's fund accountability statement (a financial statement showing how USAID funds were used). In the most recent audit that was completed, the auditors examined a sample of payroll expenditures that contained several bonuses paid to promoters. The auditors recognized that these bonuses represented potential non-compliance with the cooperative agreement standard provision entitled "Voluntary Population Planning" which incorporated the Tiahrt Amendment requirements. However, after discussing the matter with a senior APROFAM official and reviewing documentation indicating that clients were not being coerced by APROFAM, such as signed informed consent forms, the auditors were persuaded that the bonuses were permitted under the terms of the agreement. (Of course, this was an incorrect conclusion.) The "Voluntary Population Planning" provision is twelve pages long, and many terms must be interpreted in a precise manner in order to correctly interpret the provision. It is not entirely surprising that a non-native English speaker without specialized experience in the family planning field would have difficulty understanding the requirements, especially if he or she is not already acquainted with the long history of the interaction between USAID and the Congress on family planning issues. Still, the failure to recognize instances of non-compliance greatly limits the usefulness of financial audits as an internal control. (It is

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<sup>2</sup> Throughout this discussion paper we use an exchange rate of Q.7.62 to \$1.00, the prevailing rate at the end of our audit in June 2006.

<sup>3</sup> During the earlier part of this period – e.g., in 2003 – the contracts with promoters indicated that the bonuses would be based on the number of sterilizations performed, the amount of medicines sold, and referrals to clinics for sterilizations, PAP smear tests, and other services. However, only the quota for sterilizations was quantified and only the number of actual sterilizations performed was taken into account in the payment of bonuses. That is, the amount of medicines sold and number of referrals for PAP smear tests and other services had no effect on the payment of the bonuses.

important to acknowledge that RIG/San Salvador is responsible for the quality of audits of USAID programs in the Latin America and the Caribbean region.)

The quotas and bonuses finally were discovered by USAID/Guatemala in June 2005, when a USAID/Guatemala employee encountered an apparent double salary payment for an APROFAM promoter during her review of Government of Guatemala tax exemption forms submitted to the Mission by APROFAM. Upon further investigation, USAID/Guatemala learned that the apparent double payment was actually two separate payments, one for the fixed salary and the other one for a bonus to the promoter for achieving sterilization targets.

Although USAID/Guatemala discovered the sterilization quotas and bonuses in June 2005, it did not report them to USAID/Washington, so that USAID could report the Tiahrt violations to Congress in accordance with the law, until about seven months later. Mission officials finally discussed the situation with USAID/Washington officials in February 2006, during a phone call to discuss an upcoming OIG audit of USAID/Guatemala's family planning program. The reasons why the violations were not reported in a timely fashion at a minimum include poor communication within the Mission, a failure to document important findings and communications until well after the fact, and, perhaps, a need for better training for Mission staff on compliance requirements applicable to USAID family planning programs.

Although USAID/Guatemala and APROFAM have taken steps to address the reported violations, have discontinued the sterilization quotas and bonuses, have provided training on the Tiahrt Amendment, and have begun to address the monitoring weaknesses described above, they have not completely corrected the weak control environment. Therefore, to avoid any future violations with the Tiahrt Amendment we are making the following recommendations:

*Recommendation No 1: We recommend that USAID/Guatemala arrange for training, at least annually, on family planning compliance requirements for its own staff and partners.*

*Recommendation No 2: We recommend that USAID/Guatemala establish a plan to monitor Tiahrt vulnerabilities through regular site visits, using a checklist that includes detailed procedures for monitoring the policies and practices of APROFAM and other partners to ensure that incentives or financial rewards are not tied to the acceptance of family planning or any particular method of family planning.*

*Recommendation No 3: We recommend that USAID/Guatemala require APROFAM to periodically report the details of its variable compensation plans for employees, including sufficient information to permit USAID/Guatemala to verify that APROFAM is in compliance with Tiahrt Amendment requirements.*

*Recommendation 4: We recommend that USAID/Guatemala establish a process within the Mission for reporting any future non-compliance with Tiahrt Amendment requirements in a timely manner.*

*Recommendation No 5: We recommend that USAID/Guatemala resolve the ineligible questioned costs of \$66,287 and recover from APROFAM the amounts determined to be unallowable.*

**Evaluation of Management Comments** – USAID/Guatemala stated that the Tiahrt violations were not reported immediately because of a lack of awareness of the Tiahrt provisions within both USAID/Guatemala and APROFAM. The Mission is in basic agreement with the above recommendations.

With regard to Recommendation No. 1, USAID/Guatemala provided training to four APROFAM staff members in June 2006 and has developed training materials and a plan to provide additional training to its staff and partners during the rest of FY 2006. APROFAM reportedly provided training on Tiahrt requirements to 96 of its employees, but the APROFAM trainer herself had not received training on Tiahrt requirements. During our audit, we found a low level of awareness of specific Tiahrt requirements, and we believe that a more ambitious and far-reaching training program than the one outlined by the Mission will be needed to overcome this problem. A management decision for Recommendation No. 1 can be recorded when we agree with USAID/Guatemala on a plan of action with timeframes for implementing the recommendation.

With regard to Recommendation No 2, the Mission developed a monitoring plan and checklists for monitoring Tiahrt compliance. Final action has been taken on this recommendation.

USAID/Guatemala agreed with Recommendation No. 3 and has requested APROFAM to regularly report on its variable compensation plans in its quarterly reports and to report any changes to the compensation plan. The quarterly report for the period of April to June 2006 produced by APROFAM incorporated this information. Final action has been taken on this recommendation.

In commenting on Recommendation 4, USAID believed that the lack of awareness of Tiahrt provisions, more than a lack of a process for reporting non-compliance, was the reason why the Tiahrt violations were not reported in a timely manner. Nonetheless, the Mission disseminated a flowchart that describes the necessary interaction between implementing partners, the Mission, and USAID/Guatemala in the event of any future violations. In fact, the flowchart describes the process that was eventually followed in reporting the Tiahrt violations that are the subject of this audit report. However, the flow chart does not include a timeframe for reporting violations or require that communications be documented. Given the extreme sensitivity associated with Tiahrt violations, and given that the Tiahrt violations discussed in this report were not reported timely and that important communications were not documented, we believe that USAID/Guatemala needs to explicitly address these requirements in its procedures. A management decision can be recorded once we have agreed with the Mission on a firm plan of action, with timeframes, for addressing this recommendation.

USAID/Guatemala agreed with Recommendation No. 5 and has provided documentation that APROFAM has reimbursed USAID the amount of \$66,287 of ineligible questioned costs on August 8, 2006. Based on the supporting documentation provided, final action has been taken on Recommendation No. 5.

## Information Given to Sterilization Clients Should Be Improved

Summary: USAID policy requires that sterilization clients give their “informed consent” to the procedure: i.e., they must be informed in advance of the potential risks and benefits, the availability of alternative family planning methods, and so on. We observed opportunities to improve the quality and quantity of information given to clients by distributing standardized educational materials to APROFAM staff and requiring their use, providing information to clients in advance of the procedure, and providing information in writing. Logistical issues and high staff turnover within APROFAM mobile surgical units sometimes made it difficult to ensure that quality information was provided consistently to potential family planning clients. Taking advantage of these opportunities for improvement will better ensure that clients have a sufficient basis for giving their informed consent prior to the procedure.

USAID Policy Determination 3 provides that USAID funds can only be used to support voluntary sterilization activities if the client has been advised of the surgical procedures to be followed, the discomforts and possible risks, the benefits to be expected, the availability of alternative methods of family planning, the purpose of the operation and its irreversibility, and his or her option to withdraw consent anytime prior to the operation. USAID missions are responsible for monitoring USAID-assisted voluntary sterilization programs to ensure continuing adherence to the principle of informed consent. These requirements go beyond the “comprehensible information” requirements of the Tiahrt amendment that were outlined previously.

Based on observations at four APROFAM clinics and seven sites where mobile surgical units were performing sterilizations, there are opportunities to better ensure that individuals interested in sterilization procedures are given sufficient information to support informed consent:

- First, there was considerable variation in the quantity and quality of information given to clients. One doctor provided as much as 40 minutes of information using flip charts that illustrated the procedure while another doctor took as little as five minutes and provided less detailed information. Providing standardized flip charts, scripts, and/or checklists of topics to be covered would promote more uniformity in the information provided to potential sterilization acceptors.
- Second, the timing of the communication with the clients on the procedure, risks, benefits, availability of alternative methods, and so on, is not ideal in most cases. Typically, the informational presentation by the doctor is given immediately prior to surgery when clients had been fasting and already changed into hospital gowns. In some cases patients appeared nervous or distracted and perhaps not in an ideal frame of mind to make an important, irreversible decision. In other cases, patients arrived late and missed the informational presentation entirely. We believe that the informational presentation to potential sterilization clients should be provided in sufficient time prior to the actual procedure being performed in order to better ensure that clients are providing informed consent.
- Third, most clients had not been given any type of written information. (While many of APROFAM’s clients are not literate, many of them can find someone who can read

them the information.) During visits to APROFAM clinics and sites where mobile surgical units were providing sterilization services, family planning brochures and written information about the operation were not being distributed prior to the operation. Although brochures on some contraceptive methods were available upon request at some of the clinics, there were no brochures at all on the benefits and risks of having an operation. No written information on the risks and benefits of the sterilization or post-operation self-care was provided at any of the seven mobile sites we attended and five of the eight fixed clinics visited. Only three clinics visited provided beneficiaries with one page of written instructions about post-operation self-care.

These opportunities for improving the “informed consent” information that APROFAM provides to its clients arise because of logistical issues associated with the mobile surgical units – an APROFAM employee would generally have to arrive on site a day earlier, or schedule a separate visit, in order to provide “informed consent” information prior to the day of surgery. Another factor is the high turnover of employees within APROFAM’s mobile surgical units, coupled with the fact that APROFAM does not provide standardized informational materials to the medical staff to share with clients. Improving the quality of information provided to sterilization clients will better ensure that the clients are making voluntary and fully informed decisions.

*Recommendation No. 6: We recommend that USAID/Guatemala obtain evidence that APROFAM has (a) provided a standardized checklist or script and visual materials for providing “informed consent” information to potential sterilization clients, (b) arranged for its staff to provide “informed consent” information to sterilization clients in sufficient time prior to the operation whenever practical, and (c) distributes appropriate written “informed consent” information to potential family planning clients.*

**Evaluation of Management Comments** – USAID/Guatemala agreed with Recommendation No. 6 and has provided us with documentation showing that APROFAM has developed a checklist and an “informed choice” brochure for providing information to sterilization clients. The brochure includes comprehensive information on all family planning methods. APROFAM also developed a hand-out for sterilization clients that provides the clients with written information on important pre- and post-surgery considerations. However, APROFAM has not developed or implemented a process for distributing this information to potential sterilization clients. Also, USAID/Guatemala developed a questionnaire for conducting exit interviews with family planning clients during monitoring visits, but the questionnaire does not include a question to check that sterilization patients receive these brochures. A management decision will be reached for Recommendation No. 6 when we agree with USAID/Guatemala on a firm plan of action with timeframes for implementing the recommendation.

# SCOPE AND METHODOLOGY

## Scope

The audit was conducted by the Regional Inspector General/San Salvador in accordance with generally accepted government auditing standards to determine whether activities under USAID/Guatemala's cooperative agreements with APROFAM complied with the Tiahrt Amendment.

While we were able to answer the audit objective, and concluded that APROFAM's salary and bonus plan violated certain restrictions of the Tiahrt Amendment, the audit was subject to a scope limitation in that we received conflicting information on the details of the quota-based bonus system. For example, we identified numerous inconsistencies between information provided by APROFAM officials and available supporting documents concerning the levels at which quotas were established and the details of bonuses paid to some individuals. In reporting on these details, we relied on the weight of the evidence examined, even though there was some conflicting evidence.

In planning and performing the audit, we assessed the Mission's controls related to compliance with provisions of the Tiahrt Amendment. The management controls identified included performance monitoring plans, the Mission's Annual Reports, the Mission's data quality assessments, the Mission's annual self-assessment of management controls as required by the Federal Managers Financial Integrity Act, reports on the cognizant technical officers' field visits, program progress reports, and day-to-day interaction with program implementers.

The audit was conducted at the offices of USAID/Guatemala, the offices of the Mission's implementers in Guatemala City, as well as at APROFAM facilities and Ministry of Health (MOH) facilities throughout Guatemala from March 27 to June 9, 2006. The audit covered the period from September 1, 2002 through May 26, 2006.

We judgmentally selected sites to visit, giving preference to communities in which higher numbers of sterilizations were performed by APROFAM. Our site selection was also designed to include a representative mix of urban and rural communities. In total, we visited 11 of Guatemala's 22 departments, covering 9 of APROFAM's 30 fixed clinics and 8 temporary sites where APROFAM's mobile units had provided sterilization services. The number of interviews conducted at each site visited is shown in Table 1 below.

**Table 1. Interviews with Family Planning Clients**

Location (City, Department)	Current Sterilization Clients	Current Clients Other Methods	Past Sterilization Clients
<b>APROFAM Mobile Clinics</b>	<b>72</b>	<b>0</b>	<b>42</b>
Santa Catarina Pinula, Santa Rosa	7	NA	5
Tierra Nueva II, Guatemala	11	NA	5
Monterrico, Jutiapa	10	NA	5

Location (City, Department)	Current Sterilization Clients	Current Clients Other Methods	Past Sterilization Clients
Retalhuleu, Retalhuleu	18	NA	6
Patulul, Suchitepequez	14	NA	5
Olintepeque, Quetzaltenango (These sterilizations were not funded by USAID.)	2	0	0
Esquipulas, Chiquimula	10	NA	5
La Gomera, Escuintla	NA	NA	11
<b>APROFAM Fixed Clinics</b>	<b>31</b>	<b>30</b>	<b>54</b>
Escuintla, Escuintla	NA	3	5
Central, Guatemala	NA	10	0
Retalhuleu, Retalhuleu	NA	1	8
Huehuetenango, Huehuetenango	NA	5	2
Quetzaltenango, Quetzaltenango	6	5	7
San Pedro Sacatepequez, San Marcos	6	0	10
Amatitlan, Guatemala	13	0	10
Adolescentes, Guatemala	6	0	5
Quiche, Quiche	NA	6	7
<b>Total</b>	<b>103</b>	<b>30</b>	<b>96</b>

In the above table, “NA” indicates not applicable; that is, the service was not offered during the day of our visit.

The 103 interviews with current sterilization clients represented 80 percent of the clients receiving sterilization services on the days we visited the sterilization sites. The 96 past sterilization clients visited represent 0.2 percent of the 45,574 clients who received sterilization services from 2002 through 2005. We used a judgment sampling methodology (rather than a random sampling methodology) because in our judgment it offered the best tradeoff between reliability and cost.

## Methodology

To answer the audit objectives, we visited 17 health care facilities, conducted interviews with USAID officials, APROFAM personnel, and APROFAM clients, and reviewed relevant documentation produced by APROFAM and USAID.

During the course of the audit, we interviewed 133 current family planning service recipients, 96 past recipients, and personnel from all three organizational components that provide family planning information, products, and services as shown in Table 2 below:

**Table 2. Breakdown of APROFAM Personnel Interviewed by Program Component**

Program Component	Total Population	Sample Interviewed
Institutional	Not determined	11
Clinical Services	Not determined	38



<b>Program Component</b>	<b>Total Population</b>	<b>Sample Interviewed</b>
Medical staff	Not determined	30
Other	Not determined	8
<b>Marketing Department</b>	<b>25</b>	<b>19</b>
Supervisor	3	3
Sale promoter	11	8
Mobile Unit: Medical doctors	3	3
Mobile Unit: Nurses	8	5
<b>Rural Development Project</b>	<b>3,244</b>	<b>39</b>
Coordinators	4	4
Educators	56	14
Volunteer promoters	3,184	21
<b>TOTAL</b>	Not determined	<b>107</b>

The audit team developed separate questionnaires for each category of person interviewed in order to ensure consistency in the subjects covered. The questionnaires were designed to determine if requirements of the Tiahrt were violated, if the clients' decisions to undergo sterilization were voluntary, and if the clients gave their informed consent before undergoing the sterilization procedure. We also assessed whether or not APROFAM officials and service providers had received training and guidance on the provisions of the Tiahrt Amendment.

In order to test different aspects of the Mission's monitoring system, we interviewed Mission cognizant technical officers and other responsible officials and reviewed relevant documentation produced by USAID/Guatemala. The documentation included Mission correspondence, an assessment of the reported Tiahrt violation, the Mission's Performance Monitoring Plan, Mission Annual Reports, and field visit reports.

With regard to APROFAM, we reviewed their cooperative agreements, work plans, progress reports, training reports, and activity reports produced by APROFAM promoters. We also reviewed APROFAM's contracts with its staff involved with the family planning program to determine if bonuses and targets were mentioned. We verified the amount of bonuses paid during the period from September 2002 to mid-2005 by reviewing canceled checks and bonus computations for certain months for all promoters and supervisors. At the visited sites, we reviewed consent forms to determine if the forms had been completed and signed by the recipient. At the mobile and fixed clinics where sterilizations were performed, we observed the interactions between APROFAM staff and the client signing the consent form, and we listened to information provided to patients as they were getting ready for the operation. We observed the doctors providing explanatory information to the clients prior to the procedure. We also observed the care and attention given to clients by APROFAM nurses and doctors after the surgery.

Testing the collected data consisted of comparing reported information to supporting documents such as schedules, field reports, doctor's reports, income reports, and other documents for selected months for selected activities. We selected months for review judgmentally, trying to pick months where the promoters had not achieved their

sterilization targets to validate the amount of bonus paid. We also traced the payment of bonus reported to a cancelled check or source document.

Our audit team included a demographer with experience in implementing family planning and public health activities.

In assessing compliance with the provisions of the Tiahrt Amendment, we considered that a single violation of the Tiahrt Amendment would be significant and reportable.

# MANAGEMENT COMMENTS

## MEMORANDUM

**To:** Tim Cox, Regional Inspector General

**From:** Todd Amani, Acting Mission Director, USAID/Guatemala

**Subject:** Comments on the Draft Audit Report of a Tiaht Violation

**Date:** August 2, 2006

Thank you for the opportunity to review the formal draft copy of this Audit Report. We appreciate the extensiveness and quality of the Audit you conducted on the Tiaht violation that was discovered in late June 2005 and immediately corrected by our staff. The comprehensive nature of this audit gives us a high degree of confidence in your basic findings.

### General comments

In June 2005, the Mission instructed APROFAM to eliminate its use of salary supplement incentives and marketing quotas that were not permitted by U.S. law. The audit confirmed that such incentives had been used and contributed additional detailed information about the scope and content of the bonuses. The large sample of APROFAM clients that the RIG contacted and interviewed – 96 past sterilization clients and 103 current sterilization clients in 9 of 30 APROFAM clinics and 7 additional sites where mobile clinics were offering sterilization services, covering 9 of Guatemala's 22 departments – is a strong foundation for determining whether the quotas and bonuses resulted in a coercive environment or pressure to undergo sterilizations – which is the underlying concern of the Tiaht provisions.

The key findings addressing this question are that “none of the sterilization clients interviewed indicated that they had been pressured to submit to sterilization, and none expressed regret at having undergone the procedure” and that “All of the sterilization clients interviewed stated that they paid for the sterilization procedure, paid for their own transportation to and from the operating site, and had not received any gifts or rewards in return for undergoing sterilization.” The audit also confirmed that “All of the clients stated that they had received information on the risks and benefits of the sterilization procedure and all of them had signed an informed consent form for the procedure”. We note that our review of trends in use of family planning methods associated with APROFAM's mobile clinics do not show evidence of an increased level of sterilizations due to the quotas and bonuses or a decrease when they were discontinued.

These findings clearly indicate that, notwithstanding that APROFAM established salary supplement incentives and marketing quotas that are not permitted by U.S. law, the basic principles of voluntary family planning and informed choice for APROFAM clients were not compromised.

### Comments on specific findings and assertions

**“Cause” of Tiahrt violation** – We are convinced that the primary reason this violation occurred and was not reported immediately was lack of awareness of the Tiahrt provisions – both within APROFAM and our own staff. We believe that more frequent training for USAID and APROFAM staff on these provisions would have prevented the violation. Therefore we have focused attention on ensuring that APROFAM and USAID staff are knowledgeable and aware of these requirements as well as on monitoring. As currently stated, the cause of the Tiahrt violation was that USAID did not monitor the APROFAM family planning program for compliance with the Tiahrt Amendment. In fact, we relied heavily on the annual audits of APROFAM, managed by the RIG, for ensuring partner compliance with all terms and conditions in our assistance instrument, including the Tiahrt provisions. Nonetheless, we acknowledge that regular training in the Mission and greater awareness of the Tiahrt provisions in our own staff could have led to questions and discussion of these issues during routine monitoring efforts that may have prevented or uncovered the violation earlier.

**Correcting the violation** – Your narrative summary of the events associated with our discovery of the quota and bonus system that APROFAM established for its 11 marketing department promoters fails to mention that we immediately directed APROFAM to stop this practice and that APROFAM complied as of July 2005 (though it is implied in the Summary of Results on page 1). We therefore request that you correct the text of the draft audit report to provide a more complete version of the actions that were taken.

### Comments on recommendations

*We basically accept all of the recommendations and, based on actions already taken, we hereby request that all of them be closed upon issuance of this Audit Report. Documentation for each of the actions taken to implement the recommendations needed to strengthen the control environment has been provided to the RIG and accompanies this memorandum. Comments on each recommendation and the actions taken follow:*

**Recommendation 1 - Annual training for staff and partners on compliance:** We see this as the key recommendation addressing the factors that led to this violation, and we have taken the following actions to implement it:

- **USAID staff trained** - All USAID staff responsible for managing, backstopping and overseeing family planning programs are now fully cognizant of U.S. family planning statutory and policy requirements and the need to strengthen understanding, training, and comprehensive monitoring regarding these requirements. Family planning compliance subject and working files have been established.
- **Improved training materials developed** – We have developed training materials in Spanish and English and provided training on U.S. family planning statutory and policy requirements for all relevant staff and partners. These materials will be used in yearly training of USAID/Guatemala and partner staff and will be updated as appropriate.

- **Work objectives focused on training and monitoring** - All USAID staff that manage family planning programs now have work objectives or performance measures on compliance training and monitoring for Tiahrt and other key policy issues. Any new staff hired to work on family planning will also have work objectives or performance measures on compliance and monitoring for Tiahrt and other key policy issues.
- **Compliance coordinator designated** – We have appointed a Compliance Coordinator who is responsible for training staff and overseeing the monitoring and training plans.
- **Written information provided to partners** – We have sent to all partners the June 12, 2006 communiqué from the Bureau of Global Health regarding compliance with Family Planning Legislative and Policy Requirements: Performance-Based Financing Initiatives as well as other key documents explaining requirements
- **Requirements for reporting on compliance established** – We have added a specific reporting requirement in the APROFAM, URC, RTI and UNDP quarterly reporting requirements on compliance, training and monitoring; this requirement will be extended to all other partners as relevant.
- **Regular reviews of compliance instituted** - We have also added the requirement to review and report on compliance training and monitoring during annual portfolio reviews.
- **Partners’ staff trained** - APROFAM has replicated Tiahrt compliance training with its staff on three different dates and two training workshops have been held for the Ministry of Health and its NGO sub-grantees.

**Recommendation 2 – Monitoring for compliance through regular site visits and checklists:** We acknowledge the Mission’s responsibility for monitoring that is consistent with Agency guidance for monitoring assistance instruments and within the established limits of “substantial involvement” in managing cooperative agreements. We need to stress here that the annual audits managed by the RIG are also a critical element in the compliance monitoring process and should provide USAID with reasonable assurances that only eligible, supported costs are being claimed for reimbursement.

This recommendation has been implemented through the following actions (please see the attached documentation):

- **Checklist developed** – We have developed a Monitoring and Compliance Checklist that has been reviewed by USAID’s Bureau for Global Health and validated in the field.
- **Monitoring plan developed and implemented** – We have developed and have begun implementation of a Six-Month Site Visit Monitoring Plan (July – December 2006); subsequent six-month plans will be developed and implemented.

- **Field visits undertaken and monitoring reports completed** - Our staff and partners have already started to monitor for compliance in their field visits and submitted monitoring reports. Monitoring files have been established.
- **Compliance indicator developed and included in monitoring and evaluation plans** – We have developed a Compliance Indicator and have requested that APROFAM and the other major partners include it in their own monitoring and evaluation plans. Partners will report compliance on this new indicator via the Quarterly Reports and Annual Report.

We trust that the RIG will correct the deficiencies in the annual audit process that failed to identify the Tiaht violation so that the full range of monitoring mechanisms are in place and operating effectively.

**Recommendation 3 – Require reporting on variable compensation plans:** We sent a letter to APROFAM requesting that they regularly incorporate the variable compensation plan matrix into their quarterly report and report on changes. APROFAM’s Quarterly Report for the period April-June, 2006 incorporates these two requirements. Through this procedure, any changes in the compensation plan for employees are reported and USAID staff can review, on a quarterly basis, their current compensation plan to ensure that APROFAM is in compliance with the Tiaht Amendment. Information will be reviewed by USAID and verified during the annual audit of APROFAM.

**Recommendation 4 – Establish a process for reporting non-compliance:** Though lack of awareness of the provision and its reporting requirements, more than lack of a process, was the reason this violation was not reported immediately, we have implemented this recommendation. A schematic for staff training was developed and disseminated that outlines steps for timely reporting of any future vulnerabilities. This flowchart was reviewed by USAID’s Bureau for Global Health. In addition, in our compliance training materials, we have indicated the steps partners and staff should take if they have questions, concerns, or evidence of non-compliance with the requirements.

**Recommendation 5 – Recover unallowable costs:** A letter of collection signed by the Regional Agreement Officer was hand delivered to APROFAM Senior Management for payment of U.S. \$66,287 in costs disallowed under the program. APROFAM’s Executive Director has submitted a check to the Regional Agreement Officer for this amount.

**Recommendation 6 – Develop standardized informed consent materials and protocols:** Though the audit findings indicate that “All of the clients stated that they had received information on the risks and benefits of the sterilization procedure and all of them had signed an informed consent form for the procedure,” we agree that greater consistency in providing this information is necessary and that the information should be as clear as possible, accurate, and consistent with Guatemalan government norms, APROFAM policy, and U.S. requirements.

To improve its service and the information that all family planning clients receive, APROFAM has developed an “informed choice” brochure to be provided to sterilization

patients at the time of registration to undergo the procedure which should provide sufficient time prior to the operation to consider this information. The brochure includes comprehensible information, including health risks and benefits, on all family planning methods including sterilization. APROFAM does have standardized protocols to cover pre- and post-surgery counseling and a quality of care monitoring system regularly enforced to oversee provider performance. Their Protocol on Counseling for Informed Choice and Family Planning Services includes the standardized information that APROFAM providers follow in counseling and providing family planning services, including sterilization. A Handout for Sterilization Patients has been developed to provide patients with written information on the procedure to take home with them. The content of these materials follows U.S and Guatemala family planning requirements and clinical guidelines. All of these materials have been provided to the RIG and accompany this memorandum.

USAID/Guatemala has included within its field visits a check to see that sterilization patients receive these brochures and monitor compliance with these protocols.

### **Final comments**

Given the high degree of collaboration in the conduct of this audit, including considerable Mission staff time in setting up meetings and providing information, we request our comments to date be given due consideration in the final report.

We appreciate the commitment of you and your staff to carry out such a comprehensive audit. Your work has helped us better understand the issues associated with the quota and bonus system, and it also has helped us develop ways to prevent any possible future violation of family planning statutory and policy requirements. And importantly it has helped clear the air regarding the potential impact of the quota and bonus system on the principles of voluntarism and informed consent. Your work has allowed us to say with certainty to Members of Congress and their staff, as well as to the American public, that these violations of the law did not compromise those principles.

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