



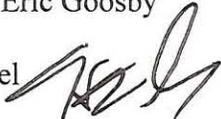
United States Department of State  
and the Broadcasting Board of Governors

*Office of Inspector General*

JUN 23 2011

MEMORANDUM

TO: S/GAC – Ambassador Eric Goosby

FROM: OIG – Harold W. Geisel 

SUBJECT: Report on *Audit of Construction and Transfer of Ownership of the President's Emergency Plan for AIDS Relief (PEPFAR) Overseas Construction Projects* (AUD/IP-11-14)

The subject report is attached for your review and action. As the action office for the report's four recommendations, please provide your response to the report and information on actions taken or planned for the four recommendations within 30 days of the date of this memorandum. Actions taken or planned are subject to followup and reporting in accordance with the attached compliance response information.

The Office of Inspector General (OIG) incorporated your comments as appropriate within the body of the report and included them in their entirety as Appendix E.

OIG appreciates the cooperation and assistance provided by your staff during this audit. If you have any questions, please contact Evelyn R. Klemstine, Assistant Inspector General for Audits, at (202) 663-0372 or Naomi Snell, Director, International Programs Division, at (703) 284-2685 or by email at [snelln@state.gov](mailto:snelln@state.gov).

Attachments: As stated.

cc: S/GAC – (b) (6)  
S/GAC –  
L/LFA –





Office of Inspector General

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**United States Department of State  
and the Broadcasting Board of Governors  
Office of Inspector General**

**Office of Audits**

**Audit of Construction and Transfer of  
Ownership of the President's Emergency Plan  
for AIDS Relief (PEPFAR) Overseas  
Construction Projects**

**Report Number AUD/IP-11-14, June 2011**

**~~Important Notice~~**

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**United States Department of State  
and the Broadcasting Board of Governors**

*Office of Inspector General*

PREFACE

This report was prepared by the Office of Inspector General (OIG) pursuant to the Inspector General Act of 1978, as amended, and Section 209 of the Foreign Service Act of 1980, as amended. It is one of a series of audit, inspection, investigative, and special reports prepared by OIG periodically as part of its responsibility to promote effective management, accountability and positive change in the Department of State and the Broadcasting Board of Governors.

This report is the result of an assessment of the strengths and weaknesses of the office, post, or function under review. It is based on interviews with employees and officials of relevant agencies and institutions, direct observation, and a review of applicable documents.

The recommendations therein have been developed on the basis of the best knowledge available to the OIG and, as appropriate, have been discussed in draft with those responsible for implementation. It is my hope that these recommendations will result in more effective, efficient, and/or economical operations.

I express my appreciation to all of those who contributed to the preparation of this report.

A handwritten signature in black ink, appearing to read "H. W. Geisel".

Harold W. Geisel  
Deputy Inspector General

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**Acronyms**

AIDS	acquired immune deficiency syndrome
CDC	Centers for Disease Control and Prevention
DoD	Department of Defense
Department	Department of State
GAO	Government Accountability Office
HHS	Department of Health and Human Services
HIV	human immunodeficiency virus
MOA	memorandum of agreement
OBO	Bureau of Overseas Buildings Operations
OMB	Office of Management and Budget
OIG	Office of Inspector General
PEPFAR	President's Emergency Plan for AIDS Relief
RPSO	Regional Procurement Support Office
S/GAC	Office of the U.S. Global AIDS Coordinator
USAID	U.S. Agency for International Development

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## **Executive Summary**

Through the President's Emergency Plan for AIDS Relief (PEPFAR),<sup>1</sup> the United States assists affected countries in building laboratories, hospitals, blood banks, and care and treatment centers in order to fight the global HIV/AIDS crisis. The Office of the U.S. Global AIDS Coordinator (S/GAC) is responsible for oversight and coordination of all resources and international activities of the U.S. Government to combat the HIV/AIDS pandemic, including numerous construction projects throughout nine countries.<sup>2</sup> The purpose of this audit was to assess the Department of State's (Department) role and actions related to the award, administration, and transfer of PEPFAR overseas construction projects from Department-appropriated funds. The results of the Office of Inspector General's (OIG) audit are being reported in two reports. This report focuses on S/GAC's oversight of PEPFAR construction. The second report will focus on the Department's award and monitoring of the underlying contracts for PEPFAR construction.

OIG found that S/GAC coordinated, provided oversight for, and transferred PEPFAR overseas construction projects on an ad hoc basis. That is, S/GAC performed these duties when they arose rather than prepared for them, contrary to their responsibilities as outlined in the initial PEPFAR authorization. For example, the Department of State and the Department of Health and Human Services (HHS) were unprepared to successfully reconcile a longstanding legal dispute regarding HHS's authority to award contracts for PEPFAR construction projects overseas. In addition, completed construction projects have not been properly transferred to host governments.

These conditions occurred because S/GAC, while focusing high-level attention on building and planning PEPFAR programs, has paid insufficient attention to engaging in high-level coordination and resolution of issues related to administering PEPFAR construction. In fact, S/GAC had not established an effective management structure to resolve policy, program, and funding disputes among the implementing agencies. In addition, the roles and responsibilities of the various implementing agencies were not well defined for requisitioning funds, awarding contracts, and accounting for constructed property. Finally, S/GAC guidance to posts was ineffective in that there was no assurance that PEPFAR-funded construction projects were properly completed, accounted for, or transferred.

“But let us not forget that these impersonal, inanimate objects – the bricks, glass, tile and plaster used in this building – also serve a deeper, fundamentally human priority: The need for shelter; for community; for compassion; for cooperation; and for healing.”

CDC Country Director, Namibia  
September 25, 2009

The lack of attention to the issues cited has resulted in all HHS-planned PEPFAR construction projects overseas being halted during FY 2010, impacting individuals who need access to a facility to be tested and/or treated for human immunodeficiency virus and/or acquired

<sup>1</sup> United States Leadership Against HIV/AIDs, Tuberculosis, and Malaria Act of 2003 (Pub. L. No. 108-25 §102).

<sup>2</sup> The nine countries are Tanzania, Ethiopia, Uganda, Namibia, Zambia, Kenya, Mozambique, Botswana, and Malawi.

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immune deficiency syndrome (HIV/AIDS). Specifically, the three countries (Tanzania, Uganda, and Ethiopia) OIG visited had put on hold 80 construction projects that planned to serve about 1.25 million patients. In addition, outstanding unliquidated obligations of more than \$14 million remain in accounts that potentially could be reclaimed and reallocated to fund new projects. Furthermore, S/GAC was unable to provide a comprehensive inventory of PEPFAR properties and did not know whether the properties had been completed or who owned or was responsible for the maintenance of the properties.

### **Management Comments**

OIG provided a draft of this report to the Global AIDS Coordinator in April 2011 offering four recommendations: (1) to develop an interagency memorandum of agreement (MOA) to address the PEPFAR overseas construction projects, (2) to seek resolution about the legal dispute on construction authority with senior-level management within HHS, (3) to appoint a senior-level official who has the requisite experience in construction and authority to make decisions related to PEPFAR overseas construction projects, and (4) to establish guidance for all agencies involved with PEPFAR overseas construction projects that clearly describes procedures for construction and property management.

In its May 12, 2011, response, which is presented in Appendix E, S/GAC provided comments to the draft report. S/GAC disagreed with Recommendation 1, explaining, “S/GAC is working with PEPFAR country teams that have construction needs to ensure adequate State Department capacity to act as implementing agency” for PEPFAR construction projects. S/GAC further stated, “Given these arrangements, S/GAC believes that an interagency memorandum on construction is unnecessary.” S/GAC also disagreed with Recommendation 2, explaining, “While State lawyers do not agree with the HHS legal view, we believe our alternative of offering an alternative State mechanism is the more effective practical approach.” In addition, S/GAC provided additional information subsequent to the issuance of our draft report that has been incorporated into this report in the section “Management Actions Taken.”

OIG considers Recommendation 1 resolved because S/GAC has taken steps to address the findings described in this report relating to the management of PEPFAR overseas construction projects. However, this recommendation will remain open until S/GAC demonstrates that the actions taken have fully addressed the deficiencies noted concerning the administration of PEPFAR construction projects. OIG considers Recommendation 2 resolved and closed because the actions S/GAC has taken to reclaim and redistribute the \$51 million in PEPFAR construction funds provided to HHS and the U.S. Agency for International Development (USAID), as well as the Department’s resolve to act as the implementing agency for overseas construction projects, eliminate the immediate need to resolve the legal dispute with HHS.

S/GAC agreed with Recommendations 3 and 4. OIG considers both of these recommendations resolved because S/GAC is taking steps to implement them; however, both recommendations will remain open until S/GAC provides evidence they have been fully implemented.

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## **Background**

As part of the PEPFAR program, the United States assists affected countries in building laboratories, hospitals, blood banks, and care and treatment centers. Care and treatment centers provide services for individuals affected by tuberculosis and HIV; blood banks test donated blood supplies to ensure the blood is safe to use; hospitals provide services such as antiretroviral therapy for adults and children, palliative care, counseling and testing, and mother support groups; and regional laboratories provide training for staff and quality control for district laboratories, one of which is shown in Figure 1.



**Figure 1.** This 2-story structure in Tanzania, completed in 2006 using PEPFAR funds, houses the Eastern Zone Blood Transfusion Center and the National Blood Transfusion Service. The facility contains space for counseling, collecting blood donations, laboratory testing, and offices for oversight of the blood safety program throughout the country. [OIG photo]

Health facilities such as those cited are the foundation on which strong health care services may be delivered to those in need. The Minister of Health from Namibia referred to the construction or renovation of health facilities as a “priority.” This sense of urgency was also shared by the Centers for Disease Control and Prevention (CDC) Country Director during an inauguration ceremony for an antiretroviral treatment clinic in Namibia, where he stated the following:<sup>3</sup>

In addition to expanding access to life-saving antiretroviral therapy, this clinic – the very building itself – can help to address other critical issues. Among these:

- New, clean facilities can motivate staff, improve morale, and lead to better retention.
- Good ventilation in clinical and administrative areas can reduce and control the spread of other infectious diseases, such as tuberculosis.

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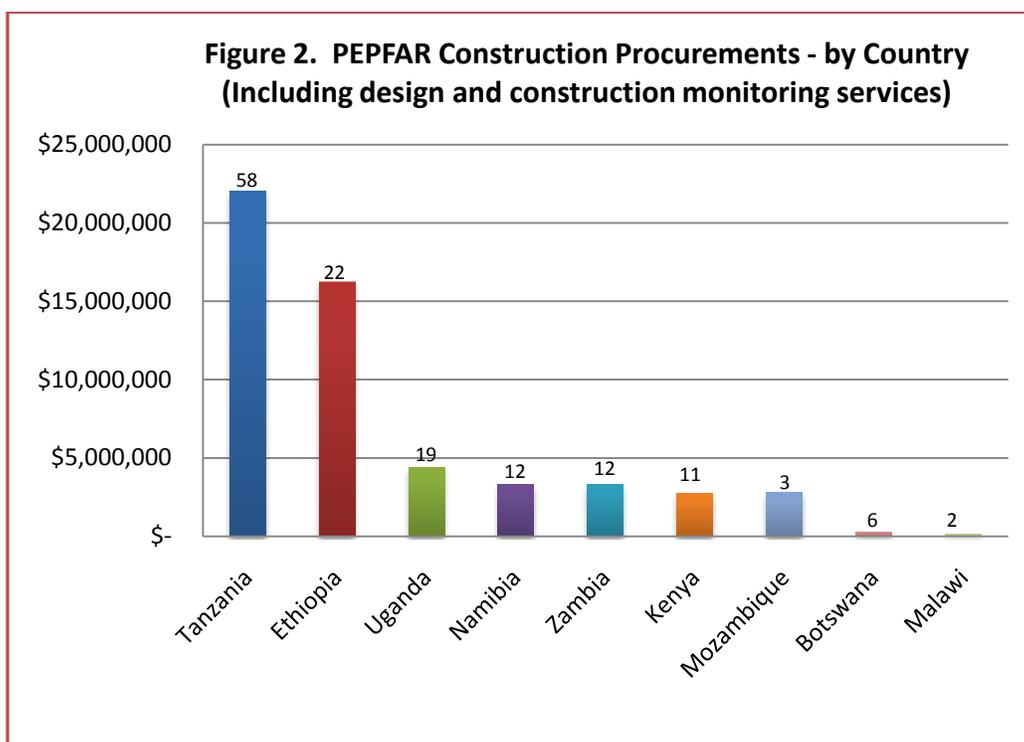
<sup>3</sup> Remarks by CDC Country Director Jeff Hanson at the Inauguration of the Eenhana Clinic, which provides antiretroviral therapy, Sept. 25, 2009, <[http://windhoek.usembassy.gov/september\\_25\\_2009.html](http://windhoek.usembassy.gov/september_25_2009.html)>, accessed Dec. 2010.

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- State-of-the-art diagnostic equipment can return results to patients in a more timely manner. These efficiencies can convince more patients to return to the clinic for routine monitoring, and improve overall antiretroviral therapy adherence.

Through the Department’s overseas contracting office, 145 construction procurements, <sup>4</sup> valued at more than \$56 million, have been awarded since 2003, as shown in Figure 2. These construction and renovation procurements and their costs include the following facilities:

- Renovation of an HIV center in Addis Ababa, Ethiopia (\$902,000).
- Construction of a regional laboratory in Adama, Ethiopia (\$2.3 million).
- Construction of a regional laboratory in Bahir Dar, Ethiopia (\$2.8 million).
- Construction of National blood bank and blood transfusion service buildings in Maputo, Mozambique (\$2.5 million).



Source: OIG-generated chart – from the Regional Procurement Support Office files.

PEPFAR-funded construction projects include newly built structures and renovations of existing structures that are provided to the host government as a form of foreign assistance (for example, a health clinic or hospital annex deemed necessary to deliver HIV/AIDS services). In addition, construction of new facilities and renovations of existing facilities often occur on host government-owned land and structures. Thus these properties should eventually be transferred to the host government.

<sup>4</sup> The 145 construction procurements awarded include one or more projects or sites.

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### **Department of State Role and Authority Regarding PEPFAR Activities**

The U.S. Global AIDS Coordinator is appointed by the President and is confirmed by the Senate to coordinate and oversee the U.S. global response to HIV/AIDS. Reporting directly to the Secretary of State, the U.S. Global AIDS Coordinator has the following duties:<sup>5</sup>

- Leads the U.S. Government's international HIV/AIDS efforts.
- Ensures program and policy coordination among the relevant U.S. Government agencies and departments and nongovernmental organizations, avoiding duplication of effort.
- Pursues coordination with other countries and international organizations.
- Resolves policy, program, and funding disputes among the relevant U.S. Government agencies and departments.
- Directly approves all activities of the United States relating to combating HIV/AIDS in 15 focus countries.
- Promotes program accountability and monitors progress toward meeting PEPFAR's goals.

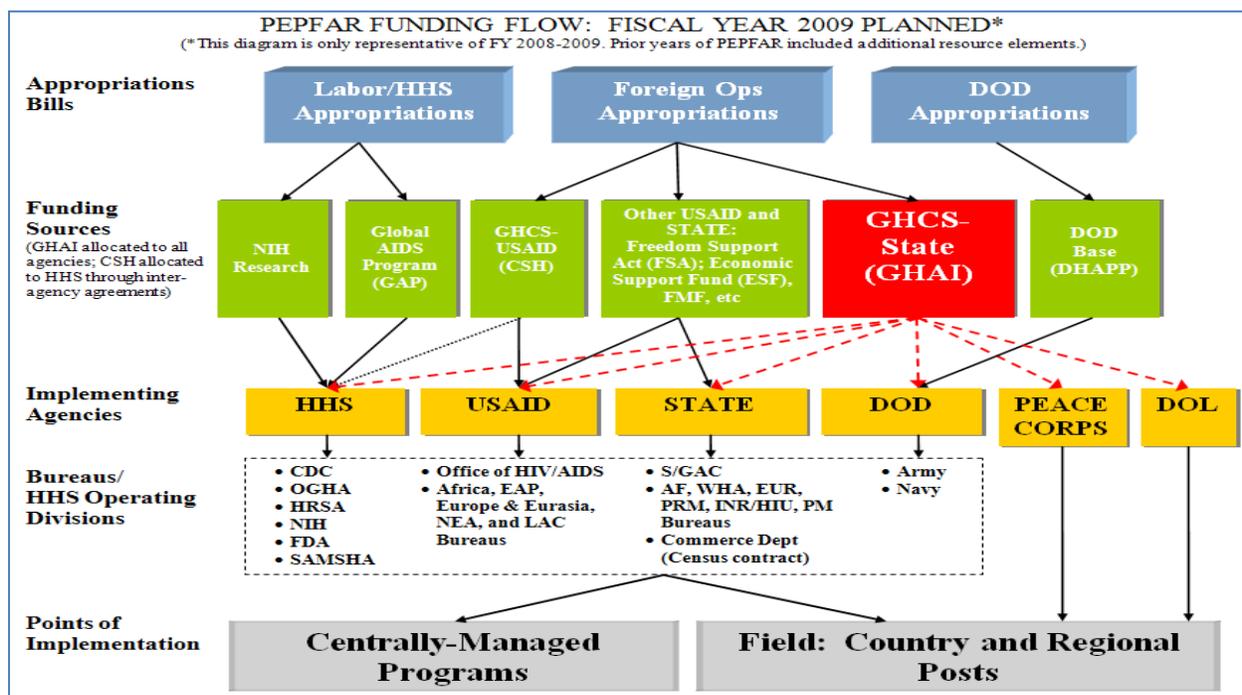
### **Funding Flow for PEPFAR Provides Additional Authority**

As PEPFAR is the cornerstone and largest component of the U.S. President's Global Health Initiative, funding for PEPFAR activities comes from a number of accounts, and these accounts fund various construction projects. The Department has responsibility to account for and report on funds that flow from the Global Health and Child Survival (GHCS)-State account, as shown in Figure 3.

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<sup>5</sup> Per Pub. L. No. 108-25 § 102.

**Figure 3. How PEPFAR Funds Will Be Distributed for FY 2009 (As planned by S/GAC)\***



\*PEPFAR funding flow as planned for FY 2009 depicts the GHCS-State account in the red box. The dotted red lines show how those funds are further distributed within the Department and to other implementing agencies. The other boxes list other accounts, some of which are notified and detailed to Congress by other parts of the U.S. Government.

Source: Office of the U.S. Global AIDS Coordinator (S/GAC).

Although much of the funding appropriated to the Department is transferred to other agencies, the Department retains ultimate responsibility for the expenditure of funds in the GHCS-State account. In accounting terms, the relationship created by these transfers is called “parent-child” funding. Because various laws, such as PEPFAR, require a Federal agency (referred to as the “parent”) to allocate some or even all of its budget authority to another Federal agency, the Department of the Treasury establishes a transfer appropriation account (referred to as the “child account”) with account symbols that include the two-digit department code of the child followed by the two-digit department code of the parent. For example, the transfer appropriation account 7519 designates HHS as the child (code 75) and the Department of State as the parent (code 19). The transfer itself is often referred to as an “allocation transfer.” In this manner, the parent transfers budget authority to the child, which then obligates and outlays sums up to the allocated amount. Thus the parent is accountable for and maintains responsibility for reporting, while the child performs on behalf of the parent and controls how the funds are expended.<sup>6</sup>

<sup>6</sup> Office of Management and Budget Circular No. A-136, *Financial Reporting Requirements*, revised Sept. 29, 2010.

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### **Other Department Entities Involved in PEPFAR Overseas Construction**

In addition to S/GAC, the Regional Procurement Support Office (RPSO) in Frankfurt, Germany, provides contracting support for construction projects funded through the GHCS-State account. RPSO is the Department's largest overseas acquisitions office, which acquires goods and services for U.S. diplomatic and consular posts, primarily in Europe, Africa, Asia, and the Middle East. RPSO provides expertise for purchases and contracts of all sizes and complexity.

In each partner country, teams of implementing agency officials (PEPFAR country teams) jointly develop country operational plans for use in coordinating, planning, reporting, and funding PEPFAR programs. Within country, chiefs of mission provide essential leadership to interagency PEPFAR country teams and, with other U.S. officials, have policy discussions with host-country leaders to generate additional attention and resources for the pandemic and to ensure strong partner coordination.

### **Additional Agencies Involved in PEPFAR Overseas Construction Projects**

While S/GAC has high-level responsibility and authority over PEPFAR funding that it receives through the GHCS-State account, most of the funds are transferred to other agencies. The construction contracts discussed in this report were funded either by direct Department funding from the GHCS-State account or by transfers from this account to HHS and the Department of Defense (DoD), of which field representatives from both agencies were responsible for the operational aspects of the construction projects.

CDC, a major component within HHS, receives PEPFAR funds and oversees construction projects to support clinical interventions and infrastructure improvements. CDC's authority was expanded from the renovation of buildings to the construction of buildings by an amendment to the Public Health Service Act<sup>7</sup> included in the reauthorization of PEPFAR funds in 2008. This act states that HHS, in consultation with the Secretary of State, would use grants or cooperative agreements to "make funds available to public or nonprofit private institutions or agencies in foreign countries" when constructing facilities in support of the PEPFAR program. Most of the PEPFAR overseas construction projects from the GHCS-State account were initiated and managed by CDC.

Overall, DoD supports a broad spectrum of military-specific HIV prevention programs, infrastructure development and support (including laboratory, clinic, and hospital facility renovation, equipment, and training), and treatment and care activities. These activities are accomplished through direct military-to-military assistance, support to nongovernmental organizations and universities and collaboration with other U.S. Government agencies in-country. From the GHCS-State account, DoD funded eight construction projects in Zambia.

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<sup>7</sup> 42 U.S.C. § 2421-(b)(9) and (10).

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### **Guidance for PEPFAR Overseas Construction**

All U.S. Government agencies working to fight HIV/AIDS in each partner country come together as one team under the leadership of the U.S. Ambassador to develop one annual work plan. That work plan—the Country Operational Plan (COP)—is reviewed by interagency headquarters teams, which make recommendations to the U.S. Global AIDS Coordinator on final review and approval. The COP is the vehicle for documenting U.S. annual investments and anticipated results in HIV/AIDS.

Annually, S/GAC issues Country Operational Plan Guidance to provide instructions for the entire COP process, including construction and acquisition, to overseas personnel responsible for carrying out PEPFAR activities within each country. This guidance outlines the authorities and limitations for procuring and managing PEPFAR overseas construction projects and provides advice on how to identify both the construction project and the mechanism (for example, contract, grant, or cooperative agreement) used to carry out the project.

### **Objective**

The results of OIG's audit are being reported in two reports. The primary objective of this audit was to determine whether the Department followed applicable policies, regulations, and procedures for the construction of PEPFAR projects and transferring the projects to host governments. The second report will focus on the Department's award and monitoring of the underlying contracts for PEPFAR construction.

### **Audit Results**

#### **Management and Guidance for PEPFAR Overseas Construction Projects Need Improvement**

S/GAC managed PEPFAR overseas construction projects in an ad hoc manner. S/GAC did not develop a framework for administering and executing PEPFAR overseas construction projects or to effectively resolve interagency disputes. For over a year, there has been a legal dispute between the Department and HHS regarding HHS's authority to award contracts for PEPFAR construction projects overseas. In addition, S/GAC did not establish effective internal controls for PEPFAR overseas construction projects, as required by Office of Management and Budget (OMB) Circular No. A-123.<sup>8</sup>

S/GAC has not developed an MOA specific to PEPFAR overseas construction projects or established an effective process to resolve policy, program, and funding disputes among the implementing agencies. In addition, S/GAC has not provided adequate and consistent guidance to PEPFAR country teams for the procurement, accounting, and transfer of PEPFAR overseas construction projects.

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<sup>8</sup> OMB Circular No. A-123, *Management's Responsibility for Internal Control*.

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The lack of an effective interagency dispute resolution process has resulted in all HHS-planned PEPFAR construction projects overseas being halted during FY 2010, impacting individuals who need access to a facility so that they can be tested and/or treated for HIV/AIDS. Specifically, the three countries OIG visited (Tanzania, Uganda, and Ethiopia) put on hold 80 construction projects that planned to serve about 1.25 million patients. In addition, outstanding unliquidated obligations of more than \$14 million were in accounts that could be reclaimed and reallocated to fund new projects. Furthermore, because S/GAC was unable to provide OIG a comprehensive inventory of PEPFAR properties, it is unclear who (the Department, another implementing agency, or the local host government) owns the property, who should account for the property, and who should be responsible for maintenance of the property.

### **PEPFAR Overseas Construction Projects Lack a Strong Management Structure**

S/GAC did not establish a strong management structure to promote an effective internal control environment for PEPFAR overseas construction projects, as required by OMB Circular No. A-123. The Government Accountability Office's (GAO) *Standards for Internal Control in the Federal Government*<sup>9</sup> states the following:

A good internal control environment requires that the agency's organizational structure clearly define key areas of authority and responsibility and establish appropriate lines of reporting.

The environment is also affected by the manner in which the agency delegates authority and responsibility throughout the organization. This delegation covers authority and responsibility for operating activities, reporting relationships, and authorization protocols.

While S/GAC has focused high-level attention on building and planning PEPFAR programs, it has given minimal attention to engaging in high-level coordination and resolution of issues related to administering PEPFAR construction with its interagency partners. During the audit, OIG team members were consistently told that officials responsible for PEPFAR construction activities within the Department and CDC, both overseas at post and domestically, did not know what their roles or responsibilities were for PEPFAR construction and who had authority to requisition and approve PEPFAR construction funds.

### **No Interagency Agreement Specific to PEPFAR Construction Projects**

S/GAC has not developed an MOA for administering and executing PEPFAR overseas construction projects and for resolving interagency disputes related to construction. An MOA establishes a mechanism that sets forth the terms and conditions under which the respective parties will operate. It defines the authority, roles, and responsibilities of the respective parties, and can provide a process to settle disputes among the signatory parties. The agreement also identifies the parties involved, notes pertinent issues and proposed objectives, includes a

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<sup>9</sup> GAO/AIMD-00-21.3.1, p. 9.

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summary of the essential terms of the agreement, and contains the signatures of the parties involved.

Without an agreement framework in place, U.S. Government agency personnel responsible for PEPFAR construction projects were not clear about their roles and responsibilities for awarding, accounting for, transferring, and resolving disputes.

### **Ineffective Interagency Dispute Resolution**

OIG found that S/GAC had not reconciled a longstanding legal dispute between the Department and HHS related to contract authority for PEPFAR overseas construction projects. The primary point of contention between the two agencies is whether authority to award contracts for PEPFAR overseas construction projects transfers with PEPFAR funds—from the Department to CDC—or is retained by the Department. (b) (5)

(Legal opinions from the Department and HHS pertaining to authority to award construction contracts overseas are in Appendix B.)

(b) (5)  
CDC unilaterally sent a cable to posts on November 4, 2009, advising its staff to “cease and desist” from participating in the award of contracts for construction where the Department retained funds.<sup>10</sup> (The CDC cable is shown in Appendix C.) Prior to the issuance of the CDC cable, CDC personnel had been awarding PEPFAR overseas construction contracts through the Department’s RPSO. However, because the CDC cable halted this practice, CDC personnel were left with few options for procuring PEPFAR properties overseas.

During FY 2010, following the November 2009 CDC cable, CDC explored different options to procure construction projects outside of contract awards but had minimal success. These options included awarding grants<sup>11</sup> and expanding the use of cooperative agreements<sup>12</sup> for construction. CDC personnel at the posts OIG visited stated that CDC headquarters would provide a solution in FY 2011.

If CDC is required to use grants and cooperative agreements more extensively, it may require more assistance from posts and the Department’s Bureau of African Affairs. However, officials from the Bureau of African Affairs told OIG that they would be unable to commit

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<sup>10</sup> Cable 09 CDC ATLANTA GA 7821, “CDC Officials – Requisitioning Procurements Using State Department Funds,” Nov. 4, 2009.

<sup>11</sup> A grant is an award of financial assistance, the principal purpose of which is to transfer a thing of value from a Federal agency to a recipient to carry out a public purpose of support or stimulation authorized by a law of the United States, per Grants.Gov-Glossary <<http://www.grants.gov/help/glossary.jsp>>, accessed on Feb. 11, 2011.

<sup>12</sup> A cooperative agreement is an award of financial assistance that is used to enter into the same kind of relationship as a grant. The cooperative agreement is distinguished from a grant in that it provides for substantial involvement between the Federal agency and the recipient in carrying out the activity contemplated by the award, per Grants.Gov-Glossary <<http://www.grants.gov/help/glossary.jsp>>, accessed on Feb. 11, 2011.

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additional resources to assist CDC in using grants and cooperative agreements to award these construction projects. Bureau officials also noted that they do not have the technical expertise to manage these projects and that the only Department employees at post who have grant experience are public affairs officers, who are unlikely to have experience in major construction projects.

Although some interagency relationships rely on informal understandings of employees, other relationships are more complicated and require formalization through the development of an MOA. A properly developed MOA provides efficiency and organization to the process so that all the participants understand the procedures for executing interagency PEPFAR overseas construction projects. In addition, an MOA can provide clear guidance on how to resolve interagency disputes. Although having an informal structure may provide flexibility, the more complex and comprehensive the program, the greater the need for structure and control.

**PEPFAR Overseas Construction Projects Halted Because of Legal Dispute**

The unresolved legal dispute led to CDC's halting all planned construction projects for FY 2010. For the three countries OIG visited, these construction projects supported care and treatment facilities that planned to serve about 1.25 million patients, as shown in Table 1.

**Table 1. Construction Projects on Hold for Ethiopia, Tanzania, and Uganda**

<b>Projects on Hold</b>	<b>Number of Projects*</b>	<b>Total Estimated Costs</b>	<b>Total Estimated Patient Load</b>
CDC – Ethiopian Construction	8	\$ 18,000,000	143,643
CDC – Tanzania Construction	36	6,250,000	50,323
CDC – Uganda Construction	36	11,595,892	1,055,000
Total Reported	<b>80</b>	<b>\$ 35,845,892</b>	<b>1,248,966</b>

\*For the three posts OIG reviewed, the number of projects includes all projects that were reported and approved but not yet started in Country Operational Plans for 2010 and prior years. Source: OIG-generated table using CDC planning documents.

In addition to impacting millions of individuals who need medical care, halting these construction projects has affected planned projects in which the U.S. Government is a partner with the host government or other partners. For example, in Ethiopia, CDC is a partner with the Government of Ethiopia and a third partner to build one of three wings of a hospital in Gondar. These wings will contain X-ray, pharmacy, and laboratory facilities. A senior CDC official stated that construction on CDC's wing should have already begun and expressed concern that the other two wings will be completed before the CDC wing ever gets started. This official emphasized that this was a major diplomacy issue in its relations with the Government of Ethiopia.

In Tanzania, CDC is a partner with Harvard University to build a hospital in Dar es Salaam. This project was initially going to be awarded using a contract negotiated by RPSO. However, when CDC's "cease and desist" cable<sup>13</sup> was issued, this project was halted. CDC and

<sup>13</sup> Cable 09 CDC ATLANTA GA 7821.

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Harvard representatives expressed their concern because the land may be given to someone else if CDC does not begin this project soon. In Uganda, a CDC representative stated in January 2011 that a PEPFAR project is at risk of losing the land for planned projects that are still on hold.

### **Senior-Level Involvement and Construction Expertise Needed**

S/GAC had not effectively applied its authority to resolve policy, program, and funding disputes among the implementing agencies for construction-related matters. Further, S/GAC staff did not have construction experience or skills to help resolve related issues. GAO's *Standards for Internal Control in the Federal Government*<sup>14</sup> states, "Management should ensure that skill needs are continually assessed and that the organization is able to obtain a workforce that has the required skills that match those necessary to achieve organizational goals."

Although the duties of the U.S. Global AIDS Coordinator specifically include resolving policy, program, and funding disputes among the relevant executive branch agencies, senior-level S/GAC officials have not been effective in finding solutions to assist CDC in carrying out an important part of its program—the construction and transfer of facilities to test and treat persons with life-threatening diseases. In fact, much of the responsibility for handling this important issue was delegated, by default, to an S/GAC budget analyst who had many other responsibilities. RPSO officials and Department and CDC personnel in the field confirmed that the S/GAC budget analyst was the individual they relied upon for information and advice related to PEPFAR overseas construction. Considering the number of construction projects planned and the importance of these projects to achieving PEPFAR goals, construction expertise is a necessary skill within S/GAC's workforce.

PEPFAR implementing agencies have individuals with construction expertise who could be detailed or appointed to S/GAC. Possible sources that would have individuals to fulfill S/GAC's need for an official with construction expertise include the Department's Bureau of Overseas Buildings Operations (OBO) and CDC's Buildings and Facilities Office. OBO's Office of Construction Management provides management oversight and on-site construction supervision for the Department's worldwide construction program. CDC's Buildings and Facilities Office carries out domestic facilities planning functions for CDC, including new or expanded facilities, major repairs, and improvements, and it conducts CDC's real property activities within the United States.

### **Better Guidance for PEPFAR Overseas Construction Projects Is Needed**

S/GAC did not establish effective internal controls for PEPFAR overseas construction projects, as required by OMB Circular No. A-123. Specifically, S/GAC's guidance for procuring, accounting for, and transferring construction projects was confusing, often changing from year to year, and did not provide sufficient details to execute PEPFAR overseas construction projects. As a result, insufficient controls were in place to ensure that PEPFAR construction funds and properties were properly requisitioned, accounted for, and transferred. In addition, outstanding unliquidated obligations of more than \$14 million remained in accounts that could be reclaimed and reallocated to fund new projects.

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<sup>14</sup> GAO/AIMD-00-21.3.1, p. 13.

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OMB Circular No. A-123, which defines management's responsibility for internal control in Federal agencies, states:

Management is responsible for establishing and maintaining internal control to achieve the objectives of effective and efficient operations, reliable financial reporting, and compliance with applicable laws and regulations. . . . Internal control includes processes for planning, organizing, directing, controlling, and reporting on agency operations. . . . [Internal] control should be designed to ensure that transactions are properly authorized and processed accurately and that the data is valid and complete.

### **Procurement Guidance for PEPFAR Construction Is Needed**

The guidance that S/GAC provided to PEPFAR country teams regarding procuring PEPFAR overseas construction projects differed each year from FY 2007 to FY 2010. (PEPFAR Overseas Construction Guidance provided by S/GAC from FY 2006 to FY 2010 is summarized in Appendix D.)

Officials at posts OIG visited expressed confusion by the contradictory and changing guidance S/GAC and HHS had sent them, emphasizing that they need clearer and more consistent guidance. In addition, a CDC country director stated that S/GAC does not give the field enough time to implement new policies and that field personnel often have to rush to adjust to S/GAC's frequent policy changes.

A 2007 report from the Institute of Medicine<sup>15</sup> stated that PEPFAR country teams "expressed . . . a great deal of confusion about the differing regulations of the many PEPFAR implementing agencies concerning new construction."

### **Accurate Accounting of PEPFAR Overseas Construction Projects Is Needed**

S/GAC was unable to provide OIG a complete and accurate inventory of PEPFAR overseas construction projects—either those in process or completed. S/GAC had made attempts to develop a master list of construction projects but had managed to piece together only an incomplete and inaccurate list of construction contracts. As of September 2010, S/GAC was still attempting to gather, review, and confirm data for a master list of its construction projects.

As applied to accounting for PEPFAR construction, controls are needed to accurately record and track construction transactions from contract award to project completion and disposal. GAO's *Standards for Internal Control in the Federal Government*<sup>16</sup> states:

Transactions should be promptly recorded to maintain their relevance and value to management in controlling operations and making decisions. This applies to the

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<sup>15</sup> *PEPFAR Implementation: Progress and Promise*, Committee for the Evaluation of the President's Emergency Plan for AIDS Relief (PEPFAR) Implementation, 2007, p. 253.

<sup>16</sup> GAO/AIMD-00-21.3.1, p. 15.

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entire process or life cycle of a transaction or event from the initiation and authorization through its final classification in summary records.

S/GAC officials acknowledged that S/GAC is responsible for accounting for PEPFAR properties. An S/GAC representative stated that S/GAC tracks annual program results but that some countries are better than others in tracking and reporting project outcomes, such as construction.

In March 2009, S/GAC began gathering information on properties constructed overseas with PEPFAR funds by visiting RPSO with representatives from the Department and CDC. Based on this effort, S/GAC identified 168 construction procurements. The Department and HHS then sent a joint cable<sup>17</sup> to 11 posts in July 2009 to obtain a better inventory of construction procurements and identified 65 additional construction procurements, for a new total of 233 construction procurements. However, of the 233 construction procurements, a substantial amount of data for each project was incomplete, including items such as contract number, task order number, cost of project, and funding source. In addition, OIG found that 145 construction procurements were awarded for one or more projects or sites but sometimes the sites were regions and the individual projects were not specified.

### **Formal Process To Transfer Ownership of PEPFAR Properties Is Needed**

In the absence of guidance, posts are using different methods to transfer ownership of completed properties to host governments, but none of these methods involve a formal transfer of title. For the three countries visited, OIG found that when PEPFAR overseas construction projects were completed, one or more of the following actions occurred:

- By default, no specific action was taken. Host government personnel began using the building.
- A public ceremony was held, and the building was turned over to host government officials.
- The completed project/building was given to the host government via paper signed by the builder.

GAO's *Standards for Internal Control in the Federal Government*<sup>18</sup> states, "All transactions and other significant events need to be clearly documented, and the documentation should be readily available for examination."

Posts had used various unofficial forms to document the transfer of property for the three countries OIG visited. For example, in Tanzania, OIG obtained "Handover Notes" for a care and treatment center that CDC had built as part of the PEPFAR program. The document was signed by a representative from the construction company that built the center and a representative from the host government. However, the document did not have signatures from any U.S. Government official, which calls into question the utility of the Handover Notes as a mechanism

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<sup>17</sup> Cable 09 State 070685, "Completion and Transfer of HHS-and State-Funded Properties for PEPFAR," July 8, 2009.

<sup>18</sup> GAO/AIMD-00-21.3.1, p. 15.

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to transfer the property. OIG also obtained an informal facility handover document for renovation work completed at Bella Hospital in Ethiopia. The document was signed by a representative from CDC and the medical director of the hospital.

S/GAC has not provided clear or adequate guidance instructing posts on how to transfer properties constructed with PEPFAR funds to the host government, including the proper approach and mechanism that should be used. Although S/GAC provided guidance in December 2009, it did not provide procedures or a process for transferring properties, did not assign responsibility for transferring PEPFAR properties after construction is complete, and did not indicate how or when transfers should take place. In addition, posts need to know what documentation is required to formally transfer the property, particularly if the host government already owns the land on which the facility is constructed.

### **\$14 Million in Unliquidated Obligations for Ethiopia, Uganda, and Tanzania**

OIG reported in December 2010<sup>19</sup> that regional bureaus did not have assurance that PEPFAR funds were used appropriately. The report concluded the bureaus that are allotted funds are responsible for implementing internal controls to ensure that funds, property, and other assets are safeguarded against loss from unauthorized acquisition, use, or disposition. However, regional bureau staff are not involved in management of the PEPFAR program and accordingly do not provide oversight of the related funds. As a result, the regional bureaus do not have assurance that PEPFAR funds are used appropriately or effectively.

During this audit, OIG determined that \$14 million remained in accounts from obligations made during FYs 2007, 2008, and 2009—Ethiopia had \$10.4 million, Uganda had \$2.1 million, and Tanzania had \$1.5 million. An S/GAC official stated that the \$14 million of unliquidated obligations comprise “in-process” and “approved but on hold” construction or renovation project funds. However, obligations for construction projects are made based on awarded contracts.

### **Unclear Ownership and Responsibility for Building Maintenance**

Even though the projects were completed on local host government-owned land, it is unclear as to who (the Department, another implementing agency, or the local host government) owns the property, who should account for the property, and who should be responsible for maintenance of the property. Without transfer documents, the U.S. Government may still legally own the properties and may be liable for loss or injury that occurs on the property and for maintenance of the property.

Because the ownership of these properties is unclear, the host government also may not be clear about its responsibilities for maintaining the PEPFAR properties once they are completed. At one post, CDC officials stated that the host government is unsure of its responsibilities for maintaining completed PEPFAR properties and that the host government tends to rely on CDC to maintain these properties. A CDC representative at this post stated that

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<sup>19</sup> *Audit of Sources and Uses of Global HIV/AIDS Initiative Global Health and Child Survival Funds Related to the President's Emergency Plan for AIDS Relief (PEPFAR) for FYs 2007 and 2008* (AUD/SI-11-10, Dec. 2010).

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the handover documents are important because they should clearly describe the host government's responsibilities.

## **Management Actions Taken**

Subsequent to the issuance of our draft report, S/GAC provided additional information regarding actions taken to address the noted deficiencies relating to the administration of PEPFAR construction projects. S/GAC officials explained that they are instituting a more rigorous process for PEPFAR construction, to include developing a new model for PEPFAR construction with detailed guidance that will be incorporated in the FY 2012 COPs. This guidance, which is currently being drafted, will include detailed procedural steps that country teams must follow when the Department takes responsibility for implementing PEPFAR construction projects. A major step in this new process will require PEPFAR teams undertaking construction projects to identify Department personnel who will be responsible for requisitioning the project, certifying the availability of funds, and managing the project.

All PEPFAR teams undertaking new construction or renovation projects will also be required to prepare a Construction Project Plan that includes detailed information about the plan, including information such as the project type, project description, control number, type of funding, prime partner name, recipient organization, goals, timelines, project justification, and other pertinent data. S/GAC plans to assign a unique control number to each project to track the life cycle of the project from the COP to the contract obligation in the Department's Regional Financial Management System.

S/GAC is also implementing a new requirement that PEPFAR teams with construction projects in their COPs should prepare a Memorandum of Understanding (MOU) on PEPFAR construction and renovation with the host government "to improve coordination with host government officials on construction needs in-country, to facilitate the planning and tracking of projects, and to establish appropriate host country responsibilities for facilities following transfer." Beginning in FY 2013, S/GAC also plans to establish more uniform and comprehensive monitoring and reporting procedures for PEPFAR properties by requiring country teams to submit end-use monitoring reports. These reports help to ensure that transferred property is used for the purposes for which the property was designed. Along with the guidance in the COPs, S/GAC is preparing standard operating procedures for increased oversight of construction and plans. S/GAC officials stated that they decided to include this information in the COPs rather than in an MOA because they believed the COP is a more appropriate vehicle for transmission of this information.

In respect to the \$14 million in unliquidated obligations that OIG identified relating to planned PEPFAR construction projects, S/GAC officials explained that they had addressed these concerns by reclaiming from HHS and USAID over \$51 million in PEPFAR construction dollars. More than \$47 million was then redistributed to the Bureau of African Affairs, while \$4 million was redistributed to the Bureau of Western Hemisphere Affairs. RPSO will award and monitor these projects, but the Department personnel, at post, will have responsibility for requisitioning funds and for related tasks to ensure successful project implementation.

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**Recommendation 1.** OIG recommends that the Office of the U.S. Global AIDS Coordinator develop an interagency memorandum of agreement to address the PEPFAR overseas construction projects that specifies all parties to the agreement; defines the purpose, background, and objective of the agreement; clearly defines the roles and responsibilities of the agencies involved for acquiring and administering construction projects; and provides for dispute resolution.

**Management Response:** S/GAC disagreed with the recommendation, stating that it is “working with PEPFAR country teams that have construction needs to ensure adequate State Department capacity to act as implementing agency for these projects,” thereby negating the need for a memorandum of agreement.

**OIG Analysis:** OIG considers this recommendation resolved because the management actions taken by S/GAC to address the deficiencies noted represent a practicable approach. However, OIG continues to believe that an interagency memorandum of agreement specific to PEPFAR overseas construction projects would serve as a valuable management tool, particularly in delineating the roles and responsibilities of the agencies involved with advancing the PEPFAR program and facilitating the resolution of disputes when they arise. This recommendation will remain open until S/GAC demonstrates that the actions taken have fully addressed the deficiencies noted concerning the administration of PEPFAR construction projects. OIG will continue its oversight of this issue and monitor S/GAC’s progress during the compliance process and will report relevant findings accordingly.

**Recommendation 2.** OIG recommends that the Office of the U.S. Global AIDS Coordinator discuss and seek resolution for the current legal dispute on construction authority with senior-level management within the U.S. Department of Health and Human Services.

**Management Response:** S/GAC disagreed with the recommendation [REDACTED]

**OIG Analysis:** OIG considers the recommendation resolved and closed because the actions S/GAC has reclaimed and redistributed the \$51 million in PEPFAR construction funds provided to HHS and USAID, as well as the Department’s resolve to act as the implementing agency for overseas construction projects, eliminate the immediate need to resolve the legal dispute with HHS.

**Recommendation 3.** OIG recommends that the Office of the U.S. Global AIDS Coordinator appoint a senior-level official who has the requisite experience in construction and the authority to make decisions related to PEPFAR overseas construction projects and who will report directly to the U.S. Global AIDS Coordinator.

**Management Response:** S/GAC “agreed in principal” with the recommendation, adding that “it would be highly useful to add additional construction expertise; however our

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approach would be to look for various contracting mechanisms or agreements with State Department operating units such as RPSO or OBO for that support.”

**OIG Analysis:** OIG considers this recommendation resolved because S/GAC is taking steps to implement it; however, this recommendation will remain open until S/GAC demonstrates that it has appointed a senior-level official who has the requisite experience in construction and the authority to make decisions related to PEPFAR overseas construction projects.

**Recommendation 4.** OIG recommends that the Office of the U.S. Global AIDS Coordinator establish guidance that clearly describes procedures to be followed by U.S. Government agencies involved with PEPFAR overseas construction projects, including addressing the requisitioning of PEPFAR funds, accounting for PEPFAR properties (after construction and before transfer to the host governments), and transferring property to the host government.

**Management Response:** S/GAC agreed with the recommendation, stating that it “intends to issue additional procedural guidance on construction.”

**OIG Analysis:** OIG considers this recommendation resolved because S/GAC is taking steps to implement it; however, this recommendation will remain open until S/GAC provides evidence that it has established guidance that clearly describes procedures to be followed by U.S. Government agencies involved with PEPFAR overseas construction projects, to include the requisitioning of PEPFAR funds, accounting for PEPFAR properties, and transferring property to the host government.

### **Best Practices in Constructing PEPFAR Facilities**

In performing this audit, OIG noted two best practices in constructing PEPFAR facilities in Tanzania and Uganda. These best practices include streamlining construction using prefabricated structures and incorporating renewable energy features, such as solar power, in construction. If implemented more widely, these best practices could reduce construction and utility costs for PEPFAR, and the cost savings achieved would enhance the overall financial sustainability of PEPFAR and make funds available to support additional people on treatment programs.

At the outset of his administration, President Barak Obama made it clear that the Government needed to work better, faster, and more efficiently. The Tom Lantos and Henry J. Hyde United States Global Leadership Against HIV/AIDS, Tuberculosis, and Malaria Reauthorization Act of 2008<sup>20</sup> reauthorized PEPFAR funding for FY 2009 and required, among other items, that a best practices report be disseminated. In addition, on September 14, 2010, the President’s Management Council—a group of agency Deputy Secretaries overseeing the President’s efficiency goals—stated that the Council is “pursuing a management agenda that

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<sup>20</sup> Pub. L. No. 110-293.

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embraces technological innovations and management best practices to improve effectiveness, efficiency, and customer service.”<sup>21</sup>

**Streamlining Construction Using Prefabricated Structures**

A CDC official stated that CDC used prefabricated buildings in Nigeria to solve shortage-of-space problems. (The advantages of prefabricated structures are described in the section “Best Practice – Prefabricated Structures.”)

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<sup>21</sup> Memorandum for the Senior Executive Service, “The Accountable Government Initiative – an Update on Our Performance Management Agenda,” OMB, Sept. 14, 2010.

**Best Practice – Prefabricated Structures**

Centers for Disease Control officials in Tanzania are working with the U.S. Agency for International Development to design prefabricated health clinics as an alternative to the traditional “bricks and mortar” construction of these properties. The advantages of using prefabricated structures include the following:

- Prefabricated health clinics cost less than the traditional “bricks and mortar” construction projects—an estimated savings of 10 to 20 percent.
- Prefabricated structures take less time to construct. Once the materials are delivered to the site, a structure can be assembled in 3 or 4 days.
- These structures have 15- to 30-year warranties and are fireproof, waterproof, and termite proof.
- The structures are versatile; units can be added on to configure a desirable size.
- The lightweight panels can be transported and assembled in remote areas.
- Less skill is required to assemble the units versus building new construction.
- Prefabricated clinics are projected to require little maintenance during their first 20 years of existence. Minimal maintenance is desirable in these locations because of a lack of skilled labor to perform maintenance.

**Prefabricated Health Clinics in Tanzania**



**Mbagala, Tanzania**  
[Photo Source: USAID]



**Mbweni, Tanzania**  
[Photo Source: USAID]

**Incorporating Renewable Energy Features Into Construction**

In addition to prefabricated structures, several posts are using solar energy as a primary and back-up source of supply to address the country’s limited electrical resources. (Advantages of solar energy are described in the section “Best Practice – Solar Energy.”)

**Best Practice – Solar Energy**

Secretary Clinton launched the Greening Diplomacy Initiative in April 2009 to “improve the sustainability of the State Department’s facilities and operations.” One of the main objectives of the Greening Diplomacy is to “develop and implement policies and initiatives that will reduce the State Department’s environmental footprint and cut costs.” OIG observed practices in Tanzania and Uganda that are helping to reduce the Department’s “environmental footprint” in its programs overseas. Specifically, the President’s Emergency Plan for AIDS Relief (PEPFAR) projects in Tanzania and Uganda are using solar energy to save costs and improve the reliability and availability of energy for the laboratories and health centers that are being built.

At the Mukono Health Center in Uganda, solar energy is used as a back up to run critically essential equipment such as refrigerators, small centrifuges, microscopes, and lighting. However, an official from the Centers for Disease Control and Prevention (CDC) stated that solar ends up being used the majority of the time rather than just for backup because of the unreliability of the main power grid in Uganda. A CDC official in Uganda said that CDC includes provisions for solar power as part of its plan to strengthen infrastructure for all of its health centers that include a blood bank component. The official noted that each of the laboratories should be equipped to store blood and related chemicals at regulated temperatures. However, many of these laboratories do not have access to the main power grid, and even in cases where the laboratories do have access to electricity, the power is unreliable and expensive. Solar energy has helped the PEPFAR program in Uganda provide a more reliable energy source to keep critical equipment operating.

In Tanzania, CDC officials stated that they are using four solar-powered refrigerators. Using solar power provides a continuous supply of electricity and helps to protect the contents of refrigerators at night and during the weekend when power cuts are frequent. CDC is also considering purchasing prefabricated structures with solar-powered panels, which allows a clinic to be delivered to a remote location that does not have access to electricity. In general, solar energy provides a reliable source of power, especially for rural facilities. A reliable and continuous supply of power from solar energy

- Allows for a safe supply of vaccines and icepacks for vaccine transportation.
- Reduces environmental and health threats by replacing noxious fumes from kerosene lamps.
- Improves quality of services (for example, autoclaving and/or sterilization of equipment and instruments).

Solar power can, over time, be cost efficient. After the initial capital investment, maintenance costs are less than ongoing purchases of fuel (petroleum, kerosene, or wood) or publicly generated power.

## **List of Recommendations**

**Recommendation 1.** OIG recommends that the Office of the U.S. Global AIDS Coordinator develop an interagency memorandum of agreement to address the PEPFAR overseas construction projects that specifies all parties to the agreement; defines the purpose, background, and objective of the agreement; clearly defines the roles and responsibilities of the agencies involved for acquiring and administering construction projects; and provides for dispute resolution.

**Recommendation 2.** OIG recommends that the Office of the U.S. Global AIDS Coordinator discuss and seek resolution for the current legal dispute on construction authority with senior-level management within the U.S. Department of Health and Human Services.

**Recommendation 3.** OIG recommends that the Office of the U.S. Global AIDS Coordinator appoint a senior-level official who has the requisite experience in construction and the authority to make decisions related to PEPFAR overseas construction projects and who will report directly to the U.S. Global AIDS Coordinator.

**Recommendation 4.** OIG recommends that the Office of the U.S. Global AIDS Coordinator establish guidance that clearly describes procedures to be followed by U.S. Government agencies involved with PEPFAR overseas construction projects, including addressing the requisitioning of PEPFAR funds, accounting for PEPFAR properties (after construction and before transfer to the host governments), and transferring property to the host government.

## **Scope and Methodology**

This audit focused on overseas construction from the Global Health and Child Survival (GHCS)-State account for the President's Emergency Plan for AIDS Relief (PEPFAR) where procurement support was provided by the Department of State (Department) for FYs 2003 to 2010. The audit work for this report focused on the role and responsibilities of the Office of the U.S. Global AIDS Coordinator (S/GAC) in the oversight and management of overseas construction for PEPFAR. The Office of Inspector General's (OIG) work and results related to the Department's contracting actions for the award and monitoring of these construction contracts will be reported in a future report.

To understand the role and responsibilities of S/GAC, OIG reviewed Federal appropriations related to PEPFAR from 2003 to 2008. In addition, OIG reviewed pertinent laws, regulations, Department policies and guidance, and agreements between the Department of Health and Human Services (HHS) and the Department of State related to overseas procurements, procurement authority, requisitioning, and transfer of property.

OIG reviewed reports related to PEPFAR that it had previously issued and reports that other Federal agencies and the Government Accountability Office had issued. OIG's review included searching the Internet and the Department's Web site for information relevant to this audit. OIG also obtained and reviewed documents from officials from the Department and the Centers for Disease Control and Prevention (CDC) that explained the new procurement policy.

OIG met with officials from the following bureaus and offices: S/GAC, to ascertain its management and oversight roles regarding PEPFAR overseas construction projects; the Bureau of Overseas Buildings Operations (OBO), to determine whether it had a role in the construction, renovation, and maintenance of these building projects; the Regional Procurement Support Office (RPSO) in Frankfurt, Germany, to identify the number of procurement awards; the Bureau of African Affairs, to determine its role in the funding of PEPFAR overseas construction projects; the Bureau of Administration, to determine its role in the procurement process; and the Office of the Legal Adviser, to gain an understanding of the legal issues that surround the PEPFAR overseas construction projects. Additionally, OIG coordinated with HHS's legal office to obtain its opinion about HHS's authority to award contracts and transfer PEPFAR properties to the host government.

OIG met with CDC officials in Atlanta, Georgia, to obtain their perspective on the following topics: legal opinions; the accountability of properties overseas; the decision by CDC to use RPSO for procurement services; the use of grants or cooperative agreements for construction projects; the transfer of property to the host government; the policies, guidance, and agreements provided to CDC by the Department; the safety of CDC personnel occupying new or renovated properties; and interagency planning and coordination. While at CDC headquarters, OIG obtained documentation describing the funding process, S/GAC guidance to posts, a draft memorandum of understanding, and CDC construction and procurement guidance for posts.

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For the fieldwork phase of the audit, OIG traveled to the countries that had the most construction procurements: Ethiopia, Tanzania, and Uganda. In each country, OIG met with officials involved with PEPFAR overseas construction projects from the following agencies: CDC, the Department of Defense (DoD), the U.S. Agency for International Development (USAID), and the PEPFAR country coordinator. OIG met with CDC officials and the PEPFAR country coordinator to obtain information regarding the status of current projects and the transfer of property to the host government and to gain an understanding of how the properties are accounted for at post. OIG also met with officials from USAID and DoD to determine those entities' level of involvement with the PEPFAR overseas construction projects

Additionally, OIG met with the following embassy officials at each post: the Financial Management Officer, to gain an understanding of how post accounts for PEPFAR properties and the process used to approve and pay PEPFAR invoices; the General Services Officer, to determine the officer's level of interaction with PEPFAR construction projects; and the Regional Security Officer, to obtain information about security measures taken during construction and to be taken after the building has been completed. OIG also met with the ambassador and/or the deputy chief of mission at each post to obtain a high-level overview of the PEPFAR construction program.

OIG's Office of Audits conducted this audit from January 2010 to January 2011 in accordance with generally accepted government auditing standards. These standards require that OIG plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for the findings and conclusions based on the audit objectives. OIG believes that the data was sufficiently reliable for purposes of its report, even though S/GAC was unable to provide a complete and accurate inventory of PEPFAR overseas construction projects. OIG believes that the evidence obtained provides a reasonable basis for the findings and conclusions based on the audit objectives.

### **Prior OIG Reports**

In its February 2008 inspection of S/GAC,<sup>1</sup> OIG's Office of Inspections (ISP) focused on the role of S/GAC in coordinating AIDS activities among the various organizations working to treat the disease. The report stated that S/GAC had made great progress in forging interagency cooperation; however, the report recommended that S/GAC work with the Director of Foreign Assistance to form an agreement as to who should oversee the flow of funds.

In its November 2009<sup>2</sup> inspection of the exercise of chiefs of mission authority in managing the PEPFAR program overseas, ISP focused on determining how chiefs of mission fulfilled their responsibilities of coordinating, directing, and supporting the PEPFAR program at overseas posts. The report contained information about OBO's responsibility for security and safety standards for building and leasing overseas. The report stated that OBO had the sole approval authority for most building and leasing overseas for U.S. Government employees. The

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<sup>1</sup>*Report of Inspection of Review of the Office of the U.S. Global AIDS Coordinator* (ISP-I-08-23, Feb. 2008).

<sup>2</sup>*Report of Inspection of the Exercise of Chief of Mission Authority in Managing the President's Emergency Plan for AIDS Relief Overseas* (ISP-I-10-01, Nov. 2009).

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report recommended that OBO, in coordination with S/GAC, develop parallel procedures for approval of overseas construction and leasing.

In OIG's December 2010 audit report<sup>3</sup> on the uses of the Global Human Immunodeficiency Virus/Acquired Immune Deficiency Syndrome initiative and Global Health and Child Survival Funds related to PEPFAR, OIG tracked the flow of these funds for FYs 2007 and 2008 from appropriation to obligation and through the agency reports to S/GAC. The report identified the following issues:

- Implementing agencies were not reconciling their funding reports submitted to S/GAC and the Department of the Treasury.
- Funding from S/GAC to the implementing agencies was often late.
- DoD does not obligate its funds efficiently or quickly.
- CDC and DoD do not have adequate internal controls over PEPFAR funding.

The recommendations for this audit had not been closed as of February 2011.

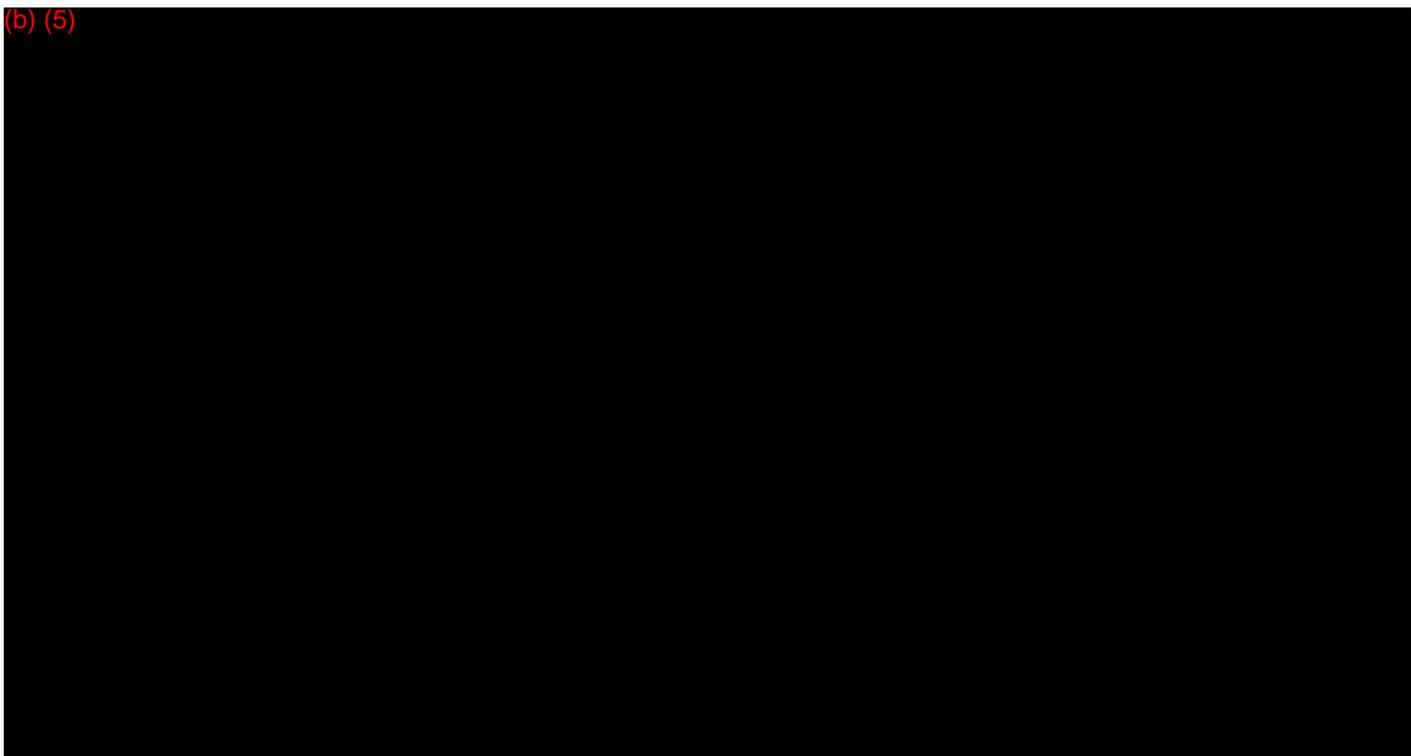
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<sup>3</sup>*Audit of Sources and Uses of Global HIV/AIDS Initiative Global Health and Child Survival Funds Related to the President's Emergency Plan for AIDS Relief (PEPFAR) for FYs 2007 and 2008 (AUD/SI-11-10, Dec. 2010).*

**Legal Opinions From the Department of Health and Human Services  
and the Department of State Regarding PEPFAR Overseas Construction**

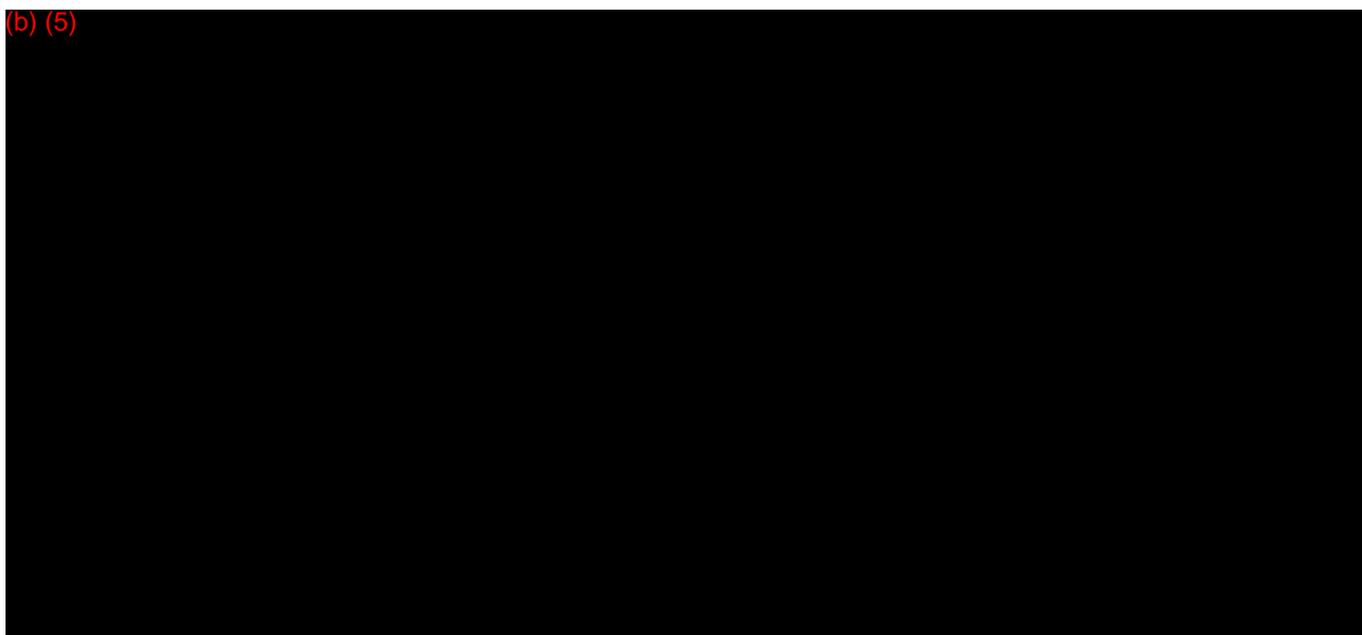
**Department of Health and Human Services Position**

(b) (5)



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

(b) (5)



(b) (5)



**Department of State Position**

(b) (5)



**CDC Cable Halting New Overseas Construction for PEPFAR**

**Centers for Disease Control and Prevention Cable 09 CDC ATLANTA GA 7821, "CDC Officials – Requisitioning Procurements Using State Department Funds"**

MRN: 09 CDC ATLANTA GA 7821

Date/DTG: Nov 04, 2009 / 041745Z NOV 09

From: CDC ATLANTA GA

Action: LUANDA, AMEMBASSY ROUTINE; NASSAU, AMEMBASSY ROUTINE; DHAKA, AMEMBASSY ROUTINE; BRIDGETOWN, AMEMBASSY ROUTINE; COTONOU, AMEMBASSY ROUTINE; GABORONE, AMEMBASSY ROUTINE; BRASILIA, AMEMBASSY ROUTINE; OUAGADOUGOU, AMEMBASSY ROUTINE; PHNOM PENH, AMEMBASSY ROUTINE; YAOUNDE, AMEMBASSY ROUTINE; BEIJING, AMEMBASSY ROUTINE; BRAZZAVILLE, AMEMBASSY ROUTINE; KINSHASA, AMEMBASSY ROUTINE; SAN JOSE, AMEMBASSY ROUTINE; ABIDJAN, AMEMBASSY ROUTINE; COPENHAGEN, AMEMBASSY ROUTINE; SANTO DOMINGO, AMEMBASSY ROUTINE; CAIRO, AMEMBASSY ROUTINE; ADDIS ABABA, AMEMBASSY ROUTINE; PARIS, AMEMBASSY ROUTINE; TBILISI, AMEMBASSY ROUTINE; ACCRA, AMEMBASSY ROUTINE; GUATEMALA, AMEMBASSY ROUTINE; GEORGETOWN, AMEMBASSY ROUTINE; PORT AU PRINCE, AMEMBASSY ROUTINE; NEW DELHI, AMEMBASSY ROUTINE; JAKARTA, AMEMBASSY ROUTINE; ROME, AMEMBASSY ROUTINE; ASTANA, AMEMBASSY ROUTINE  
E.O.: 12958

TAGS: CDC, AMGT, XTAG

Pass Line: FOR CDC FROM CDC COGH

STATE FOR A/OPE, S/GAC

STATE PLS PASS HHS OGHA

FRANKFURT FOR RPSO

**SUBJECT: CDC OFFICIALS - REQUISITIONING PROCUREMENTS USING STATE DEPARTMENT FUNDS**

**SUMMARY:** CDC employees must cease and desist from all requisitioning of all procurement activities (including construction) which use OGAC-retained funds.

1. This message addresses the issue of CDC requisitioning of PEPFAR construction to be funded by State Department retained funds. CDC has no control over utilization of appropriations that do not rest in CDC coffers. (This guidance does not apply to OGAC funds which have been transferred to CDC under the authority of Section 632(a) of the Foreign Assistance Act (FAA) and, therefore, are available for use in CDC funded projects. Separate guidance will be issued regarding construction with Section 632(a) transferred funds and CDC appropriations.)

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2. CDC only has authority to requisition procurements for construction activities using funds under CDC control (i.e., CDC appropriations; State funds transferred under Section 632(a) of the FAA). State Department-retained funds remain exclusively available for State Department use.

3. Through Country Operations Plans (COPs), all participating PEPFAR agencies plan for various projects, including construction of facilities. COPs should be drafted to clearly indicate the funding source for any particular construction project planned. Specifically, if OGAC will be retaining funds, construction projects funded with such funds must be identified in the COP as State Department funded facilities.

4. In addition, CDC staff are not authorized and, therefore, are prohibited from engaging in any activity that purports to requisition construction (i.e., obligate funds for construction) or any other activities that would commit State Department funds. In addition, CDC personnel are prohibited from engaging in any other activities that involve the control of movement of such funds, including through communication (written or verbal) from CDC field staff, via the embassy FMO or otherwise, to post contracting officers, RPSO, or any other entity funded with such State Department-retained funds. In particular, CDC staff shall not sign any documents related to requests for funding or actually funding of such projects. Appropriate authorized State Department personnel are responsible for all funding related activities utilizing State Department (retained PEPFAR or non-PEPFAR) funds.

5. CDC field staff, however, are authorized as part of their PEPFAR role to engage in non-funding related activities regarding the accomplishment of COP authorized construction projects. An example of such authorized CDC role in such a construction project would be to assist in developing project specifications (e.g., laboratory design and equipment requirements).

6. Please refer questions on this message to (b) (6)

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Signature: BLOUNT

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Info: WASHDC, SECSTATE ROUTINE; WEBGRAM, USOFFICE  
ROUTINE; FRANKFURT, AMCONSUL ROUTINE; FRC FT LAUDERDALE,  
USOFFICE ROUTINE; ATLANTA GA, CDC ROUTINE  
Attachments: metadata.dat

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## **PEPFAR Overseas Construction Guidance – FY 2006 to FY 2010**

Detailed guidance provided to posts regarding overseas construction for the President’s Emergency Plan for AIDS Relief (PEPFAR) for FYs 2006 to 2010 is summarized by the Office of Inspector General as follows:

**FYs 2006 and 2007.** Centers for Disease Control and Prevention (CDC) personnel in Tanzania stated that the CDC headquarters general counsel, in May 2006, had stated that CDC could not use cooperative agreements for the expansion of existing space. As an alternative to these cooperative agreements, the Office of the U.S. Global AIDS Coordinator (S/GAC) advised posts to use the Regional Procurement Support Office (RPSO) for procurement of these projects in the future. Based on that guidance, CDC personnel in Tanzania transferred planned expenditures from their cooperative agreement partners for renovations costing more than \$15,000 to RPSO in the FY 2007 country operational plans.

S/GAC advised CDC to use RPSO because CDC determined that it could not accept funds for construction projects. S/GAC changed its policy so that funds for construction would be transferred to the Bureau of African Affairs to be given to post for obligation to RPSO. In FY 2007 guidance,<sup>1</sup> S/GAC advised PEPFAR country teams to use RPSO for procurements but then further advised that posts could also try to convince host governments or international organizations to finance and conduct these construction projects.

**FY 2008.** S/GAC continued to advise PEPFAR country teams to use RPSO for construction procurements but then, under the procedures section, advised that the U.S. Government should be the “option of last resort.”<sup>2</sup> S/GAC also advised the teams that the Department of State (Department) has the legal authority to carry out overseas construction under the Foreign Assistance Act of 1961,<sup>3</sup> while the U.S. Agency for International Development (USAID), the Department of Health and Human Services, and the Department of Defense (DoD) have only limited authority to carry out overseas construction projects.

**FY 2009.** S/GAC gave PEPFAR country teams the option of using the Department of State, USAID, or DoD for these procurements,<sup>4</sup> even though S/GAC had previously stated that the Department has the legal authority to carry out overseas construction and that DoD and USAID had “limited” authority.

In September 2009, the Office of the Procurement Executive released guidance to CDC and Department personnel overseas stating that supplies and services to be used by non-U.S.

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<sup>1</sup> The President’s Emergency Plan for AIDS Relief, “Country Operational Plan Guidance,” FY 2007.

<sup>2</sup> PEPFAR “COP [Country Operational Plan] Guidance Appendices,” FY 2008.

<sup>3</sup> Pub. L. No. 87-195.

<sup>4</sup> PEPFAR “Country Operational Plan Guidance Appendices,” FY 2009.

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Government organizations must be funded by a grant or cooperative agreement issued by the CDC Procurement and Grants Office.<sup>5</sup>

**FY 2010.** In a November 4, 2009, cable,<sup>6</sup> CDC requested that its employees “cease and desist from all requisitioning of all procurement activities” using Department-retained funds. The cable stated that “CDC only has authority to requisition procurements for construction activities” using CDC-controlled funds and that “CDC staff are not authorized,” as part of their PEPFAR role, to continue to assist in non-funding-related activities related to PEPFAR overseas construction projects.

Also in November 2009, CDC released guidance<sup>7</sup> regarding the use of RPSO for procurement of goods and services for CDC. The guidance stated that CDC may only use RPSO if CDC will have “direct ownership and benefit” of the goods and services procured for it by RPSO. Furthermore, it stated that “[o]nly a grant or cooperative agreement may be used” when the acquisition of goods and services benefits a recipient and that the “Department of State and its overseas posts are NOT authorized to issue grants or cooperative agreements using CDC . . . funds.”

In a December 17, 2009, cable,<sup>8</sup> S/GAC provided the following guidance to posts:

Please reprogram funds for previously approved projects to be contracted by RPSO [Regional Procurement Service Office] to another available mechanism – either HHS [Department of Health and Human Services]/CDC for an Atlanta-issued grant or cooperative agreement, or another PEPFAR implementing agency (USAID or DoD).

On September 15, 2010, S/GAC issued updated guidance<sup>9</sup> on overseas construction using PEPFAR funds. This guidance provided information about authorities, limitations, and options for carrying out PEPFAR overseas construction and renovation activities, including the possible use of RPSO. A supplemental construction annex included with the September 14, 2010, guidance required PEPFAR country teams to provide data related to FY 2010 and prior year Country Operational Plan-approved construction projects in an attempt to compile a complete and detailed list of all existing/approved construction projects.

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<sup>5</sup> Cable 09 State 94144, “Guidance From the Procurement Executive on the Roles and Responsibilities of State and CDC Personnel Posted Abroad,” Sept. 10, 2009.

<sup>6</sup> Cable 09 CDC ATLANTA GA 7821, “CDC Officials – Requisitioning Procurements Using State Department Funds,” Nov. 4, 2009.

<sup>7</sup> Cable 09 CDC ATLANTA GA 7819, “CDC – Procedures for Requesting Procurement Actions by State RPSOS,” Nov 4, 2009.

<sup>8</sup> Cable 09 STATE 129195, “HHS-PEPFAR Construction Guidance,” Nov. 4, 2009.

<sup>9</sup> “Construction and Renovation Guidance – September 14, 2010,” provided by S/GAC.



United States Department of State

Washington, D.C. 20520

MEMORANDUM

May 12, 2011

TO:           OIG – Harold W. Geisel

FROM:        S/GAC – Ambassador Eric Goosby, MD 

SUBJECT:    Response to the Report, *Audit of Construction and Transfer of Ownership of the President's Emergency Plan for AIDS Relief (PEPFAR) Overseas Construction Projects*

Thank you for the opportunity to review and comment on the March 2011 Draft Office of Inspector General (OIG) report. The Office of the U.S. Global AIDS Coordinator (S/GAC) appreciates the OIG's efforts to recognize the challenges that S/GAC faces when implementing construction overseas. General comments and comments specific to the OIG recommendations are enclosed.

S/GAC agrees with two of the OIG recommendations and has undertaken a number of activities over the past year to improve PEPFAR construction overseas. S/GAC is confident that our efforts will result in vast improvements to the implementation, monitoring and reliability of managing PEPFAR construction overseas.

S/GAC appreciates the efforts that OIG expended conducting this review. Thank you again for the opportunity to provide comments on the Draft Report. S/GAC looks forward to continuing our collaborative efforts with the OIG in the future.

If you have any further questions or would like to discuss any of the issues in more detail, please feel free to contact  or by email at 

Attachment: S/GAC Comments on March 2011 Office of Inspector General Draft Report

**S/GAC COMMENTS ON MARCH 2011 OFFICE OF INSPECTOR GENERAL DRAFT  
REPORT**

**AUDIT OF CONSTRUCTION AND TRANSFER OF OWNERSHIP OF THE  
PRESIDENT'S EMERGENCY PLAN FOR AIDS RELIEF (PEPFAR) OVERSEAS  
CONSTRUCTION PROJECTS**

**Background and Comments**

We appreciate the opportunity to comment on this report and make the IG aware of some of the existing PEPFAR operating mechanisms and our future plans to address this area.

By design, PEPFAR operates under a model that utilizes USG executive branch agencies as implementing agency partners, and works with the operational expertise of those agencies to carry out programs and implement HIV/AIDS foreign assistance projects. The HIV/AIDS Leadership Act includes under duties of the Global AIDS Coordinator responsibility for “[e]nsuring that each relevant executive branch agency undertakes programs primarily in those areas where the agency has the greatest expertise, technical capabilities, and potential for success.” While interagency partners include DoD, Peace Corps, State and others, USAID and HHS (including CDC) are far-and-away the largest PEPFAR implementing agencies. USAID brings expertise in foreign assistance programs, and HHS/CDC has both technical knowledge on disease and runs the largest domestic grants program in the USG.

Lack of capacity to implement overseas construction projects for HIV/AIDS assistance purposes has been a problem in PEPFAR. While certain agencies, including DoD and USAID, have no problem with their authority to perform such activities, construction or substantial renovation is work-intensive for procurement staff, and agencies are reluctant to take on projects for other agencies. HHS/CDC has generated the greatest demand for construction within PEPFAR programs. In late 2009, CDC’s decision that it could not contract for overseas construction prompted a substantial review of existing construction policies by S/GAC leadership.

In light of these difficulties, S/GAC concluded that it should develop a State Department mechanism to be available for PEPFAR construction. The State mechanism was not intended as exclusive, and implementing agencies such as USAID or DoD that can carry out construction effectively remained free to use their own mechanisms. CDC is also exploring plans to implement construction through grants or cooperative agreements under authority added to the Public Health Services Act, although CDC has not issued procedures and it is unclear if such an approach will be cost effective.

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It was recognized that a State mechanism could require additional State capacity in PEPFAR countries to handle functions relating to requisition, funding, oversight and close-out of construction projects. In September 2010, S/GAC issued updated "Construction and Renovation Guidance" to the field outlining these options, and highlighting the need for post planning if the State Department would act as implementing agency for construction projects. Where State is the implementing agency, funds will remain in State accounts (generally in the AF Bureau), construction or renovation projects will be approved by S/GAC via the COP, State officers will requisition the project and certify funds, RPSO will provide contracting actions, appropriate in-country personnel, who may include personnel from non-State agencies (e.g., CDC), will act as the Contracting Officer's Technical Representative (COTR) for specifications and on-location oversight of the project, and State officers will ensure proper transfer of possession.

(b) (5)



Each year, S/GAC enters into a Memorandum of Agreement (MOA) with each implementing agency pursuant to the authority in Section 632 of the FAA. These MOA's provide the vehicle to allocate GHCS-State funds to the implementing agencies, but also include financial, policy and legal conditions on the use of the funds. In short, these agreements form the basis for S/GAC's relationship with each implementing agency. These MOA's are an existing arrangement under which S/GAC may take up implementation issues with the agency on any topic, whether the problem is compliance with the policy to promote local capacity development and transition to local partners, or an issue over construction contracts. Given this existing structure, it could be counterproductive and confusing to layer on top an additional subject-matter MOA on construction. This said, S/GAC agrees construction needs clear mechanism(s) that utilize an agency (or agencies) with acknowledged construction authority and the expertise to complete projects.

S/GAC questions the assertion in the draft Report that no management structure has been developed for decision-making and resolution of disputes. The practice within PEPFAR is, in keeping with interagency nature of the program and the range of interests and agency practices this entails, to first seek resolution and build consensus through active dialogue and understanding, before exercising the authority of the Coordinator. However, there is a structure of management-level committees, including the Deputy Principals and the Principals (Assistant Secretary level), to provide senior input on difficult or contentious issues. These bodies advise the Coordinator, who ultimately decides matters within his authority.

Looking ahead on PEPFAR construction, S/GAC agrees the system needs strengthening. For example, relying on implementing agency procedures and country team management of construction has resulted in difficulties with consistent tracking of all such projects and their status. Thus, going forward, S/GAC intends to track centrally all PEPFAR construction (including significant renovation) that is funded with GHCS-State funds, and has already taken steps to begin this process. In addition, to assist country team/host government planning and the efficient transfer of completed projects, S/GAC is developing template materials that will include a MOU with the host country on planned construction, and practical handover transfer forms. These materials will include appropriate understandings on maintenance, purpose, continued use, and responsibility for the property following handover.

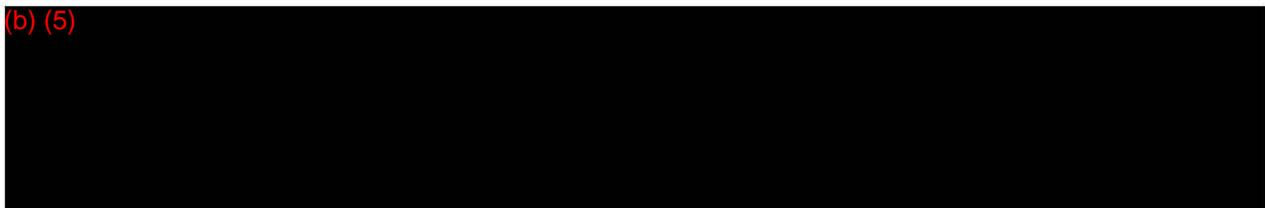
S/GAC Views on List of Recommendations

**Recommendation 1.** OIG recommends that the Office of the U.S. Global AIDS Coordinator develop an interagency memorandum of agreement to address the PEPFAR overseas construction projects that specifies all parties to the agreement; defines the purpose, background, and objective of the agreement; clearly defines the roles and responsibilities of the agencies involved for acquiring and administering construction projects; and provides for dispute resolution.

Under current S/GAC construction and renovation guidance, PEPFAR implementing agencies may use State Department mechanisms to implement projects, unless the agency has its own mechanism that it prefers to use. S/GAC is working with PEPFAR country teams that have construction needs to ensure adequate State Department capacity to act as implementing agency for these projects. Given these arrangements, S/GAC believes that an interagency memorandum on construction is unnecessary, and therefore disagrees with this recommendation.

**Recommendation 2.** OIG recommends that the Office of the U.S. Global AIDS Coordinator discuss and seek resolution for the current legal dispute on construction authority with senior-level management within the U.S. Department of Health and Human Services.

(b) (5)



**Recommendation 3.** OIG recommends that the Office of the U.S. Global AIDS Coordinator appoint a senior-level official who has the requisite experience in construction and the authority to make decisions related to PEPFAR overseas construction projects and who will report directly to the U.S. Global AIDS Coordinator.

S/GAC agrees it would be highly useful to add additional construction expertise; however our approach would be to look for various contracting mechanisms or agreements with State Department operating units such as RPSO or OBO for that support. In principle, S/GAC agrees with this recommendation.

**Recommendation 4.** OIG recommends that the Office of the U.S. Global AIDS Coordinator establish guidance that clearly describes procedures to be followed by U.S. Government agencies involved with PEPFAR overseas construction projects, including addressing the requisitioning of PEPFAR funds, accounting for PEPFAR properties (after construction and before transfer to the host governments), and transferring property to the host government.

S/GAC agrees with this recommendation, and intends to issue additional procedural guidance on construction.

**Specific comments on March 2011 draft Report text**

Page 1, third paragraph, sentence beginning, “In fact, S/GAC has not established a management structure...” As noted above, S/GAC does have a management structure that enables senior-level interagency input to advise and inform the Coordinator. S/GAC places a premium on active interagency engagement to resolve disputes. This comment applies to the several mentions in the report (page 11, paragraph 5) of a lack of a decision-making structure at S/GAC. **Recommend you replace this language with the following:**

The practice within PEPFAR is, in keeping with interagency nature of the program and the range of interests and agency practices this entails, to first seek resolution and build consensus through active dialogue and understanding, before exercising the authority of the Coordinator. However, there is a structure of management-level committees, including the Deputy Principals and the Principals (Assistant Secretary level), to provide senior input on difficult or contentious issues. These bodies advise the Coordinator, who ultimately decides matters within his authority”.

Page 2, first paragraph, sentence beginning “In addition, outstanding unliquidated obligations of more than \$14 million remain in accounts that potentially could be reclaimed or reprogrammed to fund new projects.” OGAC explained this in the response email to Sharon L Richards (OIG) Fri 1/7/20, “If we redirect the \$14 million in funds to other projects at this time, it would be very difficult to ensure availability of future funding. The \$14 million is comprised of ‘in-process’ and ‘approved but on hold’ construction or renovation project funds. Please update report per our explanation provided above.

Page 5, final paragraph, sentence beginning “Because various laws”: Revise to read “Because various laws, such as the Foreign Assistance Act of 1961, permit a Federal agency . . . .”

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PEPFAR is not a law (it is a “plan”) and interagency allocations are not required but are permitted by the FAA.

Page 6, final paragraph, sentence beginning “CDC’s authority”: Insert “through grants or cooperative agreements” after “construction of buildings”.

Page 7, final paragraph, sentence beginning: “For over a year,”: Strike the word “unresolved” as it implies that S/GAC was not engaged in dialogue designed to resolve this dispute.

Page 9, first paragraph under “Interagency Dispute Resolution”: Revise the text to read “The primary point of contention between the two agencies is whether the Foreign Assistance Act (FAA) provides authority to contract for construction services, and whether this authority to award contracts for PEPFAR overseas construction projects transfers with PEPFAR funds – from the Department to HHS and then to CDC. HHS believes that the FAA does not provide the authority to award construction contracts overseas, and thus that such authority does not transfer to HHS with the PEPFAR funds. The Department disagrees and believes that HHS does have authority to award construction contracts with funds from the GHCS-State account.”

Page 10, first paragraph, sentence beginning “The U.S. Global AIDS Coordinator said that he had not elevated the issue because he did not realize how the issue of awarding contracts for overseas construction would impact PEPFAR program goals and that he had been focusing on the number of people receiving antiretroviral drugs. The Coordinator also said that the PEPFAR program plans to eventually move to country ownership and that construction will include more renovations of existing structures in-country.” OGAC recommends striking from the report. The U.S. Global AIDS Coordinator, and his staff, were continually engaged in the issue and believed it could be resolved through the processes identified above.

Page 10, second full paragraph beginning “If CDC is required to use grants and cooperative agreements”: The discussion in this paragraph suggests AF Bureau or State Department assistance would be required if CDC were to use grants or cooperative agreements for construction projects. While CDC’s authority to carry out construction through grants and cooperative agreements states that it shall do so “in consultation with the Secretary of State,” once a project was approved (e.g., via the COP), issuance of the grant or cooperative agreement and management and oversight of the project would fall entirely to CDC as cognizant implementing agency.

Page 18, last paragraph before heading “Unclear Ownership and Responsibility for Building Maintenance”: This is a minor point, but in line 2 use of the term setting up “teams” is unclear. Is this a typo and should read “terms”? In late 2009, the Department developed model property grant template documents which could be used to set the terms for transfer of constructed properties.

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Page 27, paragraph under “Department of State Position”: Insert at the end “with GHCS-State funds transferred to HHS under section 632 of the Foreign Assistance Act of 1961.” The State Department position is that HHS has FAA authorities, including construction authorities, with GHCS-State and former GHAI funds. We do not maintain the HHS has such authorities with its own appropriated funds.

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