

Management Assistance Report: Legal Determination Concerning Department of State Non-Acquisition Interagency Agreements Is Needed, AUD-MERO-20-24, April 2020
Summary of Review

During the *Audit of Monitoring and Evaluating Department of State Foreign Assistance in the Philippines*,¹ the Department of State (Department) Office of Inspector General (OIG), Office of Audits, learned that the Department had used a “notice to proceed” to extend the period of performance for a non-acquisition interagency agreement (IAA),² even though Department policy does not explicitly recognize this as a valid mechanism for extending an IAA’s period of performance. In addition, OIG found that Department policy is silent on whether non-acquisition IAAs have the potential to create unauthorized commitments and, if so, whether ratification procedures are required when an unauthorized commitment involving an IAA does occur. OIG made four recommendations to address these issues. Specifically, OIG recommended that the Office of the Legal Adviser, which the Department has stated is responsible for these issues, render a legal determination on the appropriateness of using a notice to proceed to extend the period of performance for a non-acquisition IAA and whether ratification procedures are required when an unauthorized commitment involving an IAA occurs. OIG also recommended that the Bureau of Administration, Office of the Procurement Executive, incorporate the legal determinations in Department policy once finalized and communicate the policy to all relevant stakeholders. On the basis of an April 7, 2020, email from the Office of the Legal Adviser and written comments provided by the Office of the Procurement Executive in response to a draft of this report (see Appendix A), OIG considers all four recommendations resolved, pending further action. A synopsis of management’s comments to the recommendations offered and OIG’s reply follow each recommendation in the body of this report. The Office of the Procurement Executive’s response to a draft of this report is reprinted in its entirety in Appendix A.

¹ AUD-MERO-19-39, September 2019.

² An IAA is a written agreement between two Federal agencies that specifies the goods to be furnished or tasks to be accomplished by one agency in support of the other (Bureau of Administration, Office of the Procurement Executive, internal IAA website). If the principal purpose is for the servicing agency to award a grant, supply goods from inventory, or use agency personnel, the agreement is a non-acquisition IAA and it is currently subject to the guidance set forth in Procurement Information Bulletin 2014-05, “Non-Acquisition Interagency Agreements.”