

OFFICE OF INSPECTOR GENERAL

U.S. Agency for International Development

COVID-19: Enhanced Controls Could Strengthen USAID's Management of Expedited Procurement Procedures

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Audit



Office of Audits, Inspections, and Evaluations



OFFICE OF INSPECTOR GENERAL U.S. Agency for International Development

DATE: October 18, 2023

TO: USAID/Office of Acquisition and Assistance, Acting Director, Deborah Broderick

FROM: Africa Regional Office, Audit Director, Robert Mason

SUBJECT: COVID-19: Enhanced Controls Could Strengthen USAID's Management of Expedited Procurement Procedures

This memorandum transmits our final audit report. Our audit objectives were to determine the extent to which (1) USAID used the Expedited Procedures Package for Responding to Outbreaks of Contagious Infectious Diseases (Outbreak EPP) for COVID-19 programming and (2) selected USAID Operating Units met requirements for using the Expedited Procedures Package for Responding to Outbreaks of Contagious Infectious Diseases for COVID-19. In finalizing the report, we considered your comments on the draft and included them in their entirety, excluding attachments, in Appendix D.

The report contains four recommendations to improve USAID's use of the Outbreak EPP. After reviewing information that you provided in response to the draft report, we consider two closed (Recommendations 1 and 2), and two resolved but open pending completion of planned activities (Recommendations 3 and 4).

For Recommendations 3 and 4, please provide evidence of final action to the Audit Performance and Compliance Division.

We appreciate the assistance you and your staff provided to us during this audit.

Contents

Introduction	2
Summary	3
Background	3
USAID Lacked Complete and Accurate Information on the Extent to Which the Outbreak EPP Was Used for COVID-19 Programming.....	5
USAID M/OAA Did Not Consistently Track Reported Information, and USAID Staff Did Not Consistently Report Outbreak EPP Use to M/OAA.....	6
USAID Staff Did Not Consistently Report Use of Limited Competition in Systems Used by Congress, Other Agencies, and the Public	7
Selected Operating Units Generally Met Requirements for Using the Outbreak EPP, but USAID Lacked Controls to Ensure Complete Documentation and a Process to Assess Continued Use of Limited Competition.....	9
USAID Generally Met Requirements to Justify Limited Competition, but a Template Was Missing a Required Federal Acquisition Regulation Element.....	10
Several EPP Award Files in Selected Operating Units Did Not Have Required Documentation.....	10
USAID Lacked an Established Process with Metrics to Periodically Review the Continued Need for the EPP	11
Conclusion	12
Recommendations	12
OIG Response to Agency Comments	13
Appendix A. Scope and Methodology.....	14
Appendix B. Twelve Required Federal Acquisition Regulation Elements to Justify Use of Other Than Full and Open Competition	17
Appendix C. List of Selected Awards and Reported Use of Other Than Full and Open Competition.....	18
Appendix D. Agency Comments.....	19
Appendix E. Major Contributors to This Report.....	25

Pursuant to the James M. Inhofe National Defense Authorization Act for Fiscal Year 2023, Pub. L. No. 117-263, § 5274, which amends the Inspector General Act of 1978, USAID OIG provides non-governmental organizations and/or business entities specifically identified in this report, if any, 30 days from the date of report publication to review the final report and submit a written response to USAID OIG that clarifies or provides additional context for each instance within the report in which the non-governmental organization and/or business entity is specifically identified. Any comments received to this effect are posted for public viewing on <https://usaid.oig.gov> with USAID OIG's final report. Please direct related inquiries to oinotice_ndaa5274@usaid.gov.

Introduction

The COVID-19 pandemic created unprecedented challenges to providing U.S. foreign assistance worldwide.¹ In March 2020, Congress appropriated \$2.14 billion to support USAID's efforts in mitigating the impacts of COVID-19, both to respond to the pandemic and to support ongoing programs impacted by it. Although USAID and its contractors and grantees—commonly referred to as implementers—continued to execute programs, they faced significant operational and programmatic challenges. Soon after the World Health Organization's (WHO) declaration of the COVID-19 pandemic, USAID authorized the use of the Expedited Procedures Package for Responding to Outbreaks of Contagious Infectious Diseases (Outbreak EPP) to accelerate awards for COVID-19 programming to “avoid the impairment of U.S. foreign assistance.”²

The Outbreak EPP expedited the awards process by deviating from USAID's standard competitive procurement procedures. It allowed USAID to issue new and modified contracts for COVID-19 activities without resorting to full and open competition. In addition, the Outbreak EPP restricted eligibility for new and modified grants and cooperative agreements responding to COVID-19.

Competition, however, is a critical tool for achieving the best return on the government's investment. As a result, Federal agencies are generally required to award contracts competitively. Federal agencies are only allowed to award contracts noncompetitively under specified circumstances, including those defined as urgent and compelling, to protect vital government interests. Furthermore, competition, or eligibility for assistance awards, can be waived when it would otherwise adversely affect foreign aid programs. COVID-19 constituted such a situation. However, according to OMB Circular No. A-123, fraud risks are higher in emergency situations than under normal circumstances because the need to provide services quickly can hinder the effectiveness of existing controls and creates additional opportunities for individuals to engage in fraud. During a period of relaxed controls, compliance with requirements for using special procedures achieves added importance. Quality information regarding the extent of the use of relaxed controls enables management to make better and more informed decisions concerning the tradeoffs between normal controls and emergency response.

We conducted this audit to determine the extent to which (1) USAID used the Expedited Procedures Package for Infectious Disease Outbreaks for COVID-19 programming and (2) selected USAID Operating Units met requirements for using the Expedited Procedures Package for Infectious Disease Outbreaks for COVID-19.

To address the objectives, we reviewed 39 acquisition and assistance actions totaling \$280 million from 9 selected Operating Units (out of 95 actions totaling \$377 million across 42 Operating Units worldwide) that used the Outbreak EPP for COVID-19 from March 2020

¹ COVID-19 is the coronavirus disease caused by the SARS-CoV-2 virus that was discovered in December 2019 and led to the 2020 pandemic.

² The Outbreak EPP could also be authorized for other infectious disease outbreaks at any time during the 5-year open period. COVID-19 was the only authorized use of the Outbreak EPP as of our audit exit conference held in December 2022.

through July 2021.³ The 39 actions we reviewed were comprised of 16 acquisition actions and 23 assistance actions. To conduct our work, we reviewed guidance for the Outbreak EPP and interviewed officials from the Office of Acquisition and Assistance (OAA) as well as nine judgmentally selected Operating Units based on award dollars used for EPP actions.⁴ We conducted our work in accordance with generally accepted government auditing standards. Appendix A provides more detail on our scope and methodology.

Summary

USAID lacked complete and accurate information on the extent to which the Outbreak EPP was used for COVID-19 programming. USAID was not consistent in how it tracked Outbreak EPP data, how Operating Units reported Outbreak EPP use, nor how noncompetitive actions for use of other than full and open competition were reported in Federal systems. For example, in the Global Acquisition and Assistance System, 14 of 16 sampled acquisition awards used incorrect codes for noncompetitive actions.

Selected Operating Units generally met requirements for using the Outbreak EPP, but USAID lacked controls to ensure complete documentation and a process to assess continued use of limited competition. USAID generally met requirements to justify use of other than full and open competition, but guidance was missing a required Federal Acquisition Regulation (FAR) element relating to “other supporting facts,” which could be used to justify exclusion of award technical data or description of cost or harm to the government. Also, several Outbreak EPP award files in selected Operating Units did not have required documentation, such as justification and approval documentation. In addition, USAID lacked an established process with factors to periodically review the continued need for each disease outbreak declared under the Outbreak EPP.

Recommendations: We made four recommendations to address weaknesses in how USAID tracks and reports Outbreak EPP information and assess continued need. USAID agreed with three recommendations and partially agreed with one recommendation to implement procedures to improve USAID’s management of the Outbreak EPP.

Background

Federal law generally requires that contracts and grants be awarded based on full and open competition or eligibility to provide the best return on the government’s investment. However, the FAR recognizes exceptions to full and open competition under certain circumstances—such as an unusual and compelling urgency where a delay in contract award would seriously injure the government—but generally requires written justifications and approvals for their use. In addition, the USAID Acquisition Regulation (AIDAR) allows USAID to use a unique exception to waive full competition when doing so would impair U.S. foreign assistance—a USAID-specific solution called the Expedited Procedures Package.⁵ For the past 20 years, USAID has used expedited procedures for various reasons, including

³ The award and modification of grants, cooperative agreements, and contracts are referred to as *actions*. One award can have more than one action. An *acquisition action* pertains to a contract, whereas an *assistance action* pertains to a grant or cooperative agreement.

⁴ The nine selected Operating Units were the Asia Bureau and Bureau for Global Health as well as missions Cambodia, Colombia, Georgia, India, Kenya and East Africa, Nigeria, and Ukraine.

⁵ USAID Acquisition Regulation (AIDAR), Part 706.302-70(b)(3)(ii).

emergencies and pandemics. Typically, an expedited procedures package is open for 2-5 years and may be extended for 1-, 2-, or 5-year periods, with some having been extended multiple times.

The then-USAID Administrator authorized a 5-year Outbreak EPP on March 24, 2020, that would expire on March 23, 2025. The Agency determined that the authority for granting exceptions to full and open competition was necessary to enable USAID to quickly respond to infectious disease outbreaks that threaten the global community.

Given the far-reaching impact of the COVID-19 pandemic, the Outbreak EPP was equally broad. The authorities under the Outbreak EPP applied to contracts, grants, and cooperative agreements funded from any account where necessary to respond to an outbreak.⁶ The Outbreak EPP allowed Operating Units to respond in a multisectoral way by including programs outside of health, such as education and economic growth. USAID Operating Units were allowed to use this Outbreak EPP not only with existing partners and awards but also with any qualified partner, whether it currently held an award with USAID or not. The Outbreak EPP also covered activities financed from all of USAID's funding sources, including prior-year funding and current and future fiscal year appropriations.

The Outbreak EPP waived otherwise lengthy awarding procedures, such as competition and eligibility. The Outbreak EPP authorized three general waivers:

- For acquisition actions: A determination and findings (D&F) authorizing the use of procedures other than full and open competition when issuing or modifying contract awards;⁷
- For assistance actions: A blanket determination for restricting eligibility for new assistance awards or amendments to existing ones;⁸ and
- For all actions: A source and nationality waiver.⁹

These general waivers require the use of specific documents each time a noncompetitive process is followed. For acquisition actions, a justification and approval (J&A) document is completed and filed in addition to a D&F. A determination to restrict eligibility (DRE) document is used for assistance actions. These documents contain the specific rationale for deviating from full and open competition or restricting eligibility. Per FAR and Agency policy, noncompetitive actions are required to be documented in the Global Acquisition and

⁶ The Outbreak EPP would apply to any infectious disease outbreak that has either been declared a Public Health Emergency of International Concern or warranted USAID emergency funding. Examples of such outbreaks include COVID-19, Ebola, and Mpox (previously known as monkeypox).

⁷ Federal Acquisition Regulation (FAR) Part 1.7 defines a D&F as "a special form of written approval by an authorized official that is required by statute or regulation as a prerequisite to taking certain contract actions. The 'determination' is a conclusion or decision supported by the 'findings.'" A D&F is required when limiting competition for contracts.

⁸ Automated Directives System (ADS) Chapter 303 defines *restricted eligibility* as a funding opportunity that is limited to a specific type of entity or otherwise narrows the pool of applicants that may compete for a grant or cooperative agreement. It is also defined as an award or other assistance action that is limited to one or a limited number of recipients.

⁹ This element waives source and nationality requirements for the procurement of goods and services for activities and programs to respond to an outbreak. The waiver ensures ready availability of services and commodities to save lives. However, the Agency did not report use of this waiver during our audit period.

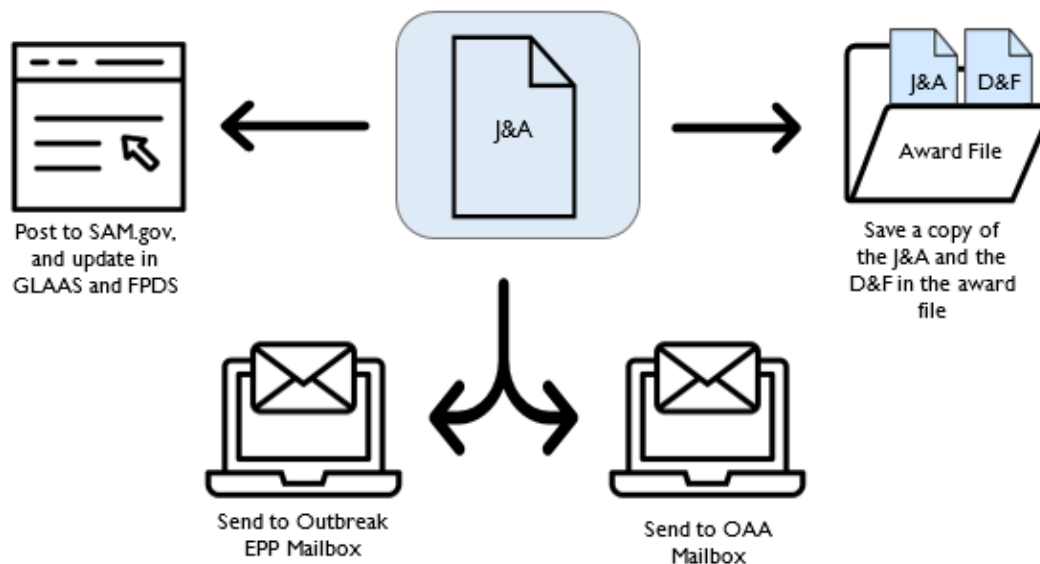
Assistance System (GLAAS), Agency Secure Image and Storage Tracking (ASIST)¹⁰, Federal Procurement Data System (FPDS), and SAM.gov.¹¹

A **J&A** is used for contracts to document the justifications and approval for using other than full and open competition, or limited competition.

A **DRE** is used for grants to document justifications for restricting eligibility.

According to Federal regulations, Agency policy, and guidance,¹² USAID requires staff to carry out certain steps when using the Outbreak EPP. For assistance actions, the Agreement Officer (AO) should include a copy of (1) the blanket determination to restrict eligibility and (2) the DRE in the award file and submit a copy to the Outbreak EPP mailbox. For acquisition actions, the Contracting Officer (CO) must take similar steps. Figure 1 illustrates the steps for acquisition awards.

Figure 1: Outbreak EPP Steps for Acquisition Awards



Source: OIG-generated depiction of acquisition EPP award process

USAID Lacked Complete and Accurate Information on the Extent to Which the Outbreak EPP Was Used for COVID-19 Programming

USAID did not consistently track or report the use of the Outbreak EPP. Some uses of the Outbreak EPP were not reported to the Bureau for Management’s Office of Acquisition and Assistance (M/OAA) and, therefore, were not included in USAID’s Outbreak EPP utilization data. We also found that USAID did not consistently report the use of other than full and

¹⁰ GLAAS is USAID’s internal procurement system, and ASIST serves as the Agency’s official, electronically based acquisition and assistance record repository.

¹¹ FPDS is a Federal system meant to enhance data transparency on government awards. SAM.gov provides information about awards to potential and existing entities doing business with the government.

¹² Requirements in FAR Part 6.3, A Mandatory Reference for ADS Chapter 302, and Outbreak EPP.

open competition in USAID's internal information systems and other external Federal information systems.

USAID M/OAA Did Not Consistently Track Reported Information, and USAID Staff Did Not Consistently Report Outbreak EPP Use to M/OAA

When reviewing USAID's Outbreak EPP utilization data, we found that the data did not always accurately reflect pertinent award information. In addition, USAID relied on emails sent by Operating Units to notify M/OAA when the Outbreak EPP was used, but staff did not always comply with this procedure.

M/OAA did not track use of the Outbreak EPP on an ongoing basis, and information that was recorded was sometimes inaccurate. In response to our request during the audit, M/OAA compiled a list of 95 actions where the Outbreak EPP was used during our audit period, encompassing 86 awards.¹³ These 95 actions were captured on a spreadsheet M/OAA created, using required email notifications to report Outbreak EPP utilization. However, we noted the following exceptions to the 95 actions:

- 1 action had an incorrect award number and amount.
- 13 actions listed the award number as TBD.

An M/OAA official stated that although M/OAA recorded the information as submitted via email, it did not confirm any data with the Operating Unit. The Agency also stated that some award numbers were shown as TBD because the Outbreak EPP was approved before the award number was created. However, we requested this information almost a year after approval, and the spreadsheet had not been updated. The Agency stated that it did not otherwise create or use a spreadsheet to capture EPP use, preferring instead to rely on data in GLAAS. Since we discuss these systems in the next section and make recommendations for improving the use of these systems for EPP tracking, we are not making a recommendation regarding spreadsheet tracking and recording.

We found 5 additional acquisition actions that used the Outbreak EPP but were not included in the 95 actions captured by the Agency based on email notifications of Outbreak EPP use. We located the additional actions by reviewing other information systems, such as SAM.gov, where Federal agencies are required to publicly post any use of other than full and open competition for a contract. The Operating Units for these five missing acquisition actions had completed J&As filed in ASIST and posted to SAM.gov, but M/OAA was not aware of their Outbreak EPP use because USAID staff did not always comply with the requirement to send emails to M/OAA. When an Operating Unit does not send a notification email to M/OAA, the office would not otherwise be aware of Outbreak EPP use.

Federal standards require agencies to obtain quality information. This information is used "to make informed decisions and evaluate the entity's performance in achieving key objectives."¹⁴ Although Outbreak EPP guidance explicitly states that staff must submit

¹³ The original spreadsheet provided by M/OAA included 97 total actions. However, we identified and excluded two duplicate actions from the total. For purposes of this audit, we refer to a total of 95 actions.

¹⁴ U.S. Government Accountability Office, *Standards for Internal Control in the Federal Government* (GAO-14-704G), "Information and Communication," Section 13.05, "Data Processed into Quality Information," September 2014.

completed documentation to relevant mailboxes, this process was not followed in five instances and, as a result, M/OAA was not aware of the actions. The Outbreak EPP is reserved for unique circumstances and should not be used longer than necessary because competition is presumed to provide the Federal government the best monetary value. If the Outbreak EPP is not being used, then this could indicate that expedited procedures are no longer necessary. Therefore, the lack of reliable Outbreak EPP usage tracking could hinder possible decisions regarding whether a return to preferred standard practices is warranted.

USAID Staff Did Not Consistently Report Use of Limited Competition in Systems Used by Congress, Other Agencies, and the Public

For our sample of 16 acquisition awards, the use of other than full and open competition was not consistently reported across USAID's internal information systems as well as other external Federal information systems. Federal regulations and USAID policies require specific reporting in Federal award systems, such as SAM.gov and FPDS, and USAID's internal award system, GLAAS, if acquisition awards were not fully competed. We tested our sample of 16 acquisition actions, including 1 new action and 15 modified ones, against SAM.gov, GLAAS, and FPDS to determine whether the Agency met requirements for indicating use of other than full and open competition in contracts utilizing the Outbreak EPP.¹⁵

These information systems reflect multiple ways in which an agency must indicate the use of other than full and open competition. FAR 6.305 requires that agencies post J&As to SAM.gov within 30 days after contract award for a minimum of 30 days. In addition, USAID staff are required to update GLAAS whenever an acquisition award was not fully competed using narrative descriptions and appropriate codes to indicate the use of noncompetitive actions. While SAM.gov is updated manually by each award management team uploading the J&A, USAID staff stated that FPDS receives its information from GLAAS via the noncompetitive action codes. Accurate reporting of this information in information systems would capture a complete picture of awards that used other than full and open competition through the Outbreak EPP.

- *SAM.gov.* We determined that 12 of the 16 acquisition awards in our sample publicly posted the J&A as required because the information was still active on the website or staff had included a printed webpage of the public posting in the award file. However, for the other four acquisition actions, we could not confirm whether the J&A was posted to SAM.gov since the required 30-day posting period had expired, and there was no documentation of the posting in the award file. USAID did not have procedures requiring staff to document public SAM.gov postings in the award file, despite this being a FAR requirement. One staff member noted this lack of procedures as the reason for not uploading the documentation.¹⁶
- *Global Acquisition and Assistance System.* We found that only 2 of the 16 acquisition awards in our sample were indicated as using other than full and open competition in

¹⁵ See Appendix C for a full list of reported use of other than full and open competition for each sampled acquisition award.

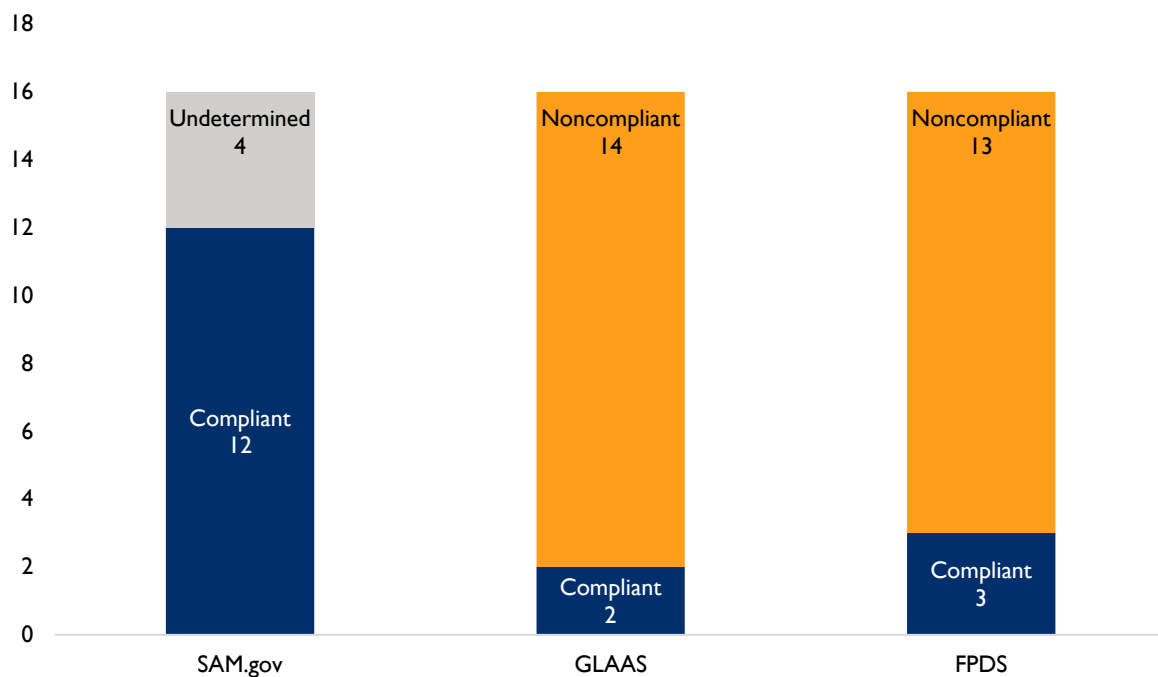
¹⁶ FAR 6.305 requires that agencies post J&As to SAM.gov within 30 days after contract award for a minimum of 30 days. FAR 4.803 states that contract files would normally contain "...justifications and approvals, determinations and findings, and associated documents" if applicable.

GLAAS and contained the required narrative description and appropriate codes. Also, two awards each had one of the two required noncompetitive actions codes, but no awards were shown with both action codes together. In addition, 2 of the 16 awards noted the use and purpose of the J&A for COVID-19 in the descriptive field, as required. However, these were not the same two awards that indicated the use of other than full and open competition.

- *Federal Procurement Data System.* We found that only 3 of the 16 acquisition awards in our sample included a notation in the narrative field that full and open competition was not used. However, as reflected in Appendix C, these three awards that were correctly reported in FPDS do not align with the two awards correctly reported in GLAAS. All other actions were marked as full and open competition with no notation.¹⁷

Figure 2 below summarizes the results of testing across these three systems.¹⁸

Figure 2: Count of Awards Marked as Using Limited Competition Across Required Reporting Systems



Source: OIG-generated analysis results

We asked M/OAA officials about these inconsistencies, specifically in GLAAS, and they stated that GLAAS displays the competition-related information for the original award regardless of whether subsequent modifications are done noncompetitively, and that the competition status of the modification would be a separate data point. Thus, an award would still be shown in GLAAS as using full and open competition if the award was initially made under those conditions, even if a modification was done using other than full and open competition via the Outbreak EPP.

¹⁷ Agency guidance notes that FPDS fields can only capture competition for base, or new, awards and cannot be updated for subsequent modifications made on a noncompetitive basis.

¹⁸ Our audit was not designed to determine the root cause of discrepancies between GLAAS and FPDS.

Nevertheless, the Agency stated that using GLAAS could be the data source to utilize to accurately identify use of the Outbreak EPP. The Agency requires noncompetitive action codes and narrative descriptions to be added in GLAAS, allowing the Agency to report noncompetitive actions. However, the Agency acknowledged there has been some confusion on the correct coding in GLAAS. To address this confusion, the Agency created a *Quick Reference Guide – Ensuring Competition Data Quality in GLAAS* in March 2021. To ensure accurate reporting, this reference guide required staff to include the purpose of the J&A in the GLAAS award descriptive field and to select specific noncompetitive action codes for new or modified awards.¹⁹ Two sampled awards that used the Outbreak EPP were dated after this guidance was released; however, one award was incorrectly coded while the other was partially correct. The Agency acknowledged more training in this area would be beneficial.

Information systems used by the Agency may not have complete and accurate information on the use of the Outbreak EPP to inform stakeholders on whether USAID complies with Federal reporting requirements for other than full and open competition. These reporting requirements are important because stakeholders—such as Executive Branch agencies and Congress—use information in FPDS to form policy decisions and report on trends. Inaccurate reporting in GLAAS, which leads to inaccurate information in FPDS, hinders achieving those objectives.

Ultimately, the Agency’s reporting is unreliable in keeping an accurate account of EPP utilization and reporting the use of other than full and open competition. This potentially limits the Agency’s ability to make informed decisions about its effectiveness and level of risk in responding to emergency situations. Proper coding would allow USAID to better track EPP use.

Selected Operating Units Generally Met Requirements for Using the Outbreak EPP, but USAID Lacked Controls to Ensure Complete Documentation and a Process to Assess Continued Use of Limited Competition

USAID generally met requirements to justify other than full and open competition, but the J&A template used by Operating Units across the Agency was missing 1 of the 12 required FAR elements. We also found that 6 of the 39 Outbreak EPP award files in the selected Operating Units did not have required documentation. In addition, USAID lacked an established process with metrics to periodically review the continued need for the Outbreak EPP.

¹⁹ The pair of codes includes “ZB” (AIDAR 706.302-70b3ii Awards Admin Makes Formal D&F) in the “Acquisition Authorities for Limited Competition” field and “B” (ACQ – Limited Competition [Other than Local]) in the “Competition” field.

USAID Generally Met Requirements to Justify Limited Competition, but a Template Was Missing a Required Federal Acquisition Regulation Element

According to Automated Directives System (ADS) 302, “the O[perating] U[nit] must prepare and certify a J&A addressing all twelve elements” as required by the FAR when using other than full and open competition.²⁰ The 16 acquisition actions in our sample included 11 of the 12 required elements in the submitted J&As for use of the Outbreak EPP. When comparing the template and submitted J&As to the 12 minimum required FAR elements, we found that the J&A template that was used omitted the ninth element relating to “other supporting facts.”²¹ As a result, the submitted J&As did not fully address Federal requirements for use of other than full and open competition.

While agencies are allowed to waive competition under certain circumstances, FAR 6.303-2 outlines requirements to ensure that justifications contain sufficient facts and rationale to justify use of the authority.²² The FAR requires agencies to consider factors such as the contractor’s unique qualifications, cost analysis, market research, and other relevant supporting details. M/OAA provided Operating Units with a template to ensure new and modified contracts using the Outbreak EPP comply with these Federal requirements.

We asked M/OAA about the ninth element in the J&A template, and they subsequently provided a different template that included the ninth element. M/OAA was unaware that the submitted J&As omitted the ninth element and that the template previously provided to staff did not include it. The missing element puts USAID at risk of noncompliance with FAR 6.303-2 and ADS 302. Moreover, the J&A may omit important information necessary to determine whether use of the Outbreak EPP to limit competition is justified. Since M/OAA already corrected this problem by providing a template that included the ninth element, we are not making a recommendation on this matter.

Several EPP Award Files in Selected Operating Units Did Not Have Required Documentation

While the Agency met most requirements for using the Outbreak EPP, it did not always ensure required documentation was present in the ASIST award file. When reviewing USAID’s Outbreak EPP award files, we noted several award files missing required documentation. We tested our 39 sample actions (16 acquisition and 23 assistance actions) to determine whether the award files were complete with the required Outbreak EPP documentation, and we found the following:

Outbreak EPP Award Files Must Contain:

- The D&F or blanket determination to restrict eligibility.
- The J&A for acquisition or DRE for assistance.

²⁰ See Appendix B for the list of 12 required FAR elements.

²¹ In full, the ninth element reads: “Any other facts supporting the use of other than full and open competition, such as: (i) Explanation of why technical data packages, specifications, engineering descriptions, statements of work, or purchase descriptions suitable for full and open competition have not been developed or are not available. (ii) When 6.302-1 is cited for follow-on acquisitions as described in 6.302-1(a)(2)(ii), an estimate of the cost to the Government that would be duplicated and how the estimate was derived. (iii) When 6.302-2 is cited, data, estimated cost, or other rationale as to the extent and nature of the harm to the Government.”

²² FAR 6.303-2(b)(1)-(12).

- Award files for 5 of the 16 acquisition actions were incomplete: 5 actions did not have J&As on file.
- Award file for 1 of the 23 assistance actions was incomplete: 1 action did not have any information.

When we requested these documents from Operating Units, two staff members stated an oversight in adding the documents to the award file, and two staff members stated it was not always clear who was meant to add the documents to the file.

The Government Accountability Office’s (GAO) *Standards for Internal Control in the Federal Government* defines quality information as being “accessible,” and FAR 4.803(a)(2) states that contract files would normally contain “...justifications and approvals, determinations and findings, and associated documents” if applicable. A complete award file with key information that is readily available improves transparency, accuracy, and recordkeeping for managing government awards for award management and audit staff.

USAID Lacked an Established Process with Metrics to Periodically Review the Continued Need for the EPP

The Outbreak EPP is intended as a temporary deviation from USAID’s standard procedures for award competition and eligibility. USAID, however, did not have an established process to periodically evaluate the continued need for relaxed controls, such as the use of expedited procedures, during infectious disease outbreaks like COVID-19. Federal standards require management to identify, analyze, and respond to significant changes that could impact the internal control system.²³ Despite this requirement, USAID has not established any factors or metrics to consider whether the Outbreak EPP should be discontinued prior to its expiration date if the severity of the COVID-19 pandemic changes.

The Outbreak EPP became effective in March 2020 and will remain open until March 2025. The Outbreak EPP did not mention any factors or periodic review points to end expedited procedures prior to its initial 5-year period. We interviewed Agency staff in the field and at headquarters, but we were unable to determine whether any factors are considered to end the Outbreak EPP prior to, or at the conclusion of, its initial 5-year period. Based on our review of prior examples of expedited procedures packages, we did not find any that ended prior to the originally specified period, questioning whether a rigorous reappraisal of their continued need was undertaken.²⁴ The expedited procedures package for HIV/AIDS, for example, was extended at least four times since December 2000 with the latest extension expiring December 2024. USAID’s HIV/AIDS programs have arguably evolved into a sustained public health intervention and are no longer an emergency response.

Examples of Other Expedited Procedures Packages

- HIV/AIDS
- 2014 Ebola Outbreak*
- Avian Influenza
- Ukraine
- Afghanistan

* USAID has responded to many Ebola outbreaks; however, the prior expedited procedures package that we reviewed was specific to the 2014 Ebola outbreak.

²³ GAO, *Standards for Internal Control in the Federal Government* (GAO-14-704G), “Risk Assessment,” Section 9.01, “Identify, Analyze, and Respond to Change,” September 2014.

²⁴ We reviewed USAID notices with EPP announcements as far back as 2000 to as recent as 2022.

To authorize the use of expedited procedures for infectious disease outbreaks, the Agency relied on determining events, including emergency declarations made by WHO and the United Nations Standing Committee, and actions taken by the USAID Administrator and Assistant Administrator for Global Health declaring urgent response from USAID. According to M/OAA officials, since USAID relied on any one of these events to initiate the use of expedited procedures for elevated disease outbreaks, the Agency assumed that the termination of these events would also be considered to end the EPP. However, WHO stated that the world may transition out of the emergency phase of COVID-19 in 2023, but the Outbreak EPP has an end date in 2025. While USAID stated that they assume the use of the Outbreak EPP for COVID-19 would end once the global emergency ends, the Agency had no process in place to ensure that would happen. This approach may not consider the risk of continued deviation from USAID's customary operating procedures, as multiple outbreaks could overlap within the same time period. M/OAA officials also stated that it is necessary for USAID to quickly respond to disease outbreaks and that this Outbreak EPP facilitates that, being activated as each disease outbreak occurs. Without factors to reassess the continued need of the Outbreak EPP for each triggered disease outbreak, the Agency is at risk of authorizing the use of other than full and open competition or restricted eligibility beyond urgent foreign assistance situations.

Conclusion

USAID uses the Outbreak EPP to rapidly respond to outbreaks of deadly diseases like COVID-19 by relaxing competition and eligibility requirements. Since the Outbreak EPP reduces such controls, the Agency needs accurate information to ensure that the Outbreak EPP is used no longer than necessary for a given infectious disease outbreak. The lack of tracking and accurate information of Outbreak EPP usage impedes the Agency's ability to make informed decisions on continued use, and inaccurate reporting on deviations from standard competition rules hinders transparency within the Federal government. Furthermore, the sustained departure from standard competition procedures underscores the importance of periodically evaluating the continued need of the Outbreak EPP for each declared disease outbreak. Complete information and periodic evaluation will enable the Agency to better manage its use of the Outbreak EPP.

Recommendations

We recommend that the Director of the Office of Acquisition and Assistance take the following actions:

1. Implement procedures to remind personnel of the requirement to send pertinent documents relating to utilization of the Expedited Procedures Package for Infectious Disease Outbreaks to designated USAID mailboxes and maintain those documents in the Agency Secure Image and Storage Tracking system, the official award file.
2. Implement procedures to require personnel to maintain documentation of required postings to SAM.gov in the Agency Secure Image and Storage Tracking system, the official award file.
3. Implement procedures to strengthen training on use of noncompetitive action codes in the Global Acquisition and Assistance System to ensure consistent reporting of use of other than full and open competition for new and modified awards in the Global

Acquisition and Assistance System and the Federal Procurement Data System, and track use of the Expedited Procedures Package for Infectious Disease Outbreaks.

4. Implement a process to periodically reassess the needs of each disease outbreak under the Expedited Procedures Package for Infectious Disease Outbreaks, including factors for deciding whether those expedited procedures still meet an urgent foreign assistance need for each disease, and make appropriate recommendations to the Administrator.

OIG Response to Agency Comments

We provided our draft report to USAID on July 28, 2023. On September 12, 2023, we received the Agency's response, which is included as Appendix D of this report. The Agency also provided technical comments, which we considered and incorporated as appropriate.

The report included four recommendations. Based on management's comments and subsequent correspondence, we acknowledge management decisions on all four recommendations. We consider two of them closed (Recommendations 1 and 2), and two resolved but open pending completion of planned activities (Recommendations 3 and 4).

Appendix A. Scope and Methodology

We conducted our work from October 2021 through July 2023 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Our audit objectives were to determine the extent to which (1) USAID used the Expedited Procedures Package for Infectious Disease Outbreaks for COVID-19 programming and (2) selected USAID Operating Units met requirements for using the Expedited Procedures Package for Infectious Disease Outbreaks for COVID-19.

In planning and performing the audit, we gained an understanding and assessed internal controls that were significant to the audit objectives. Specifically, we designed and conducted procedures related to two of the five components of internal control as defined by GAO.²⁵ These two components were Control Activities (Principles 10-12) and Information and Communication (Principles 13-14).

The audit focused on USAID's Expedited Procedures Package for responding to Outbreaks of Contagious Infectious Diseases, including COVID-19, effective March 2020 (Outbreak EPP). We reviewed relevant Agency policy, guidance, and templates as well as Federal laws and regulations on procurement and award competition. Included in the audit were M/OAA (the primary office responsible for managing the Outbreak EPP) and nine selected Operating Units that used the Outbreak EPP worldwide for COVID-19.²⁶ The audit focused on the period March 2020 (the date that the Outbreak EPP became effective) to July 2021 (the date that USAID M/OAA provided a current list of Outbreak EPP actions). We conducted our audit remotely via teleconferences with USAID officials.

We requested information regarding the use of the Outbreak EPP between March 2020 and June 2021. USAID provided a list of 95 Outbreak EPP actions for COVID-19, encompassing 86 awards and totaling \$382,995,337, across 42 Operating Units worldwide. The 95 actions included new and modified awards. These 95 actions related to two elements of the Outbreak EPP authorizing (1) the use of other than full and open competitive procedures when issuing or modifying contracts and (2) the blanket determination for restricting eligibility for new or amended assistance awards.

To select a sample from the list of 95 actions, we first calculated the average total dollar amount of Outbreak EPP actions per Operating Unit, which was \$8,976,079 (\$376,995,337 divided by 42 Operating Units). We then judgmentally selected all nine Operating Units whose total dollar amount for Outbreak EPP actions was above the average dollar amount. These nine Operating Units encompassed 39 actions—16 acquisition and 23 assistance actions—totaling \$279,999,687, representing 40 percent of the total Outbreak EPP actions and 73 percent of the total Outbreak EPP dollars.

²⁵ GAO, *Standards for Internal Control in the Federal Government* (GAO-14-704G), September 2014.

²⁶ The nine selected Operating Units were Asia Bureau and Bureau for Global Health as well as missions Cambodia, Colombia, Georgia, India, Kenya and East Africa, Nigeria, and Ukraine.

To gain an understanding of the expedited procurement procedures, we first obtained and reviewed the Outbreak EPP. We also reviewed the accompanying authorization of the Outbreak EPP—the D&F authorizing use of other than full and open competition for contracts and the blanket determination for restricting eligibility for assistance awards. We then reviewed the Guidance for Use of the Authorities under the Outbreak EPP. We reviewed procedural templates including the J&A for contracts and the DRE for grants and cooperative agreements. We conducted interviews with officials from M/OAA to gather information on Outbreak EPP processes and procedures.

To understand the extent to which USAID had used expedited procedures, we researched USAID's historical use of expedited procedures packages announced in USAID notices from 2000-2022 for other emergencies including the prevention, care, and treatment of HIV/AIDS; the Avian Influenza pandemic; and the 2014 West Africa Ebola outbreak, as well as maintaining USAID programs during a humanitarian crisis in Afghanistan. We reviewed prior expedited procedures packages to identify basic similarities and differences to the March 2020 Outbreak EPP.

To answer both audit objectives, we designed a data collection instrument to test the Outbreak EPP's compliance with Federal requirements and Agency policies. For the 39 actions, we reviewed and verified relevant Outbreak EPP documentation and information captured in USAID's internal award management systems ASIST and GLAAS. In addition, for acquisition actions, we reviewed and verified external Federal procurement systems SAM.gov and FPDS. We also tested elements of the Outbreak EPP process including email submissions, review and clearances, period of performance extensions, and justification and determination templates for compliance with regulations.

To answer the first objective, we reviewed the Outbreak EPP policy and guidance and Federal regulations that permit deviation from the normal contract competition or grant eligibility based on a set of allowable justifications. We also reviewed USAID's policies and regulations for acquisition, including USAID's Acquisition Regulation (AIDAR) 706.302-70(b)(3) and ADS Chapter 302 "Direct Contracting" and for assistance, including ADS Chapter 303 "Grants and Cooperative Agreements to Non-Governmental Organizations." We gained an understanding of internal and external award management and procurement systems including ASIST, GLAAS, SAM.gov, and FPDS. For those systems, we identified reporting requirements when citing justifications to limit competition or restricted eligibility for unusual and compelling urgency. We tested the Agency's compliance with these system reporting requirements by checking what information was reported and what codes were used, as appropriate, for each of the 39 sampled actions. To test the completeness of the reported Outbreak EPP utilization, we triangulated the list of 95 actions to FPDS, SAM.gov, and GLAAS, as applicable. We also interviewed staff to document the process for tracking or reported use of other than full and open competition or restricted eligibility.

To answer our second objective, we analyzed Outbreak EPP policy and guidance and Federal requirements for allowable conditions to limit competition, restrict eligibility, and trigger or end an expedited procedures package. Specifically, we reviewed FAR 6.3 "Other than full-and-Open competition," the Competition in Contracting Act of 1984, AIDAR 706.302-70(b)(3), and ADS Chapter 303 "Grants and Cooperative Agreements to Non-Governmental Organizations." We also reviewed Agency directives that prescribe the normal procurement competition process and compared those to the Outbreak EPP process. We reviewed these documents to establish requirements for using expedited procedures including supporting analysis to justify rationale, review and approvals, and

minimum retained documentation. We tested these elements using our data collection instrument and held interviews with staff to confirm or corroborate our findings. We also reviewed Agency guidance and prior use of expedited procedures packages to determine whether factors exist or have been used to reassess the continued need based on changing circumstances.

While we cannot project the results of our testing to the population of Outbreak EPP actions, we believe that our method for selecting nine Operating Units and testing 39 actions within those selected units was appropriate for our audit objectives and that the selection would generate valid, reliable evidence to support our findings and conclusions.

Our audit techniques were limited to the review and analysis of relevant criteria based on Federal laws and regulations, USAID documents, processes, policies, staff interviews, and information systems. We relied on computer-processed data in FPDS and manually updated data in GLAAS and SAM.gov to determine audit findings, results, and conclusions related to reported use of other than full and open competition. However, we validated the data against other non-computer-processed sources, such as award files and documentation.

Appendix B. Twelve Required Federal Acquisition Regulation Elements to Justify Use of Other Than Full and Open Competition

According to FAR 6.303-2(a), “each justification shall contain sufficient facts and rationale to justify the use of the specific authority cited.” The FAR lists 12 elements that must be included within each justification. The 12 elements are:

5. Identification of the agency and contracting activity.
6. Nature/description of the action being approved.
7. Description of the supplies or services required to meet the agency’s needs.
8. Identification of the statutory authority.
9. Demonstration of the proposed contractor’s unique qualifications.
10. Description of the efforts made to ensure offers are solicited from as many potential sources as practical.
11. Determination by the contracting officer that the cost to Government will be fair and reasonable.
12. Description of the market research conducted.
13. Any other supporting facts such as:
 - a. Explanation of why technical data packages, specifications, statements of work, or purchase descriptions have not been developed or are not available.
 - b. Explanation of the estimated cost to the Government.
 - c. Explanation of data, estimated cost, or other rationale as to the extent and nature of the harm to the Government.
14. Listing of the sources that expressed, in writing, an interest in the acquisition.
15. Statement of the actions the agency took to remove or overcome barriers to competition.
16. Certification from the contracting officer that the justification is accurate and complete.

Appendix C. List of Selected Awards and Reported Use of Other Than Full and Open Competition

When an agency uses other than full and open competition, it is required to report it to three information systems—GLAAS, FPDS, and SAM.gov. Below is the full list of how the 16 selected acquisition awards reported their EPP usage to limit competition.

Award Count	SAM.gov	GLAAS	FPDS
1	Yes	No	No
2	Undetermined	Yes	No
3	Undetermined	No	No
4	Yes	No	No
5	Yes	No	No
6	Yes	No	Yes
7	Yes	No	No
8	Undetermined	No	No
9	Yes	Yes	No
10	Yes	No	No
11	Undetermined	No	Yes
12	Yes	No	Yes
13	Yes	No	No
14	Yes	No	No
15	Yes	No	No
16	Yes	No	No

Appendix D. Agency Comments



MEMORANDUM

TO: Office of the Inspector General (OIG), Africa Regional Office, Audit Director, Robert Mason

FROM: USAID/Office of Acquisition and Assistance, Acting Director, Deborah Broderick /s/

DATE: September 7, 2023

SUBJECT: Management Comments to Respond to the Draft Audit Report Produced by the Office of Inspector General (OIG) titled, “COVID-19: Enhanced Controls Could Strengthen USAID’s Management of Expedited Procurement Procedures” (**Task No. 441V0321, Report No. 4-000-23-001-P**)

The U.S. Agency for International Development (USAID) would like to thank the Office of Inspector General (OIG) for the opportunity to provide comments on the subject draft report. The Agency partially agrees with the recommendations, and herein provides plans for implementing them, and reports on significant progress already made.

The Expedited Procedures Package (EPP) for Responding to Outbreaks of Contagious Infectious Diseases (Outbreak EPP) is a critical tool that was approved by the Administrator to allow the Agency to expeditiously enter into or modify awards when swift response to an infectious disease outbreak is needed. The Outbreak EPP is not solely for the COVID-19 pandemic and historically USAID had other EPPs for outbreak response, which were used, for example, for providing relief during earlier Avian Influenza and Ebola outbreaks. The Outbreak EPP enables the Agency to remain nimble and to deftly respond to dynamic infectious disease driven emergencies where quick pivots and rapid responses are needed to contain events from growing exponentially into greater global threats. It is available for use in limited, exceptional circumstances only if one or more of four threshold criteria defined in the EPP, such as a WHO Director General declaration of a Public Health Emergency of International Concern (PHEIC), is met. And as happened with COVID-19, once the triggering criterion is no longer met, the EPP is not legally available for use. Having the EPP in place also enhances the Agency’s ability to meet Congressional and Administration mandates to respond quickly and effectively to international health emergencies. The EPP is an essential acquisition and assistance (A&A) tool, and the need for its existence is not diminished by its short-term usage or lack of use during times when a triggering criterion is not met.

The findings show that GLAAS and FPDS reporting was incorrect for a majority of the samples pulled for this audit, which we recognize and are committed to improving. However, the findings imply there are requirements to collect data on Expedited Procurement Procedures (EPP) usage beyond the GLAAS & FPDS database. We find no requirement for USAID to track the usage of the EPP outside of the existing acquisition and assistance databases. The requirement to have justifications and approvals (J&As) sent to the centralized mailbox was not for tracking purposes, but rather for learning about EPP use. Given how important the Outbreak EPP is to ensure that USAID remains effective at responding to urgent emergency situations, we remain committed to improving USAID's reporting, tracking, and filing of J&As that rely on the EPP and have already taken steps to make significant improvements on this matter.

COMMENTS BY THE U.S. AGENCY FOR INTERNATIONAL DEVELOPMENT (USAID) ON THE REPORT RELEASED BY THE USAID OFFICE OF THE INSPECTOR GENERAL (OIG) TITLED, “COVID-19: Enhanced Controls Could Strengthen USAID’s Management of Expedited Procurement Procedures” (Task No. 441V0321, Report No. 4-000-23-001-P)

Please find below the management comments from the U.S. Agency for International Development (USAID) on the draft report produced by the Office of the Inspector General (OIG), which contains four recommendations for USAID:

Recommendation 1: Implement procedures to remind personnel of the requirement to send pertinent documents relating to utilization of the Expedited Procedures Package for Infectious Disease Outbreaks to designated USAID mailboxes and maintain those documents in ASIST, the official award file.

- **Management Comments:** USAID agrees with the above recommendation. We will address the need to remind personnel to send pertinent EPP documents to the relevant mailboxes and filing and in ASIST. Our proposed actions to address are:
 - M/OAA/E issued a notice on Reminders to the A&A Community on Steps After Executing a J&A and EPP Usage (Annex 1) in M/OAA’s weekly At-a-Glance Newsletter on August 24, 2023, to remind COs of this requirement.
 - Additionally, M/OAA/E has established an automated response to send a standard e-mail (Annex 2) in response to all EPP J&As received to the mailbox. This standard message will remind COs about the importance and necessity of including EPP documents in the official ASIST file.

Target Completion Date: M/OAA has completed actions and requests closure upon issuance of the Final Report.

Recommendation 2: Implement procedures to require personnel to maintain documentation of required postings to SAM.gov in ASIST, the official award file.

- **Management Comments:** USAID agrees with the above recommendation. We agree compliance with posting requirements is critical and documenting required posting from SAM.gov is required action. We intend to allow COs discretion to document how posting requirements were met. This could be through a screenshot/printout or through documenting the actions taken in their negotiation memorandum. M/OAA/E has reminded COs of this requirement in the AAG mentioned in Recommendation 1. Additionally, we have included this reminder as part of the standard e-mail in response to all EPP J&As received to the mailbox, as described in Recommendation 1.

Target Completion Date: M/OAA has completed actions and requests closure upon issuance of the Final Report.

Recommendation 3: Implement procedures to strengthen training on use of noncompetitive action codes in the Global Acquisition and Assistance System to ensure consistent reporting of use of other than full and open competition for new and modified awards in the Global Acquisition and Assistance System and the Federal Procurement Data System and track use of the Expedited Procedures Package for Infectious Disease Outbreaks.

- **Management Comments:** USAID agrees with the above recommendation. We recognize the necessity to have complete and accurate information, reported in the Agency and Government-wide acquisition and assistance databases. The Agency will continue to reinforce the requirements by sending a reminder to COs regarding the usage of the competition fields in GLAAS, will continue to train the workforce, and consistently remind staff of the proper way to record non-competitive actions. Actions taken to date and planned actions are:
 - On August 15, 2023, GLAAS issued a reminder guidance notice on Ensuring Competition Data Quality in GLAAS (Annex 3) to all GLAAS users.
 - At the beginning of the next fiscal year, another training session on ensuring competition data is entered correctly in GLAAS/FPDS will be offered.
 - M/OAA/E will continue to distribute the Quick Reference Guide for Ensuring Competition Data Quality (Annex 3.1) with our final J&As. Additionally, we will include this with the standard message proposed in Recommendation 1.
 - Finally, the GLAAS Team will be enhancing GLAAS in the next upgrade, scheduled for CY 2024, to include some data validation rules for the competition fields with the goal of improving data quality.

Target Completion Date: M/OAA has completed or planned these actions, therefore we request closure upon issuance of the Final Report.

Recommendation 4: Implement a process to periodically reassess the needs of each disease outbreak under the Expedited Procedures Package for Infectious Disease Outbreaks, including factors for deciding whether those expedited procedures still meet an urgent foreign assistance need for each disease and make appropriate recommendations to the Administrator.

- **Management Comments:** USAID partially agrees with the above recommendation. USAID agrees with respect to two of the four criteria in the EPP. Having the Outbreak EPP is critical to enable USAID to swiftly provide urgently needed and often life-saving interventions in response to outbreaks of contagious infectious disease, as defined in the EPP. Reliance on the Outbreak EPP is limited to outbreaks that meet one or more of four criteria in the EPP, described further below.

It is important to highlight that even when one of the triggering criteria is met and the Outbreak EPP is available for use, Operating Units would continue to use full-and-open competition whenever possible. This is stated in the EPP itself and in ADS 302 mbo, which provides: “The preference is for maximum competition unless it would compromise the Agency’s objectives...” Further ADS 302 say Guidance for Use of the Expedited Procedures Package (EPP) for Responding to Outbreaks of Contagious Infectious Diseases makes clear that the EPP should only be used after careful consideration of the outbreak context and specific activity being proposed. The justification for relying on the EPP must also be documented and reviewed by the Office of General Counsel backstop or Resident Legal Officer in accordance with USAID policy. (Annex 4)

The first EPP criterion is a declaration by the Director-General of the WHO that an

infectious-disease outbreak is a Public Health Emergency of International Concern (PHEIC). PHEIC is defined in the International Health Regulations (2005) (IHR) as “an extraordinary event” that is determined to constitute a public health risk to multiple States through spread and to potentially require a coordinated international response. The WHO Director-General makes the determination of a PHEIC based on advice from the IHR Emergency Committee, a group of international experts, information provided by the State Parties, scientific experts, and an assessment of risk to human health, risk of international spread of disease and of risk of interference with international travel. The Emergency Committee reconvenes at least every three months to review whether an event continues to be a PHEIC. In the case of Zika, for example, the declaration lasted from February 2016 to November 2016. COVID-19 is an example of the EPP’s use to respond to a declared PHEIC. When COVID-19 ceased to be a PHEIC, M/OAA notified staff that the EPP can no longer be used for COVID-19. Additionally, the Office of the General Counsel (GC) notified GC attorneys at headquarters and Resident Legal Officers in the field that the PHEIC basis for relying on the EPP for COVID-19 was no longer satisfied. The USAID Administrator has determined that it is appropriate to rely on WHO’s expertise and existing review process for PHEIC declarations. Therefore, we recommend no further action related to this criterion.

The second criterion is met if the Administrator makes funds available from the Emergency Response Fund for Contagious Infectious-Disease Outbreaks (ERF) to address a declared PHEIC or another outbreak of a dangerous infectious disease. The ERF funds are only made available after the Administrator determines and reports to Congress that it is in the “national interest to respond to an emerging health threat that poses severe threats to human health.” USAID agrees to develop a process to periodically reassess whether an outbreak for which an Administrator ERF determination is made continues to remain severe and dangerous enough to warrant continued activation of EPP authorities based on the current context.

The third criterion is met when the United Nations Inter Agency Standing Committee (IASC) declares an infectious-disease outbreak to have potential humanitarian consequences, or to constitute a humanitarian crisis. When IASC designates a “Scale-Up” response for a public health event, it is time-bound for a period of up to six months and made close collaboration with the WHO Director-General, taking into account WHO’s risk assessment of the event and IASC’s existing criteria for humanitarian response. In exceptional situations, additional three-month extensions may be considered. The USAID Administrator has determined that it is appropriate to rely on IASC’s expertise and existing review process. Therefore, we recommend no further action related to this criterion.

The fourth criterion is met if the Assistant Administrator for Global Health (AA/GH) determines that an infectious-disease outbreak is of such significance that an immediate response from USAID is warranted based on pathogenicity, potential to spread widely, local response capacity, or U.S. interest. USAID agrees to develop a process to periodically reassess whether an outbreak for which an AA/GH

determination is made continues to warrant reliance on the EPP based on the current context.

- **Target Completion Date:** We recommend that no further action be required with respect to Criterion 1 and 3. USAID agrees to develop the processes to address this recommendation with respect to Criterion 2 and 4, together with the relevant Agency Operating Units, including the Administrator who is the approving authority for the EPP. FATD: August 31, 2024.

In view of the above, we request that the OIG inform USAID when it agrees or disagrees with a recommendation's management comment (corrective action plan).

Appendix E. Major Contributors to This Report

Members of the audit team include:

1. Robert Mason, Audit Director
2. Louis Duncan, Jr., Assistant Director
3. Deanna Scott, Lead Auditor
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5. Unothando Moribe, Auditor
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