



December 2017

DEMOCRACY ASSISTANCE

State Should Improve
Accountability Over
Funding; USAID
Should Assess
Whether New
Processes Have
Improved Award
Documentation

GAO Highlights

Highlights of [GAO-18-136](#), a report to the Chairman, Committee on Foreign Relations, U.S. Senate

Why GAO Did This Study

Supporting efforts to promote democracy has been a foreign policy priority for the U.S. government. In recent years, USAID and State have allocated about \$2 billion per year toward democracy assistance overseas. Congress required USAID and State to each establish guidelines for and report on the use of contracts, grants, and cooperative agreements for certain democracy programs.

GAO was asked to review U.S. democracy assistance. This report (1) examines funding USAID, NED, and State obligated for democracy assistance primarily through contracts, grants, and cooperative agreements and (2) evaluates documentation of USAID award-type decisions, among other objectives.

GAO analyzed USAID, NED, and State democracy assistance award data for fiscal years 2012–2016. GAO also reviewed relevant regulation and agency policies and analyzed documentation for a nongeneralizable sample of USAID awards selected based on factors such as award type, program area, and country.

What GAO Recommends

State should improve the reliability and completeness of its democracy assistance funding data, and USAID should assess whether steps taken are resulting in complete and timely documentation of democracy assistance award-type decisions. State and USAID concurred with GAO's recommendations and described actions planned or under way to address them.

View [GAO-18-136](#). For more information, contact David B. Gootnick at (202) 512-3149 or gootnickd@gao.gov.

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State Should Improve Accountability Over Funding; USAID Should Assess Whether New Processes Have Improved Award Documentation

What GAO Found

In fiscal years 2012–2016, the U.S. Agency for International Development (USAID) obligated \$5.5 billion and the National Endowment for Democracy (NED) obligated \$610.2 million in democracy assistance funding. The total funding the Department of State (State) obligated for democracy assistance could not be reliably determined. One-third of all USAID obligations were provided through public international organizations (PIOs), which under USAID guidance are composed principally of countries or other organizations designated by USAID; 94 percent of PIO obligations were provided to the World Bank for democracy assistance projects in Afghanistan. The remaining two-thirds of USAID obligations were provided through contracts, grants (excluding PIOs), and cooperative agreements. Of the 10 State bureaus providing democracy assistance, 3 were unable to provide reliable funding data for fiscal years 2012–2016. Data from these bureaus were incomplete, nonstandard, or inaccurate. Federal internal control standards call for agencies to use quality information from reliable sources to achieve intended objectives and to monitor activities. Without such data, State cannot effectively monitor its democracy assistance programming and report reliable data externally.

For the awards GAO sampled, USAID generally did not document decisions about whether to award a contract, grant, or cooperative agreement (known as award-type decisions) in a complete and timely manner. According to applicable USAID guidance, agency officials were required to (1) document the final award-type decision with their written determination, including a rationale based on the requirements of the Federal Grant and Cooperative Agreement Act, and (2) complete this documentation before award solicitation occurs or, for noncompetitive awards, before USAID initiated communications with a potential sole-source awardee. However, USAID provided both complete and timely documentation of the award-type decision for 5 of the 41 awards GAO sampled. For the remaining 36 awards, the documentation was either incomplete, not timely or timeliness was indeterminate, or both (see table). While USAID has taken steps to improve documentation for award-type decisions by updating its guidance and templates, it has not assessed whether these updates have resulted in complete and timely documentation. It is important that USAID document these decisions in advance of solicitation because the selection of an award type may affect requirements for administering the award, including competition and oversight requirements and whether or not profit is permissible.

Documentation and Timeliness of Award-Type Decision for Selected USAID Awards

Award type	Awards in sample	Awards lacking any documentation	Awards with partial or complete documentation	Timely	Not timely/timeliness indeterminate
Contracts	13	3 ^a	10	2	8
Grants	5	1	4	2	2
Cooperative agreements	23	6	17	2	15
Total	41	10	31	6^b	25

Source: GAO analysis of U.S. Agency for International Development (USAID) information. | GAO-18-136

^aThree of the contracts in the sample were base awards with task orders issued under them; GAO did not receive documentation of the award-type decision for the base awards.

^bOne award that GAO deemed timely did not have complete documentation of the award-type decision.

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Abbreviations

ADS	Automated Directives System
C.F.R.	Code of Federal Regulations
DRG	Democracy, Human Rights, and Governance
EUR	Bureau of European and Eurasian Affairs
FAR	Federal Acquisition Regulation
INL	Bureau of International Narcotics and Law Enforcement Affairs
NED	National Endowment for Democracy
PIO	public international organization
SCA	Bureau of South and Central Asian Affairs
State	U.S. Department of State
USAID	U.S. Agency for International Development

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December 14, 2017

The Honorable Bob Corker
Chairman
Committee on Foreign Relations
United States Senate

Dear Mr. Chairman:

Supporting efforts to promote democracy throughout the world has been a long-standing foreign policy priority for the U.S. government. In fiscal years 2012 through 2016, the U.S. Agency for International Development (USAID) and the U.S. Department of State (State) have allocated about \$2 billion per year toward democracy assistance activities related to rule of law and human rights, good governance, political competition and consensus-building, and civil society.¹ USAID, the National Endowment for Democracy (NED), and State are largely responsible for providing this assistance.² These agencies carry out this responsibility through a variety of implementing partners, including for-profit and nonprofit organizations.

USAID, NED, and State provide democracy assistance primarily through three types of awards: contracts, grants, and cooperative agreements.³ One of the stated purposes of the Federal Grant and Cooperative Agreement Act of 1977 was to promote increased discipline in the selection and use of types of contracts, grants, and cooperative agreements.⁴ Nevertheless, award-type decisions by federal agencies

¹For the purposes of this report, we relied on State and USAID’s mission statement for the Democracy, Human Rights, and Governance (DRG) portfolio from the *Updated Foreign Assistance Standardized Program Structure and Definitions* (April 2016) to define the goal of democracy assistance as being: “To advance freedom and dignity by assisting governments and citizens to establish, consolidate, and protect democratic institutions, processes, and values, including participatory and accountable governance, rule of law, authentic political competition, civil society, human rights, and the free flow of information.” Furthermore, we refer to “democracy assistance awards” as those that USAID and State categorize under the DRG portfolio.

²NED is a nongovernmental, nonprofit organization funded through grants from State provided by congressional appropriations for this purpose.

³For purposes of this report, we refer to the three award types: contracts, grants, or cooperative agreements. The award-type decision discussed is the decision between these three types of awards.

⁴In 1982, the act was amended and codified in 31 U.S.C. § 6301–6308.

have been the subject of litigation in federal court in the past.⁵ Recently, Congress required USAID and State to each establish guidelines for clarifying program design and objectives for democracy programs, including the use of contracts versus grants and cooperative agreements in the conduct of certain democracy programs.⁶ Congress also required USAID and State to report on their use of these three award types for democracy programs.⁷

You asked us to review U.S. democracy assistance provided through various types of awards. This report (1) examines funding USAID, NED, and State obligated for democracy assistance primarily through contracts, grants, and cooperative agreements; (2) evaluates documentation of USAID award-type decisions; and (3) compares USAID contracts with grants and cooperative agreements across selected award elements.

To examine funds obligated by USAID, NED, and State for democracy assistance by award type, we obtained and analyzed data on awards that USAID, NED, and State administered during fiscal years 2012 through 2016 under the Democracy, Human Rights, and Governance (DRG) portfolio.⁸ We assessed the reliability of these data by reviewing related documentation; interviewing knowledgeable officials; and conducting electronic or manual data testing for missing, nonstandard, or duplicative data; among other things. We determined that data provided by USAID,

⁵360Training.com, Inc. v. United States, 104 Fed. Cl. 575 (Apr. 26, 2012). This was a post-award bid protest against the Department of Labor's Occupational Safety and Health Administration (OSHA) related to a Request for Applications for vendors to provide online OSHA Outreach Training Program courses. In reviewing its jurisdiction over the matter, the court discussed the nature of cooperative agreements versus contracts under the Federal Grant and Cooperative Agreement Act of 1977.

⁶Pub. L. No. 114-113, § 7032(f)(1) (Dec. 18, 2015). Specifically, the act required that these guidelines be established for programs using funds appropriated by the act.

⁷Pub. L. No. 114-113, § 7032(f)(3) (Dec. 18, 2015). This provision required this reporting with regard to programs carried out with funds made available by the Department of State, Foreign Operations, and Related Programs Act, 2015, Pub. L. No. 113-235, Div. J (Dec. 16, 2014).

⁸The data we obtained included awards to public international organizations. However, awards to public international organizations are governed by USAID guidance separate from the guidance that applies to awards to other types of organizations. The data we obtained also included interagency agreements. However, interagency agreements are governed by separate USAID guidance that does not require the same award-type decisions as when agencies obligate funds to entities through contracts, grants, and cooperative agreements.

NED, and State, except for data from State's Bureau of International Narcotics and Law Enforcement Affairs (INL), State's Bureau of European and Eurasian Affairs (EUR), and State's Bureau of South and Central Asian Affairs (SCA), were sufficiently reliable for the purposes of our report.⁹ For the USAID, NED, and State data that were sufficiently reliable, we analyzed the amount of funding by award type, among other variables. We assessed State's data reliability challenges against criteria for using quality information in federal internal control standards.¹⁰

To evaluate USAID's award-type decisions, we reviewed relevant regulations and agency policies. We also selected a roughly proportional,¹¹ random, nongeneralizable sample of 41 awards—13 contracts, 5 grants, and 23 cooperative agreements—from USAID's¹² total population of 1,733 contracts, grants, and cooperative agreements.¹³ We selected these 41 awards based on key characteristics such as award type, DRG program area, and place of performance. The sample was drawn from awards for the 14 countries for which USAID obligated

⁹We determined that data from the following State bureaus or offices were sufficiently reliable for the purposes of our report: Bureau of Democracy, Human Rights, and Labor; Bureau of African Affairs; Bureau of East Asian and Pacific Affairs; Bureau of Energy Resources; Bureau of Near Eastern Affairs; Bureau of Western Hemisphere Affairs; and Office of Global Women's Issues.

¹⁰GAO, *Standards for Internal Control in the Federal Government*, [GAO-14-704G](#) (Washington, D.C.: September 2014).

¹¹We randomly selected awards for the sample to generally reflect the population's number of awards by award type and DRG program area. For example, the number of contracts for rule of law and human rights in our sample is roughly proportional to the number of contracts for rule of law and human rights in our population.

¹²State and NED were not included in our sample because most State bureaus did not regularly use contracts as they did grants and cooperative agreements, and NED only provides assistance through grants. In addition, three State bureaus were unable to provide reliable data from which to select a sample.

¹³The sample was limited to contracts, grants, and cooperative agreements that were awarded by USAID in fiscal years 2012 through 2015 because fiscal year 2015 was the most recent fiscal year for which data were available at the time of our sample selection. We excluded (1) awards made to public international organizations because these awards are governed by USAID guidance separate from the guidance that applies to awards to other types of organizations; (2) interagency agreements because interagency agreements are governed by separate USAID guidance that does not require the same award-type decisions as when agencies obligate funds to entities through contracts, grants, and cooperative agreements; and (3) awards that fell below the simplified acquisition threshold, which is \$150,000, because there are different acquisition procedures for awards that fall below that threshold.

the most democracy funding.¹⁴ Democracy assistance projects in these countries received over 70 percent of USAID’s democracy assistance funding. For the selected awards, we obtained and analyzed documentation relevant to the award-type decision.

To compare USAID contracts with grants and cooperative agreements, we selected key award elements—competition, cost sharing and profit, scope of work, and oversight requirements—to examine based on consultations with acquisition and assistance subject matter experts. We conducted a review of documentation associated with the same sample of 41 USAID awards we reviewed to evaluate award-type decisions. Using information collected from the documentation, we analyzed the selected awards’ competition (if any), cost sharing and profit (if allowed), scope of work, and selected oversight activities. For more details on our scope and methodology, see appendix I, and for more information on the 14 countries for which USAID obligated the most democracy funding, see appendix II. We conducted this performance audit from July 2016 to December 2017 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Background

Democracy Assistance Program Areas

The U.S. government supports various types of democracy assistance activities, which USAID and State categorize under the DRG portfolio. USAID and State use their *Updated Foreign Assistance Standardized Program Structure and Definitions* to categorize and define DRG program areas. As updated in April 2016, this document defines the aims of DRG

¹⁴Democracy assistance projects in these 14 countries received over 70 percent of USAID’s democracy assistance funding from fiscal year 2012 through 2015. Total USAID democracy assistance funding for projects in Afghanistan was greater than for any other country, amounting to almost 39 percent of USAID’s total democracy assistance obligations during fiscal years 2012 through 2015. The sample includes awards with the place of performance designated as the United States of America because USAID’s data system requires the entry of only one country, but this designation, among others, is used to refer to more than one place of performance, i.e., multiple countries, including regional or global awards.

as “to advance freedom and dignity by assisting governments and citizens to establish, consolidate, and protect democratic institutions, processes, and values, including participatory and accountable governance, rule of law, authentic political competition, civil society, human rights, and the free flow of information.” Prior to the 2016 update, DRG program areas were (1) rule of law and human rights, (2) good governance, (3) political competition and consensus-building, and (4) civil society.¹⁵ Each program area features different program elements, as shown in table 1.

¹⁵For the purposes of this report, data are reported under these four DRG program areas. In April 2016, State and USAID updated their *Foreign Assistance Standardized Program Structure and Definitions* to include six program areas under DRG. Specifically, the previous Rule of Law and Human Rights program area was broken out into two separate program areas—one for Rule of Law and one for Human Rights; and the previous Civil Society program area was broken out into two separate program areas—one for Civil Society and one for Independent Media and Free Flow of Information. NED categorizes its democracy assistance activities by its own program focus definitions. However, for the purposes of this report, NED officials categorized each of its democracy assistance awards into the four program areas under DRG during fiscal years 2012 through 2016.

Table 1: Democracy, Human Rights, and Governance (DRG) Program Areas and Program Elements for Fiscal Years 2012 through 2016

Program areas ^a	Program elements
<p><i>Rule of Law and Human Rights</i></p> <p>To advance and protect human and individual rights, and to promote societies in which the state and its citizens are accountable to laws that are publicly promulgated, equally enforced, and independently adjudicated, and which are consistent with international norms and standards</p>	<ul style="list-style-type: none"> • Constitutions, laws, and human rights • Judicial independence • Justice system • Human rights
<p><i>Good Governance</i></p> <p>To promote democratic institutions that are effective, responsive, sustainable, and accountable to the people</p>	<ul style="list-style-type: none"> • Legislative function and processes • Public sector executive function • Local government and decentralization • Anticorruption reforms • Governance and security sector
<p><i>Political Competition and Consensus Building</i></p> <p>To encourage the development of transparent and inclusive electoral and political processes, and democratic, responsive, and effective political parties</p>	<ul style="list-style-type: none"> • Consensus-building processes • Election and political processes • Political parties
<p><i>Civil Society</i></p> <p>To empower individuals to exercise peacefully their rights of expression, association, and assembly, including through their establishing and participating in nongovernmental organizations, unions, and other civil society organizations</p>	<ul style="list-style-type: none"> • Civic participation • Media freedom and freedom of information

Source: U.S. Department of State (State) and U.S. Agency for International Development (USAID) documents. | GAO-18-136

^aIn April 2016, State and the U.S. Agency for International Development updated their Foreign Assistance Standardized Program Structure and Definitions to include six program areas under DRG. Specifically, the previous Rule of Law and Human Rights program area was broken out into two separate program areas—one for Rule of Law and one for Human Rights; and the previous Civil Society program area was broken out into two separate program areas—one for Civil Society and one for Independent Media and Free Flow of Information.

USAID, NED, and State Roles and Responsibilities Related to Democracy Assistance Overseas

Multiple bureaus and offices in USAID and State, as well as NED, provide funding for democracy assistance programs, as shown in table 2. USAID provides democracy assistance through contracts, grants, and cooperative agreements, while NED provides democracy assistance only through grants.¹⁶ INL was the only State bureau that reported providing a significant amount of democracy assistance through contracts in addition

¹⁶On November 22, 1983, NED was established as a private, nonprofit corporation in the District of Columbia, with one of its stated purposes being to encourage free and democratic institutions throughout the world. NED’s purposes are set forth in its articles of incorporation and are repeated in section 502 of the National Endowment for Democracy Act. Pub. L. No. 98-164, Title V, § 502 (Nov. 22, 1983), codified at 22 U.S.C. § 4411. According to NED officials, NED can only provide democracy assistance through grants to nongovernmental entities.

to grants and cooperative agreements, while other bureaus primarily use grants and cooperative agreements.¹⁷

Table 2: USAID, NED, and State Roles Related to Democracy Assistance Overseas

Key agency / bureau or office	Roles and responsibilities
USAID	
Bureau for Management	Provides centralized administrative services for offices throughout USAID, including procurement services.
Office of Acquisition and Assistance	Within the Management Bureau, the Office of Acquisition and Assistance provides administrative services for awards, including for democracy assistance programming.
Bureau of Democracy, Conflict, and Humanitarian Assistance	Consists of nine offices headquartered in Washington, D.C., that support the bureau's mission to promote democratic and resilient societies.
Office of Transition Initiatives	Within the Bureau of Democracy, Conflict, and Humanitarian Assistance, the Office of Transition Initiatives provides short-term democracy assistance programs that are targeted in areas under transition and with stabilization needs.
Center of Excellence on Democracy, Human Rights, and Governance ^a	This center supports USAID's democracy programs worldwide by assisting field missions in the design of new Democracy, Human Rights, and Governance strategies and field assessments, managing global mechanisms, providing technical support during periods of crisis or opportunity, and conducting evaluations of mission programs. These programs are primarily designed and managed by USAID missions in-country.
USAID Missions	Consists of USAID offices in cooperating countries and regions throughout the world that design and manage democracy programs, among other types of foreign assistance.
NED	
	A private, nonprofit, nongovernmental organization, NED is funded in large part through grants from State provided by annual congressional appropriations. NED awards about half of its total annual funding through grants to four affiliated organizations, known as the core institutes: International Republican Institute, National Democratic Institute, Solidarity Center, and Center for International Private Enterprise. The remainder of NED's budget is used to make hundreds of grants to nongovernmental organizations throughout the world to support democracy. NED typically receives additional funds from State to make grants in specific countries or regions. The core institutes may also receive funding from State and USAID that is not overseen by NED.
State	
Bureau of Democracy, Human Rights, and Labor	Provides funding primarily to U.S. nonprofit organizations to strengthen democratic institutions, promote human rights, and build civil society mainly in fragile democracies and authoritarian states. The Bureau of Democracy, Human Rights, and Labor funds democracy assistance programs through grants and cooperative agreements, which are centrally managed by staff based in Washington, D.C.

¹⁷EUR, SCA, and the Bureau of Democracy, Human Rights and Labor; Bureau of African Affairs; Bureau of Energy Resources; and Bureau of Western Hemisphere Affairs provided democracy assistance funding through a limited number of contracts in fiscal years 2012 through 2016.

Key agency / bureau or office	Roles and responsibilities
State	
Bureau of International Narcotics and Law Enforcement Affairs	Provides funding for programs in areas such as combatting crime and corruption, promoting good governance, and supporting rights and justice. The Bureau of International Narcotics and Law Enforcement Affairs funds democracy assistance programs through contracts, grants, cooperative agreements, and other mechanisms that are managed by State personnel in Washington, D.C., and at posts overseas.
Regional bureaus ^b	Provide democracy assistance funding within their regional areas of focus across various programmatic areas. These regional bureaus fund democracy assistance programs primarily through grants and cooperative agreements that are managed by State personnel in Washington, D.C., and at posts overseas.
Bureau of Administration	Provides policy guidance and training for State federal assistance, including democracy assistance overseas.

Sources: GAO analysis of information from the U.S. Agency for International Development (USAID), the National Endowment for Democracy (NED), and U.S. Department of State (State). | GAO-18-136

Note: This table is not an exhaustive list of key agencies, bureaus, or offices that provide funding for democracy assistance programs. For example, State's Bureau of Energy Resources and its Office of Global Women's Issues also provide democracy assistance funding.

^aPrior to 2012, USAID's Center of Excellence on Democracy, Human Rights, and Governance was referred to as the Office of Democracy and Governance.

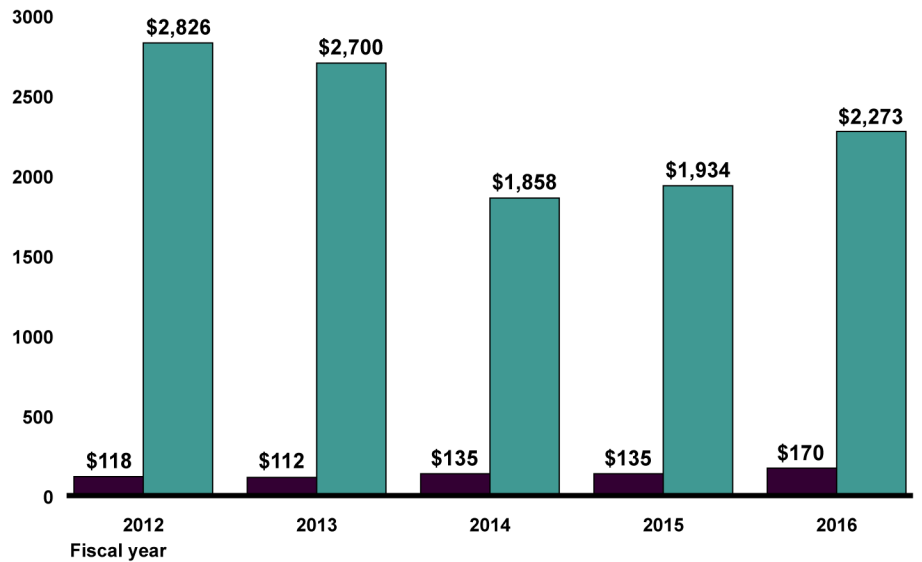
^bState's regional bureaus are the Bureaus of African Affairs; East Asian and Pacific Affairs; European and Eurasian Affairs; Near Eastern Affairs; South and Central Asian Affairs; and Western Hemisphere Affairs.

USAID, NED, and State Democracy Assistance Funding during Fiscal Years 2012 through 2016	Combined allocations for democracy assistance administered by USAID and State ranged from about \$2 billion to about \$3 billion per year, and NED funding ranged from about \$100 million to about \$170 million annually during fiscal years 2012 through 2016, as shown in figure 1. ¹⁸
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¹⁸NED typically receives additional funds from State to make grants in specific countries or regions. NED's core institutes may also receive funding from State and USAID that is not overseen by NED.

Figure 1: U.S. Agency for International Development and U.S. Department of State Combined Allocations for Democracy Assistance and Funds for the National Endowment for Democracy, by Fiscal Year, 2012–2016

Dollars (in millions)



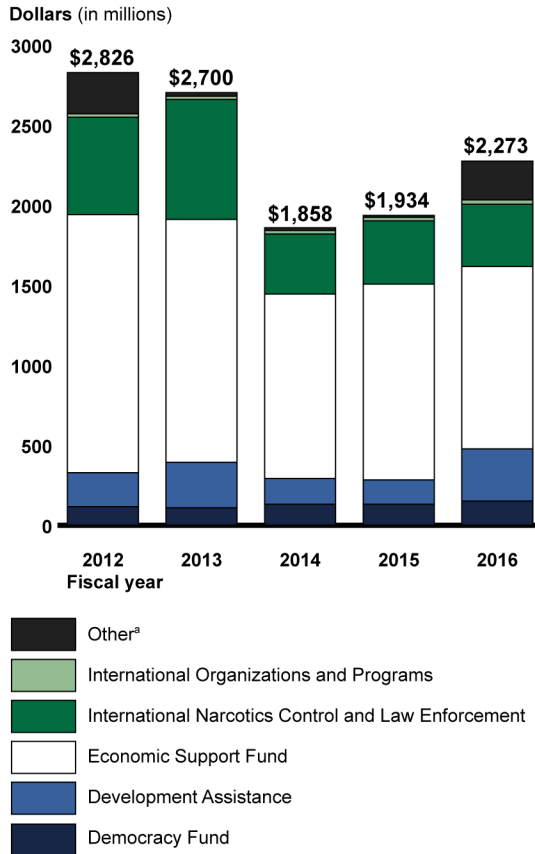
National Endowment for Democracy (NED) funds^a
 U.S. Agency for International Development (USAID) and Department of State (State) combined allocations

Source: GAO analysis of NED and State combined data. | GAO-18-136

^aNED funding is not included in USAID and State combined allocations. However, NED typically receives additional funds from State to make grants in specific countries or regions, and NED's core institutes may also receive funds from State and USAID that is not overseen by NED. Funding under these two circumstances are included in the USAID and State combined allocations but not in the NED funding.

USAID's and State's combined allocations for democracy assistance varied by account in fiscal years 2012 through 2016. Economic Support Fund was the largest account ranging from 50 to 63 percent of the total in fiscal years 2012 through 2016, as shown in figure 2.

Figure 2: U.S. Agency for International Development and U.S. Department of State Combined Allocations for Democracy Assistance, by Account and Fiscal Year, 2012–2016



Source: GAO analysis of Department of State data. | GAO-18-136

^aOther includes the following accounts: Assistance for Europe, Eurasia, and Central Asia; Food for Peace Title II; Transition Initiatives; and Complex Crises Fund.

Laws, Regulations, and Policies Relevant to Award-Type Decisions

The following laws, regulations, and policies are related to agencies' decisions to use a contract, grant, or cooperative agreement to implement democracy assistance programming:

- According to the Federal Grant and Cooperative Agreement Act of 1977, one of the purposes of the act is to promote a better understanding of government expenditures and help eliminate unnecessary administrative requirements on recipients of government awards by characterizing the relationship between executive agencies and contractors, states, local governments, and other recipients in

acquiring property and services and in providing government assistance. The act provides agencies with criteria to be considered when making award-type decisions, including the intended nature of the relationship between the agency and recipient, as well as whether the principal purpose of the award is to benefit the federal government or to transfer a thing of value to a recipient to carry out a public purpose of support or stimulation authorized by law.¹⁹

- The Competition in Contracting Act of 1984 requires agencies to obtain full and open competition for contracts through the use of competitive procedures in procurements unless otherwise authorized by law.
- The Federal Acquisition Regulation (FAR) establishes uniform policies and procedures for all executive agencies for acquisition through contracts. For example, the FAR includes policies and procedures to promote the requirement to obtain full and open competition for contracts. It defines the circumstances under which it is permissible for agencies to limit competition for contracts, including when there is an unusual or compelling urgency or when doing so is necessary for reasons of public interest or national security.
- The Office of Management and Budget's "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards," as codified in the Code of Federal Regulations (C.F.R.),²⁰ establishes government-wide requirements for federal agencies administering grants and cooperative agreements with nonfederal entities.²¹ This regulation includes policies and procedures for award elements, including monitoring and reporting as well as cost sharing.

¹⁹In 1982, the act was amended and codified in 31 U.S.C. §§ 6301–6308. One of the stated purposes of the amended act was to maximize competition in making procurement contracts and encourage competition in making grants and cooperative agreements. For the remainder of this report, we refer to the act simply as the Federal Grant and Cooperative Agreement Act.

²⁰Prior to December 26, 2013, the Office of Management and Budget's Circular A-110 established government-wide policies for federal agencies administering grants and cooperative agreements with certain entities, including non-profit organizations. This guidance was superseded by 2 C.F.R. § 200 et seq. However, with respect to both Circular A-110 and 2 C.F.R. § 200, while agencies may apply the requirements to foreign organizations, they are not required to do so.

²¹A nonfederal entity is a state, local government, Indian tribe, institution of higher education, or nonprofit organization that carries out a federal award as a recipient or subrecipient. 2 C.F.R. § 200.69.

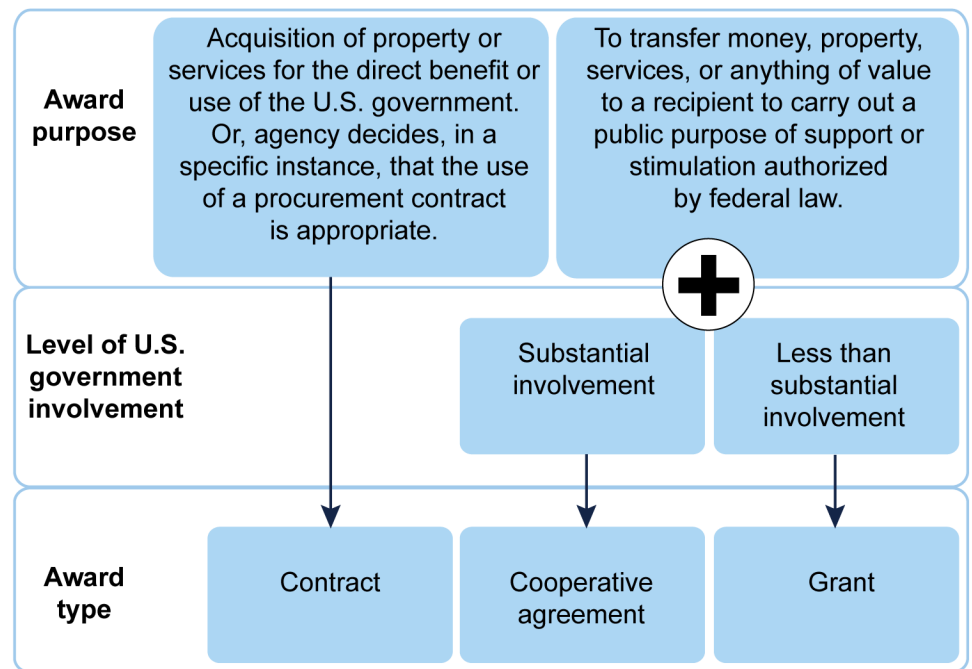
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- USAID established agencywide guidance for making award-type decisions in its Automated Directives System (ADS), Chapter 304 (ADS 304).²² In addition to referencing the criteria established in the Federal Grant and Cooperative Agreement Act, this ADS guidance lists indications for when a specific award type should be used and also identifies factors that should not be primary considerations in making award-type decisions. According to USAID guidance, agreement officers and contract officers are individuals representing the U.S. government who are responsible for documenting the final determination of award-type decisions. USAID further outlines policies and procedures for administration of grants and cooperative agreements in ADS Chapter 303 (ADS 303) and for contracts in ADS Chapter 302 (ADS 302).
 - State also established agencywide guidance for making award-type decisions in its Federal Assistance Directive. It references relevant legislation and instructs contracting and agreement officers to consult with State's Office of the Procurement Executive if disagreements regarding award-type decisions arise.
 - The Consolidated Appropriations Act, 2016, required USAID and State to each establish guidelines for clarifying program design and objectives for democracy programs, including the use of contracts versus grants and cooperative agreements, for programs carried out with funds appropriated by the act. For more information on USAID and State guidance related to award-type decisions, see appendix III.

²²This chapter of the ADS was revised in 2016 to include additional information about the legal framework for award-type decisions and to clarify the role of operational control in these decisions, among other things. According to USAID officials, these revisions were made, in part, in response to two court cases that called into question the selection of award types by other federal agencies. Due to the time frame of the awards within the scope of this review, the language from the 2011 version of the ADS 304 will be referenced for the purposes of this report, unless otherwise noted. With respect to other relevant USAID guidance referenced in this report, we are generally referring to current guidance, except where we are discussing the awards within the scope of this review, for which we used guidance applicable to those awards.

USAID’s Award Process and Award Life Cycle

USAID officials are to make award-type decisions based on applicable laws, regulations, and policies, some of which are described above. Figure 3 provides an overview of the considerations in making this determination based on USAID guidance.

Figure 3: USAID’s Considerations in Making Award-Type Decisions



Source: GAO analysis of U.S. Agency for International Development (USAID) documents. | GAO-18-136

Note: Under USAID guidance, awards to public international organizations and interagency agreements do not require the same award-type decisions as those required by ADS 304 for contracts, grants, and cooperative agreements. Awards made to public international organizations are governed by USAID guidance separate from the guidance that applies to awards to other types of organizations, and interagency agreements are governed by guidance separate from contracts, grants, and cooperative agreements.

ADS 304 provides the following definitions and guidance to USAID personnel as to what award type to select:

- A contract is a mutually binding legal instrument in which the principal purpose is the acquisition, by purchase, lease, or barter, of property or services for the direct benefit or use of the federal government, or in the case of a host country contract, the host government agency that is a principal, signatory party to the instrument. According to ADS 304, USAID personnel shall use a contract when the principal purpose of

this legal relationship is the acquisition of property or services for the direct benefit of a federal government agency.

- A grant is a legal instrument used when the principal purpose is the transfer of money, property, services or anything of value to a recipient in order to accomplish a public purpose of support or stimulation authorized by Federal statute and when substantial involvement by USAID is not anticipated. USAID personnel are instructed to use a grant when the principal purpose of the relationship with an awardee is to transfer money, property, services, or anything of value to that awardee to carry out a public purpose of support or stimulation authorized by federal statute; and the agency does not anticipate substantial involvement between itself and the awardee during the performance of the activity.
- A cooperative agreement is a legal instrument used when the principal purpose is the transfer of money, property, services, or anything of value to a recipient in order to accomplish a public purpose of support or stimulation authorized by federal statute and when substantial involvement by USAID is anticipated. According to ADS 304, USAID personnel must use a cooperative agreement when the principal purpose of the relationship with an awardee is to transfer a thing of value to that awardee in order to carry out a public purpose; and the agency anticipates substantial involvement between itself and the awardee during the performance of the activity. The active engagement of USAID officials with awardees in certain programmatic elements of a project constitutes substantial involvement. Such activities include approval of the awardee's implementation plan and of specified key personnel.
- In addition to awarding contracts, grants and cooperative agreements to private organizations (such as a for-profit business or a nongovernmental organization), USAID makes awards to federal agencies and public international organizations. Under USAID guidance, a public international organization is an international organization composed principally of countries or other related organizations designated by USAID. USAID maintains a list of public international organizations and international agricultural research centers that are considered public international organizations. These organizations include the United Nations and related organizations, such as the Food and Agriculture Organization, and international financial institutions, such as the World Bank Group. USAID officials noted that public international organizations normally receive grants.

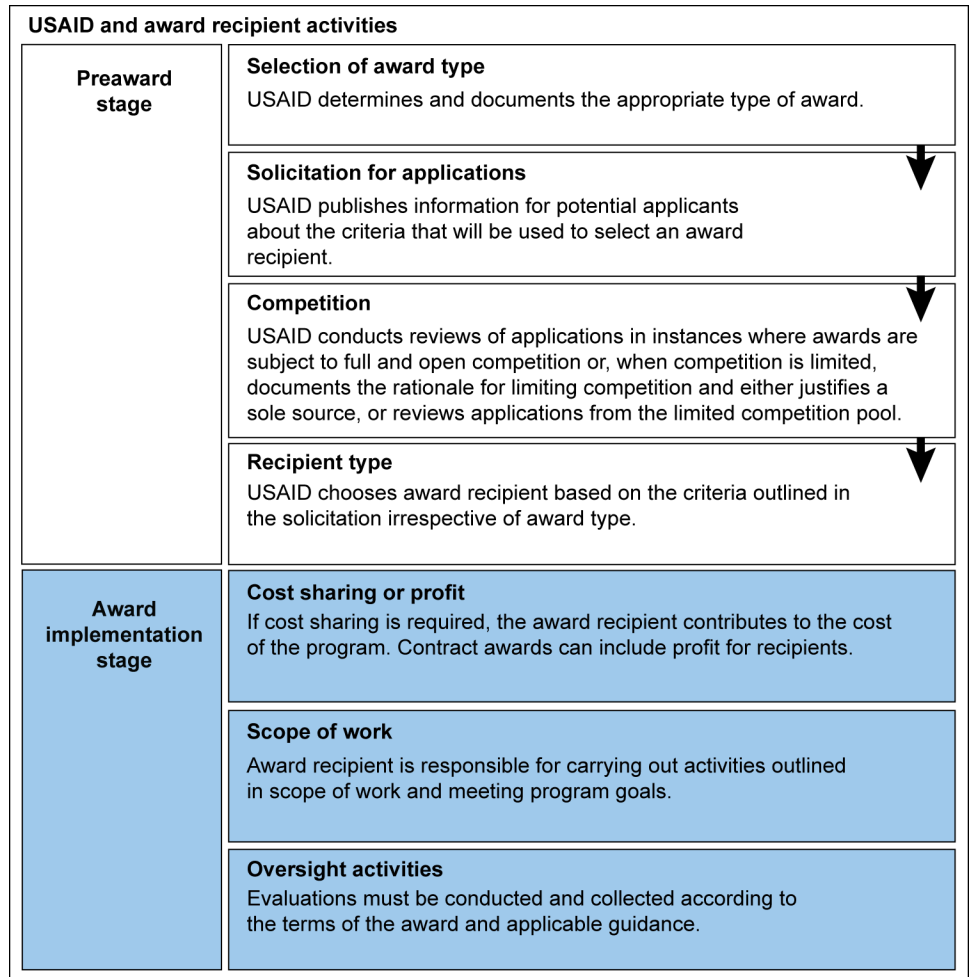
Under USAID guidance, awards to public international organizations and interagency agreements do not require the same award-type

decisions as those required by ADS 304 for contracts, grants, and cooperative agreements. Awards made to public international organizations are governed by USAID guidance separate from the guidance that applies to awards to other types of organizations, and interagency agreements are governed by guidance separate from contracts, grants, and cooperative agreements.²³

According to USAID's guidance, the award-type decision should occur early in the preaward stage within the life cycle of an award. Award type-decisions impact other elements of awards because different regulations and guidance are applicable based on award type. For example, competition and oversight requirements differ for contracts compared with grants and cooperative agreements. Similarly, award-type decisions affect whether the recipient of an award is eligible to make a profit. The award life cycle contains preaward and award implementation stages, as shown in figure 4.

²³Public international organizations are governed by Automated Directives System (ADS) Chapter 308 (ADS 308), "Awards to Public International Organizations," and interagency agreements are governed by Chapter 306 (ADS 306), "Interagency Agreements."

Figure 4: Selected Steps of the Award Life Cycle of USAID Contracts, Grants, and Cooperative Agreements



Source: GAO analysis of U.S. Agency for International Development (USAID) documents. | GAO-18-136

Note: For the purposes of this report, we use the term “solicitation” to refer to all forms of initial notice of opportunities for contracts, grants, and cooperative agreements.

USAID Obligated \$5.5 Billion and NED Obligated \$610.2 Million in Democracy Assistance Funding; Total Funding State Obligated Cannot Be Reliably Determined

During fiscal years 2012 through 2016, USAID obligated \$5.5 billion and NED obligated \$610.2 million in democracy assistance funding, and the total such funding that State obligated cannot be reliably determined.²⁴ In providing democracy assistance, USAID obligated more through grants and cooperative agreements combined than contracts, but its obligations through different award types varied by fiscal year and DRG program area. NED provided democracy assistance only through grants, and its obligations remained generally constant by fiscal year but varied by DRG program area. State bureaus that were able to provide reliable data provided democracy assistance primarily through grants and cooperative agreements. INL was the only State bureau that reported providing a significant amount of democracy assistance through contracts in addition to grants and cooperative agreements, but INL was one of the three State bureaus unable to provide reliable data.

²⁴Obligations are a definite commitment that creates a legal liability of the government for the payment of goods and services ordered or received, or a legal duty on the part of the United States that could mature into a legal liability by virtue of actions on the part of the other party beyond the control of the United States. Payment may be made immediately or in the future. An agency incurs an obligation, for example, when it places an order, signs a contract, awards a grant, purchases a service, or takes other actions that require the government to make payments to the public or from one government account to another.

USAID Obligated \$5.5 Billion in Democracy Assistance through Contracts, Grants, and Cooperative Agreements

USAID Obligated About Two-Thirds of Its Democracy Assistance Funding through Contracts and Cooperative Agreements, and One-Third through Grants to Public International Organizations

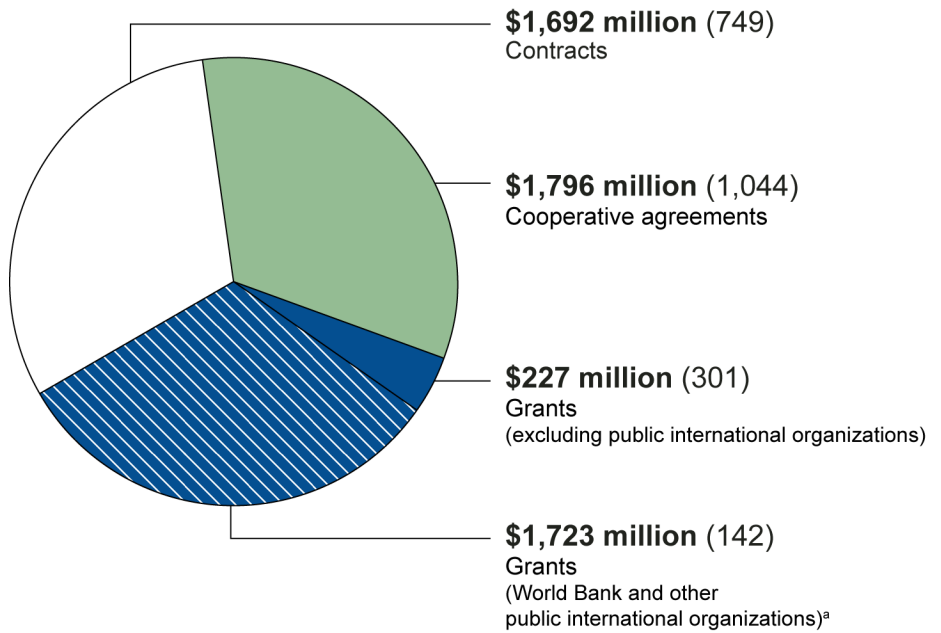
USAID obligated \$5.5 billion in democracy assistance funding during fiscal years 2012 through 2016,²⁵ about 31 percent through contracts; about 33 percent through cooperative agreements; about 4 percent through grants, excluding grants to public international organizations (PIO); and about 32 percent through grants to PIOs. Of the \$5.5 billion in democracy assistance, USAID obligated over \$1.7 billion of all its democracy assistance through grants to PIOs. The three countries for which USAID obligated the most funds for democracy assistance projects were Afghanistan, Iraq, and South Sudan.²⁶ Democracy assistance projects in Afghanistan received over \$2 billion or 37 percent of USAID's total democracy assistance obligations during fiscal years 2012 through 2016. Moreover, two grants to the World Bank for the Afghanistan Reconstruction Trust Fund totaling \$1.5 billion during fiscal years 2012 through 2016 accounted for 85 percent of the total democracy assistance funds USAID obligated through grants to PIOs during that period.

For both total obligations and number of awards, USAID awarded more of its democracy assistance through grants and cooperative agreements combined than through contracts, as shown in figure 5.

²⁵Since USAID uses centralized information systems to collect information about its democracy assistance awards, USAID was able to provide us its agencywide democracy assistance award data, including awards by various bureaus and offices as well as its overseas missions, in one report. According to USAID officials, these obligation data do not include obligations for awards that began prior to fiscal year 2012, nor do these data include funds committed through certain larger agreements but not yet obligated for specific projects or project activities during the period within the scope of this engagement.

²⁶For more information on the 14 countries for which USAID obligated the most democracy funding, see appendix II.

Figure 5: Total Obligations and Number of Awards for USAID Democracy Assistance, by Award Type, for Fiscal Years 2012 through 2016



Source: GAO analysis of U.S. Agency for International Development (USAID) data. | GAO-18-136

Note: Interagency agreements are governed by separate USAID guidance that does not require the same award-type decision as when agencies obligate funds to entities through contracts, grants, and cooperative agreements. Obligations through interagency agreements are not included in the figure due to the small dollar amount obligated through this award type.

^aPublic international organizations are governed by USAID guidance separate from the guidance that applies to awards to other types of organizations. The World Bank received two grants for the Afghanistan Reconstruction Trust Fund totaling \$1.5 billion during fiscal years 2012 through 2016, which was 85 percent of the total democracy assistance funds USAID obligated through grants to all public international organizations.

Contracts and cooperative agreements each accounted for roughly one-third of total obligations, while grants, excluding those to PIOs, accounted for 4 percent of total obligations during fiscal years 2012 through 2016.²⁷ Excluding grants to PIOs, the number of grants and obligations for grants on average were significantly less than cooperative agreements, as shown in table 3.

²⁷While USAID officials stated that PIOs normally receive grants, USAID awarded a limited number of cooperative agreements to PIOs, which must comply with guidance separate from ADS 304, the guidance that generally speaks to the decision-making process between award types for organizations other than PIOs.

Table 3: Number of Awards, Total Obligation, and Mean Obligation for USAID Democracy Assistance, by Award Type, for Fiscal Years 2012 through 2016

Dollars (in millions)

Award type	Number of awards	Total obligation	Mean obligation
Contracts	749	1,692	2.3
Cooperative agreements	1,044	1,796	1.7
Grants	443	1,949	n/a ^a
Grants (excluding grants to public international organizations)	301	227	0.8
Grants (public international organizations) ^b	142	1,723	n/a ^a
Interagency agreements ^c	36	24	0.7
Total	2,272	5,461	n/a^a

Source: GAO analysis of U.S. Agency for International Development (USAID) data. | GAO-18-136

Note: Numbers may not sum to totals because of rounding.

^aThe mean obligation is not presented because this value would be skewed by two large grants to the World Bank for the Afghanistan Reconstruction Trust Fund totaling \$1.5 billion during fiscal years 2012 through 2016.

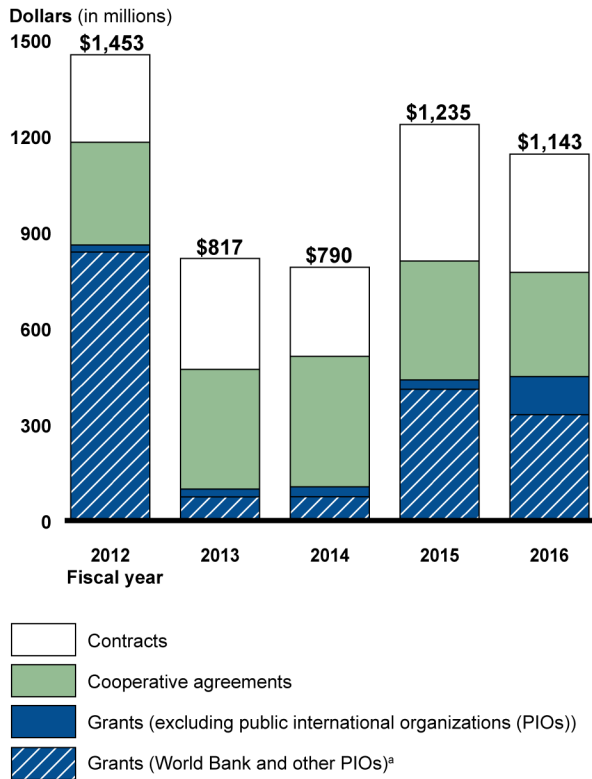
^bPublic international organizations are governed by USAID guidance separate from the guidance that applies to awards to other types of organizations.

^cInteragency agreements are governed by separate USAID guidance that does not require the same award-type decision as when agencies obligate funds to entities through contracts, grants, and cooperative agreements.

USAID Grants to the World Bank for Democracy Assistance in Afghanistan Accounted for the Majority of Variation by Fiscal Year and Program Area

USAID’s democracy assistance obligations through contracts, grants, and cooperative agreements have varied during fiscal years 2012 to 2016, with significant increases in USAID’s obligations through grants to the World Bank in fiscal years 2012 and 2015, as shown in figure 6. These increases were driven by two large grants to the World Bank for the Afghanistan Reconstruction Trust Fund. Specifically, the World Bank received more than \$820 million in fiscal year 2012 and more than \$360 million in fiscal year 2015. During fiscal years 2012 to 2016, the World Bank accounted for 93 percent of grants to PIOs. For more details on USAID obligations through different award types by fiscal year and DRG program area, see appendix IV.

Figure 6: Total USAID Obligations through Democracy Assistance Awards, by Award Type and Fiscal Year, for Fiscal Years 2012 through 2016



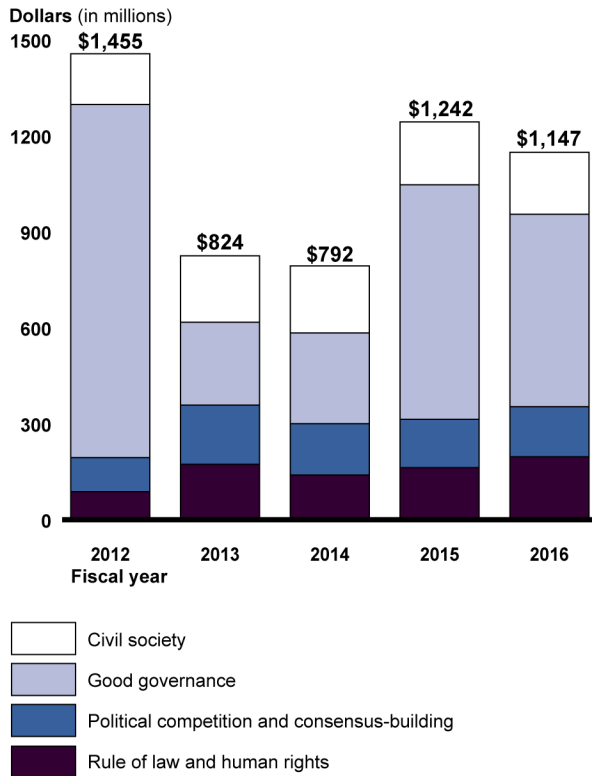
Source: GAO analysis of U.S. Agency for International Development (USAID) data. | GAO-18-136

Note: Interagency agreements are governed by separate USAID guidance that does not require the same award-type decision as when agencies obligate funds to entities through contracts, grants, and cooperative agreements. Obligations through interagency agreements are not included in the figure due to the small dollar amount obligated through this award type.

^aPublic international organizations (PIOs) are governed by USAID guidance separate from the guidance that applies to awards to other types of organizations. PIOs received \$837.4 million in fiscal year 2012, more than \$73.2 million in fiscal year 2013, \$73.6 million in fiscal year 2014, \$409 million in fiscal year 2015, and \$329.5 million in fiscal year 2016. This included two grants to the World Bank for the Afghanistan Reconstruction Trust Fund totaling \$1.5 billion during fiscal years 2012 through 2016, which was 85 percent of the total democracy assistance funds USAID obligated through grants to all public international organizations.

USAID’s democracy assistance obligations for good governance varied the most compared with the other three DRG program areas, rule of law and human rights, political competition and consensus-building, and civil society, as shown in figure 7. This variation was again due to two large grants to the World Bank for the Afghanistan Reconstruction Trust Fund, which were categorized under good governance.

Figure 7: Total USAID Obligations through Democracy Assistance Awards, by Fiscal Year and Democracy, Human Rights, and Governance Program Area, for Fiscal Years 2012 through 2016

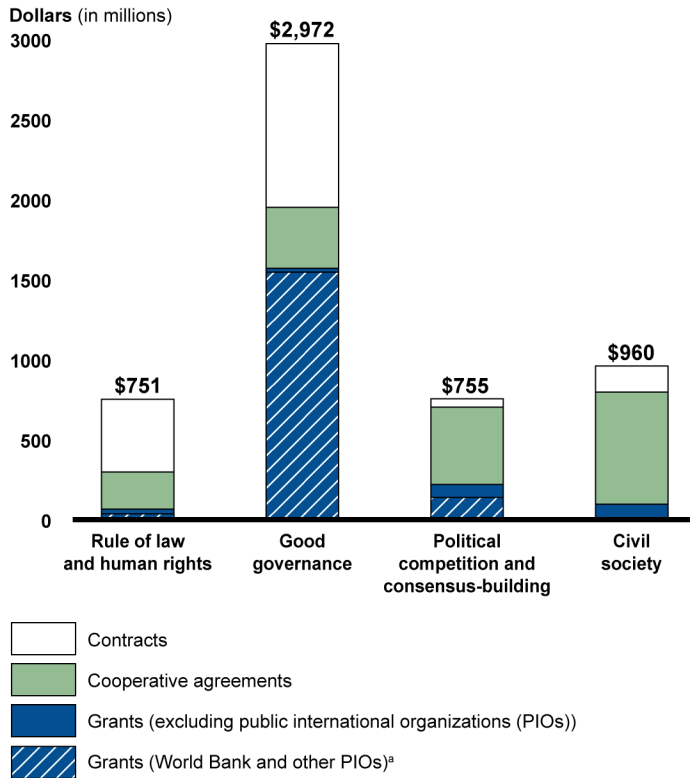


Source: GAO analysis of U.S. Agency for International Development (USAID) data. | GAO-18-136

Note: This figure includes obligations through interagency agreements and awards to public international organizations. Interagency agreements are governed by separate USAID guidance that does not require the same award-type decision as when agencies obligate funds to entities through contracts, grants, and cooperative agreements. Public international organizations are governed by USAID guidance separate from the guidance that applies to awards to other types of organizations.

As shown in figure 8, USAID provided more democracy assistance in the area of good governance, over \$2 billion more than the next largest program area. Excluding USAID obligations through grants to PIOs, USAID obligated more democracy assistance through contracts than through grants and cooperative agreements combined for the two program areas of good governance and rule of law and human rights. For the two other program areas—civil society and political competition and consensus-building—USAID obligated less through contracts.

Figure 8: Total USAID Obligations through Democracy Assistance Awards, by Award Type and by Democracy, Human Rights, and Governance Program Area, for Fiscal Years 2012 through 2016



Source: GAO analysis of U.S. Agency for International Development (USAID) data. | GAO-18-136

Note: Interagency agreements are governed by separate USAID guidance that does not require the same award-type decision as when agencies obligate funds to entities through contracts, grants, and cooperative agreements. Obligations through interagency agreements are not included in the figure due to the small dollar amount obligated through this award type.

^aPublic international organizations are governed by USAID guidance separate from the guidance that applies to awards to other types of organizations. The World Bank received two grants for the Afghanistan Reconstruction Trust Fund totaling \$1.5 billion during fiscal years 2012 through 2016.

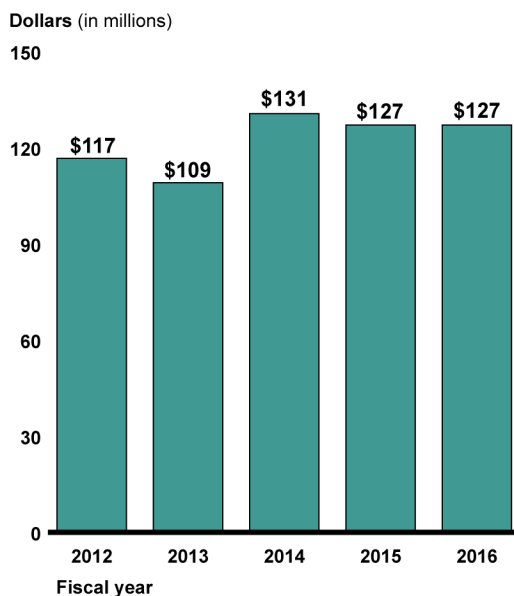
NED Obligated Over \$610.2 Million in Democracy Assistance Funding through Grants

NED obligated over \$610.2 million in democracy assistance funding through a single award type—grants—during fiscal years 2012 through 2016.²⁸ The three countries for which NED obligated the most funds for democracy assistance are in Eurasia and Asia. NED’s obligations

²⁸NED provides democracy assistance only through grants.

remained generally constant in the past few fiscal years, as shown in figure 9.

Figure 9: Total NED Obligations through Democracy Assistance Grants, by Fiscal Year, for Fiscal Years 2012 through 2016

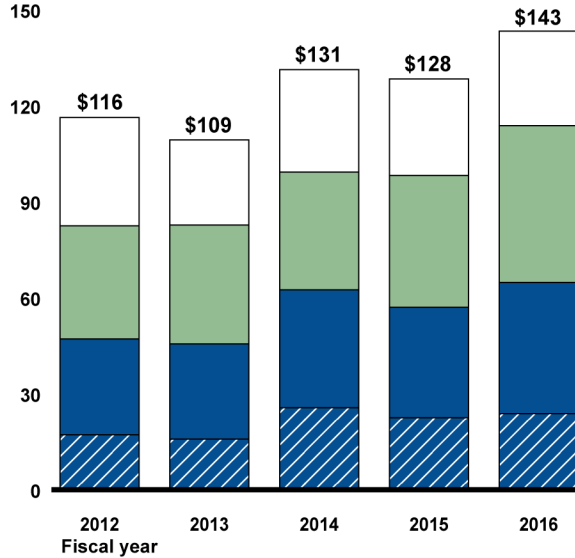


Source: GAO analysis of National Endowment for Democracy (NED) data. | GAO-18-136

NED's approved funding varied across the four DRG program areas. According to NED officials, NED does not maintain obligations data for awards by DRG program areas, as defined by USAID and State. Therefore, NED categorized its grants into DRG program areas for projects when funds were approved rather than when funds were obligated to provide a general sense of funding by DRG program area. NED approved the most funding in the area of good governance followed closely by political competition and consensus-building and then by civil society. NED's approved funding in all program areas, except for civil society, increased over the years, as shown in figure 10.

Figure 10: Total NED Approved Funding through Democracy Assistance Grants, by Democracy, Human Rights, and Governance Program Area and Fiscal Year, for Fiscal Years 2012 through 2016

Dollars (in millions)
150



- Civil society
- Good governance
- Political competition and consensus-building
- Rule of law and human rights

Source: GAO analysis of National Endowment for Democracy (NED) data. | GAO-18-136

Note: According to NED officials, NED funding in all program areas is awarded exclusively through grants to civil society organizations. According to NED officials, NED does not maintain obligations data for awards by DRG program areas, as defined by USAID and State. Therefore, NED categorized its grants into DRG program areas for projects when funds were approved rather than when funds were obligated to provide a general sense of funding by DRG program area. Funding presented in this figure for some years is slightly larger than the previously presented NED obligations because NED tracks projects by DRG program area when project funding is approved, but not all project funding is obligated.

State Reported Obligating About \$3 Billion in Democracy Assistance through Grants, Cooperative Agreements, and Contracts, but Data for Roughly Half of State's Obligations Were Unreliable

State reported obligating approximately \$3 billion in democracy assistance funding during fiscal years 2012 through 2016 primarily through grants and cooperative agreements, but also through contracts.²⁹ Seven of 10 State bureaus that were able to provide reliable data obligated \$1.7 billion primarily through grants and cooperative agreements; the remaining three bureaus that were unable to provide reliable data reported obligating about \$1.4 billion through all three award types.

Seven State Bureaus Providing Reliable Data Obligated \$1.7 Billion in Democracy Assistance Funding Primarily through Grants and Cooperative Agreements

The seven State bureaus³⁰ that were able to provide reliable data collectively obligated \$1.7 billion for fiscal years 2012 through 2016 primarily through grants and cooperative agreements,³¹ as shown in table 4.³² Of these State bureaus, the Bureau of Democracy, Human Rights, and Labor obligated the most with about \$1.2 billion in democracy assistance through 547 grants and 56 cooperative agreements for that period. The three regions for which the Bureau of Democracy, Human Rights, and Labor obligated the most funds for democracy assistance were the Near East, East Asia and Pacific, and the Western Hemisphere.

²⁹We are presenting an approximation because we deemed data from INL, EUR, and SCA to be unreliable.

³⁰The seven State bureaus or offices that were able to provide reliable data were Bureau of Democracy, Human Rights and Labor; Bureau of African Affairs; Bureau of East Asian and Pacific Affairs; Bureau of Energy Resources; Bureau of Near Eastern Affairs; Bureau of Western Hemisphere Affairs; and Office of Global Women's Issues. According to State officials, the Bureau of Democracy, Human Rights, and Labor reported obligations by fiscal year of appropriation. According to State, any decreases in fiscal year 2016 obligations were due to delays in obligations for multiyear awards.

³¹The Bureau of Democracy, Human Rights and Labor; Bureau of African Affairs; Bureau of Energy Resources; and Bureau of Western Hemisphere Affairs provided democracy assistance funding through a limited number of contracts in fiscal years 2012 through 2016. Contracts comprised 3 percent of democracy assistance awards administered by these four bureaus during fiscal years 2012 through 2016.

³²According to a recent State Office of Inspector General report, State's information technology systems for financial management and procurement were not designed to track and report programmatic details of foreign assistance. According to this report, in response to this, some individual bureaus and offices rely on labor-intensive manual data collection processes to track their foreign assistance, among other things. Due to the lack of a centralized system, we collected data separately from each State bureau and present State's democracy assistance funding at the bureau level.

Table 4: Total Obligations for State Democracy Assistance from Seven State Bureaus, by Award Type and State Bureau, for Fiscal Years 2012 through 2016

Dollars (in millions)

Award type	Bureau of Democracy, Human Rights and Labor	Bureau of Energy Resources	Office of Global Women's Issues	Bureau of African Affairs	Bureau of East Asian and Pacific Affairs	Bureau of Near Eastern Affairs	Bureau of Western Hemisphere Affairs	Total
Contracts	0.5	13.5	0	2.0	0	0	0.9	16.9
Cooperative agreements	98.7	4.4	1.4	0	0	360.0	0	464.5
Grants	1,063.4	0	12.5	9.3	21.8	62.5	3.8	1,173.4
Grants (excluding grants to public international organizations)	1,052.5	0	12.5	9.3	1.5	40.0	3.8	1,119.6
Grants (public international organizations)	11.0	0	0	0	20.3	22.5	0	53.8
Interagency agreements	0	7.8	0	1.1	0	0	0	8.9
Total	1,162.7	25.6	13.9	13.1	21.8	422.5	4.8	1,664.4

Source: GAO analysis of U.S. Department of State (State) data. | GAO-18-136

Note: Numbers may not sum to totals because of rounding. Democracy assistance obligations in this table reflect the bureaus that submitted the democracy award data and not necessarily the places of performance for each award. For example, the Bureau of Democracy, Human Rights, and Labor submitted democracy assistance award data including for awards that were implemented in the Near East region.

Three State Bureaus Were Unable to Provide Reliable Data on Democracy Assistance Obligations for Fiscal Years 2012 through 2016

Three State bureaus—INL, EUR, and SCA—were unable to provide reliable data on democracy assistance obligations for fiscal years 2012 through 2016. Collectively, these three bureaus reported obligating about \$1.4 billion in democracy assistance during this period: INL, about \$1.1 billion; EUR, about \$150 million; and SCA, about \$160 million.³³ INL was the only State bureau that reported providing a significant amount of democracy assistance through contracts in addition to grants and cooperative agreements.³⁴

We deemed data from these three bureaus unreliable because the data were incomplete, nonstandard, or inaccurate. For example, INL did not provide democracy assistance data for Colombia, Egypt, and Kenya until we identified these countries as potentially missing based on our comparison of INL data with USAID data. According to data INL subsequently provided, the democracy assistance projects in these three countries received about \$49 million of the approximately \$1.1 billion in democracy assistance obligated by INL in fiscal years 2012 through 2016. According to INL officials, the initial data INL provided did not include records of awards for these countries because awards were miscoded when the data were entered; for example, some awards were coded under the broad category of law enforcement rather than under specific DRG program areas. According to INL officials, this erroneous law enforcement code was used for all of Colombia's programs and for some programs in other countries such as Egypt and Kenya. According to INL officials, for two additional countries, Tunisia and Morocco, the regional post did not always use codes associated with DRG program areas or personnel entered incorrect codes.

INL also provided incomplete data for multiple data fields, including the dates for periods of performance.³⁵ INL was missing the start date for 74 percent of records and the end date for almost 75 percent of records for

³³We are presenting approximations for INL, EUR, and SCA because we deemed data from these three bureaus to be unreliable.

³⁴EUR, SCA, and the Bureau of Democracy, Human Rights and Labor; Bureau of African Affairs; Bureau of Energy Resources; and Bureau of Western Hemisphere Affairs provided democracy assistance funding through a limited number of contracts in fiscal years 2012 through 2016.

³⁵For purposes of this report, we use the term "award subtype" to mean the specific type of contract, grant, or cooperative agreement awarded. For example, a cost-plus-fixed-fee contract, or a fixed amount award for a grant or cooperative agreement.

fiscal years 2012 through 2015. A September 2014 State Office of Inspector General report on INL found, among other things, that because State's budgeting and accounting systems are not designed to manage foreign assistance, INL staff were required to engage in time-consuming, inefficient, and parallel processes to track the bureau's finances.³⁶

According to INL officials, INL has made improvements in its data since the Inspector General report was published. However, INL was missing the start date for 69 percent of records and the end date for almost 71 percent of records for fiscal year 2016. According to INL, data fields such as these were incomplete because contract officers and agreement officers were not required to enter values for these data fields into State systems until October 2016.

EUR and SCA also initially provided incomplete, inaccurate, or nonstandard data for multiple data fields. According to State officials, this was due to manual data entry and transfer errors.³⁷ For example, dates were in various formats and recipient names were sometimes listed in the field intended for recipient categories, which did not allow for the systematic analysis of records. While EUR generally provided more complete and standard data for fiscal year 2016 compared with fiscal years 2012 through 2015, EUR still provided nonstandard codes to identify award subtype for 5.3 percent of its fiscal year 2016 records. For example, "ESF," an abbreviation for the Economic Support Fund, was listed as the award subtype for multiple contracts.³⁸

Furthermore, we identified 145 duplicate EUR records. EUR officials in Washington, D.C., noted that some of the duplicates resulted from their efforts to validate the data they had collected from staff in each country. Subsequently, these officials—who manually merged, analyzed, and validated data to correct it—identified additional duplicates beyond the 145 that we had identified. According to EUR officials, the bureau's obligation data for democracy assistance awards were maintained in

³⁶United States Department of State and the Broadcasting Board of Governors Office of Inspector General, *Inspection of the Bureau of International Narcotics and Law Enforcement Affairs*, ISP-I-14-24 (Arlington, Va.: September 2014).

³⁷According to State officials, U.S. embassies in Central Asia reported their data to SCA, which then provided the data to EUR's Office of the Coordinator of U.S. Assistance to Europe and Eurasia. According to State officials, this office has statutory coordinating authority over U.S. assistance for Europe, Eurasia, and Central Asia.

³⁸Examples of award subtypes for contracts may include fixed-price contracts and cost reimbursement contracts.

separate databases at posts, rather than in a centralized database.³⁹ In validating the data they had collected, EUR officials identified duplicate records amounting to at least 5 percent of the records during fiscal years 2012 through 2016. On the basis of our independent analysis of the same dataset, we were able to confirm that about 4 percent of the EUR records were duplicate records. Data on democracy assistance awards are maintained in the countries where the awards are made. To obtain award level data, EUR headquarters personnel had to ask staff in each country to manually compile and report award data.

In addition, SCA did not initially provide data for Afghanistan and Pakistan, including award-type data. Records associated with these two countries accounted for about 92 percent of SCA's total democracy assistance funding. We identified these countries as potentially missing based on our comparison of SCA data with USAID data. SCA subsequently provided the missing data on democracy assistance awards made in Afghanistan and Pakistan; the data resided within a separate database.⁴⁰

SCA democracy assistance awards are allocated across three offices within SCA and EUR, and information regarding democracy assistance programs is not currently managed through a centralized database.⁴¹ According to SCA officials, due to the lack of a centralized database, they would need to carefully coordinate across the three offices. However, despite the coordination efforts of these offices, SCA did not include Afghanistan and Pakistan in their initial submission of data to us, and the additional data SCA subsequently submitted through EUR for Central Asia still contained nonstandard and missing values.

A June 2017 State Office of Inspector General report determined that State cannot obtain timely and accurate data necessary to provide central

³⁹Three of the regional State bureaus that were able to provide reliable data maintain internal data systems or databases in which they are able to track their bureau's democracy assistance funding.

⁴⁰Although the Office of the Special Representative for Afghanistan and Pakistan maintained its own database for Afghanistan and Pakistan, data for democracy assistance to Afghanistan and Pakistan are maintained by SCA.

⁴¹According to State officials, U.S. embassies in Central Asia reported their data to SCA, which then provided the data to EUR's Office of the Coordinator of U.S. Assistance to Europe and Eurasia. According to State officials, this office has statutory coordinating authority over U.S. assistance for Europe, Eurasia, and Central Asia.

oversight of foreign assistance activities and meet statutory and regulatory reporting requirements.⁴² For example, the report said that State cannot readily analyze its foreign assistance by country or programmatic sector. Similarly, we found that State cannot readily analyze its foreign assistance agencywide by country or for its DRG portfolio since INL, EUR, and SCA did not provide reliable DRG award data, including incomplete or duplicative data associated with certain countries. According to the report, this lack of data hinders State's leadership from strategically managing foreign assistance resources, identifying whether programs are achieving their objectives, and determining how well bureaus and offices implement foreign assistance programs. In September 2014, State began the Foreign Assistance Data Review to better understand and document issues with its agencywide data and multiple budget, financial, and program management systems, but State does not plan to complete its Foreign Assistance Data Review until fiscal year 2021.⁴³ The Consolidated Appropriations Act, 2016, requires State to report on its use of the various award types, and the Office of Management and Budget's Bulletin No. 12-01 requires State to report quarterly on its foreign assistance activities.⁴⁴ Given these reporting requirements, State would not be able to provide accurate and complete data on democracy assistance unless INL, EUR, and SCA took immediate steps to address their data deficiencies. Federal internal control standards call for agencies to use quality information from reliable sources to achieve intended objectives and to effectively monitor

⁴²Department of State Office of Inspector General, *Compliance Follow-up Review: Department of State is Still Unable to Accurately Track and Report on Foreign Assistance Funds*, ISP-C-17-27 (Arlington, Va.: June 2017).

⁴³State is implementing the Foreign Assistance Data Review in four phases. In July 2017, State transmitted to Congress a legislatively mandated plan on the outcomes of Phases One and Two of this four-phase review, as well as the timeline and estimated costs for implementing Phases Three and Four. According to State officials, Phase Three, which is currently under way, involves identifying what types of reporting of foreign assistance data are needed as a legal or policy matter and then identifying changes to policies, processes, technology, and training, as applicable, to meet those needs. Phase Four, which is expected to be completed by 2021, will involve implementation of recommended changes.

⁴⁴In 2012, the Office of Management and Budget issued Bulletin No. 12-01, "Guidance on Collection of U.S. Foreign Assistance Data," to provide guidance on its requirement for agencies to publicly report data on their foreign assistance activities for ForeignAssistance.gov. The bulletin directed executive branch departments and agencies to provide foreign assistance data from all U.S. government agencies, and identified State as the lead agency responsible for collecting and publishing data from 22 U.S. agencies on ForeignAssistance.gov.

activities.⁴⁵ Without reliable democracy assistance data from all relevant bureaus, State cannot effectively monitor its democracy assistance programming and report reliable data externally.⁴⁶

USAID Generally Lacked Complete and Timely Documentation of Award-Type Decisions

USAID generally did not document award-type decisions in a complete and timely manner for the awards in our sample.⁴⁷ Specifically, USAID provided complete and timely documentation of the award-type decision for 5 of the 41 awards we reviewed.⁴⁸ For the remaining 36 awards, the documentation was either incomplete, not timely, or both.⁴⁹ According to ADS 304, contract and agreement officers must determine whether to use a contract, grant, or cooperative agreement, including a rationale based on criteria outlined in the Federal Grant and Cooperative Agreement Act.

⁴⁵[GAO-14-704G](#).

⁴⁶We have reported on data quality challenges faced by State, among other agencies, in reporting complete and accurate award-level data on [ForeignAssistance.gov](#), a website that reports U.S. agencies' funding data by foreign assistance categories, including for Democracy, Human Rights, and Governance. GAO, *Foreign Assistance: Actions Needed to Improve Transparency and Quality of Data on ForeignAssistance.gov*, [GAO-16-768](#) (Washington, D.C.: Aug. 24, 2016).

⁴⁷The sample was drawn from the 14 countries for which USAID obligated the most democracy funding. Democracy assistance projects in these 14 countries received over 70 percent of USAID's democracy assistance funding from fiscal year 2012 through 2015. Total USAID democracy assistance funding for projects in Afghanistan was greater than for any other country, amounting to almost 39 percent of USAID's total democracy assistance obligations during fiscal years 2012 through 2015. For more information on these 14 countries, see app. II.

⁴⁸The sample was limited to contracts, grants, and cooperative agreements that were awarded by USAID in fiscal years 2012 through 2015 because fiscal year 2015 was the most recent fiscal year for which data were available at the time of our sample selection.

⁴⁹State and NED were not included in our sample because most State bureaus did not regularly use contracts and NED only provides assistance through grants. In addition, three State bureaus were unable to provide reliable data from which to select a sample.

USAID Did Not Have Complete Documentation of Award-Type Decisions for 14 of the 41 Awards in Our Sample

Consistent with the requirements of ADS 304, USAID personnel documented the rationale for using a contract, grant, or cooperative agreement for 27 of the 41 awards we reviewed.⁵⁰ As table 5 shows, the number of awards in our sample with complete and incomplete documentation of the award-type decision varies by award type.

⁵⁰For the purposes of this report, we refer to the documentation as complete when USAID was able to provide documentation of the final award-type decision that includes a rationale based on the Federal Grant and Cooperative Agreement Act, which was required by the 2011 version of ADS 304 applicable to our sample. In some instances, documentation was incomplete because USAID was lacking documentation and in other instances documentation was incomplete because it was missing a rationale based on the Federal Grant and Cooperative Agreement Act. Three of the contracts in our sample were base awards with task orders issued under them; we did not receive documentation of the award-type decision for the base awards. Although we received documentation for the decision of the specific task order type chosen, this documentation does not apply to the base award-type decision. USAID did not identify any other awards beyond the three task orders for which documentation of award-type decisions were not necessary. Also, according to USAID officials, ADS 304 does not specifically apply to task orders, and contracting officers do not undertake the same award-type decision because an existing acquisition vehicle is already in place.

Table 5: Number of Selected USAID Awards with Complete versus Incomplete Documentation of the Award-Type Decision

Award type	Incomplete			Awards in sample
	Awards with complete documentation	Awards lacking any documentation ^a	Awards with partial documentation ^b	
Contracts	6	3	4	13
Grants	4	1	0	5
Cooperative agreements	17	6	0	23
Total	27	10	4	41

Source: GAO analysis of U.S. Agency for International Development (USAID) information. | GAO-18-136

Note: The sample was limited to contracts, grants, and cooperative agreements that were awarded by USAID in fiscal years 2012 through 2015 because fiscal year 2015 was the most recent fiscal year for which data were available at the time of our sample selection.

^aThree of the contracts in our sample were base awards with task orders issued under them; we did not receive documentation of the award-type decision for the base awards. Although we received documentation for the decision of the specific task order type chosen, this documentation does not apply to the base award-type decision. USAID did not identify any other awards beyond the three task orders for which documentation of award-type decisions were not necessary. Also, according to USAID officials, USAID’s Automated Directives System Chapter 304 does not specifically apply to task orders, and contracting officers do not undertake the same award-type decision because an existing acquisition vehicle is already in place.

^bUSAID guidance requires documentation of the award-type decision, including a rationale for choosing between grants, cooperative agreements, and contracts based on the requirements of the Federal Grant and Cooperative Agreement Act. This was the required component that was lacking.

ADS 304 requires contract and agreement officers to document the selection of an award type, including the rationale for the award-type decisions based on the requirements of the Federal Grant and Cooperative Agreement Act. USAID provided documentation of the award-type decision for 31 of the awards in our sample but lacked such documentation for 10 awards. However, for 4 of the 31 awards with documentation of the award-type decision, the documentation was not complete because it did not include a rationale for choosing between grants, cooperative agreements, and contracts on the basis of criteria in the Federal Grant and Cooperative Agreement Act, as required by USAID guidance.

The documentation of the award-type decision for these 4 awards, which were all contracts, outlined the rationale for selecting a particular type of contract, information that is required by the FAR. However, the documentation for these 4 awards did not address the decision to use a contract rather than a grant or cooperative agreement, including a rationale based on the requirements outlined in the Federal Grant and Cooperative Agreement Act, as required by ADS 304. For example, documentation for one contract provided a rationale for selecting a firm-

fixed-price contract based on the level of risk, which is in accordance with requirements of the FAR. However, the documentation did not indicate the rationale for deciding to use a contract rather than a grant or cooperative agreement as required by ADS 304. Without documentation of the rationale for award-type decisions as required under USAID guidance, USAID cannot demonstrate that award-type decisions are made based on the requirements outlined in the Federal Grant and Cooperative Agreement Act.

USAID Lacked Timely Documentation of Award-Type Decisions for 25 of the 31 Awards for Which It Provided Documentation

For the 31 awards in our sample for which USAID provided documentation of the award-type decision, 6 met the timeliness standard set by USAID guidance, and 25 did not, as shown in table 6.⁵¹ While 5 award-type decisions were both timely and complete, one award that met the timeliness standard lacked a required component.⁵²

⁵¹We deemed documentation of award-type decisions for two awards as untimely because the documentation lacked a date. Without a date, we could not ensure that the award-type decisions were documented prior to solicitation or before USAID initiated communications with a potential sole source recipient, as required by the 2011 version of ADS 304.

⁵²USAID guidance requires that the documentation of the award-type decision include a rationale for choosing between grants, cooperative agreements, and contracts based on the requirements of the Federal Grant and Cooperative Agreement Act. This required component was lacking in one contract that we deemed timely.

Table 6: Number of Selected USAID Awards with Documentation of the Award-Type Decision Meeting USAID’s Timeliness Standard

Award type	Awards in sample	Awards lacking any documentation ^a	Awards with partial or complete documentation	Timely ^b	Not timely/timeliness indeterminate ^c
Contracts	13	3	10	2	8
Grants	5	1	4	2	2
Cooperative agreements	23	6	17	2	15
Total	41	10	31	6	25

Source: GAO analysis of U.S. Agency for International Development (USAID) information. | GAO-18-136

Note: The sample was limited to contracts, grants, and cooperative agreements that were awarded by USAID in fiscal years 2012 through 2015 because fiscal year 2015 was the most recent fiscal year for which data were available at the time of our sample selection.

^aThree of the contracts in our sample were base awards with task orders issued under them; we did not receive documentation of the award-type decision for the base awards. Although we received documentation for the decision of the specific task order type chosen, this documentation does not apply to the base award-type decision. USAID did not identify any other awards beyond the three task orders for which documentation of award-type decisions were not necessary. Also, according to USAID officials, USAID’s Automated Directives System Chapter 304 (ADS 304) does not specifically apply to task orders, and contracting officers do not undertake the same award-type decision because an existing acquisition vehicle is already in place.

^bAccording to ADS 304, contract and agreement officers must document the award-type decision before issuing a solicitation or before USAID initiates communications with a potential sole source recipient. We deemed documentation of an award-type decision as timely if the final determination was documented before the date the solicitation was issued or before initial communication with a potential sole source recipient. USAID guidance requires that the documentation of the award-type decision include a rationale for choosing between grants, cooperative agreements, and contracts based on the requirements of the Federal Grant and Cooperative Agreement Act. This required component was lacking in one contract that we deemed timely.

^cWe categorized the documentation of the award-type decisions for one contract and one cooperative agreement as timeliness indeterminate because the documentation lacked a date or other indication of when in the process this determination was documented. Without this, we could not determine whether the award-type decisions were documented prior to solicitation or before USAID initiated communications with a potential sole source recipient.

According to ADS 304, contract and agreement officers must document the final award-type decision before a solicitation⁵³ is issued or before USAID initiates communications with a potential sole source recipient.⁵⁴ We found that 25 awards lacked timely documentation of the award-type decision because the decision was documented after the solicitation was issued or timeliness was indeterminate because the documentation lacked a date or other indication of when in the process this determination was documented. Without this, we could not determine whether the award-type decisions were documented prior to solicitation or before USAID initiated communications with a potential sole source recipient. Instances in which final award-type decisions were documented after the issuance of a solicitation or communication with a potential sole source recipient include the following:

- Solicitation for one of the contracts in our sample occurred in 2011, but the award-type decision was not documented until 2013.
- The award-type decision for one of the grants in our sample was documented after the grant was awarded, which occurs after the solicitation is issued.
- Solicitation for one cooperative agreement in our sample occurred in 2010, but the award-type decision was not documented until 2012.

According to USAID officials, the agency's practice prior to October 2016 was to include award-type decisions in a comprehensive document that was intended to record all key decisions made throughout the award process. This document was finalized at the end of the award process. However, USAID officials also stated that they have introduced new processes and procedures, including making updates to relevant guidance, templates, and instructions that they believe will result in more timely and complete documentation of award-type decisions. Specifically,

⁵³For the purposes of this report, we use the term "solicitation" to refer to all forms of initial notice of opportunities for contracts, grants, and cooperative agreements.

⁵⁴Under USAID guidance, for-profit and nonprofit organizations are eligible to apply for USAID contracts, grants, and cooperative agreements. According to USAID data, about a quarter of the 21 nonprofit organizations that received awards in our sample chose to be eligible only for grants and cooperative agreements and did not seek eligibility to apply for contracts. According to officials from USAID and from an organization representing implementing organizations, some nonprofit organizations do not compete for contracts because they want to maintain their independence and do not want to be perceived as being agents of the U.S. government. Moreover, USAID officials stated that some nonprofit organizations cannot apply for contracts because of their organizational bylaws or policies.

in 2016 USAID issued an update to ADS 304 that includes examples of when to use contracts, grants, and cooperative agreements and provides additional information about the legal framework for making award-type decisions. In 2017, USAID also issued revised templates to guide the documentation of award-type decisions. According to USAID officials, in addition to clarifying the ADS 304 guidance and developing new templates, USAID is also developing specific guidance for DRG programs that it expects to release at a future date. For additional information about this DRG-specific guidance, see app. III.

USAID has taken steps to improve documentation for award-type decisions by updating its guidance and templates but has not assessed whether these updates have resulted in timely and complete documentation of award-type decisions.⁵⁵ USAID officials stated that assessments are conducted at the sub-bureau or mission level, rather than by specific sectors, such as for DRG programs. As a result, USAID officials do not have plans to assess whether the newly updated processes and procedures have resulted in more timely documentation of DRG award-type decisions. It is important that USAID document the award-type decision before it publishes a solicitation for the award because award-type decisions impact other award elements, such as the requirements for competition and oversight and whether profit is permissible under the award. Until USAID assesses its updated processes and procedures, it cannot know if the steps it has taken have resulted in complete and timely documentation of award-type decisions as required by USAID guidance.

⁵⁵USAID officials stated that the 2011 version of the ADS 304 guidance required the rationale for award-type decision to be documented before solicitation, but it did not require a standard format for documenting the decision. By contrast, USAID's 2016 update to ADS 304 requires the use of a standard format memo to document the rationale based on applicable statutory and regulatory criteria and agency policy.

USAID Contracts Differed from Grants and Cooperative Agreements for Selected Award Elements

For the awards in our sample, contracts generally differed from grants and cooperative agreements in terms of competition, scope of work, cost sharing and profit, and oversight requirements, among other characteristics. We identified differences in three award elements—competition, cost sharing and profit, and oversight requirements—that were generally consistent with the unique requirements provided for in procurement regulations and agency guidance. We also identified differences between the award types with regard to scope of work, and found certain activities were conducted under all three award types.

USAID Used Competition Procedures for a Greater Proportion of Contracts than for Grants and Cooperative Agreements in Our Sample, due to Differences in Award Types' Applicable Legal Frameworks

USAID awarded most, but not all, of the contracts in our sample using full and open competition, according to USAID data.⁵⁶ Different federal and USAID requirements are in place regarding the use of competition procedures to award contracts than apply to grants and cooperative agreements. In accordance with the FAR, executive agencies such as USAID are required to promote and provide for full and open competition in awarding contracts, with only limited exemptions.

USAID did not require full competition for any of the grants in our sample and required it for only about one-third of the cooperative agreements, according to USAID data. For the 41 awards in our sample, table 7 shows how many of each award type used full competition, limited competition, or no competition, based on USAID data.

⁵⁶For this section, we received competition data for each of the awards in our sample from USAID, which we reviewed and analyzed based on award documentation provided by USAID. We identified errors in the initially submitted data on competition for roughly 20 percent of the awards in USAID's data on democracy assistance funding, which included errors in the competition data for many of the awards in our sample. USAID provided us with corrected data on competition for the awards in our sample, and also made additional training available to relevant USAID staff in an effort to improve data quality for competition. It is this corrected data that is reported here.

Table 7: Type of Competition Used for Selected USAID Awards, by Award Type

Type of award	Full competition ^a	Limited competition ^b	No competition ^c	Awards in sample
Contract	10	2	1	13
Grant	0	2	3	5
Cooperative agreement	8	6	9	23

Source: GAO analysis of U.S. Agency for International Development (USAID) data. | GAO-18-136

Note: The sample was limited to contracts, grants, and cooperative agreements that were awarded by USAID in fiscal years 2012 through 2015 because fiscal year 2015 was the most recent fiscal year for which data were available at the time of our sample selection.

^aUSAID provided for full and open competition procedures for these. For grants and cooperative agreements, USAID officials indicated that they generally refer to full competition as having unrestricted eligibility. While the terminology used under USAID guidance differs for contracts, USAID's data system uses the terms above for all three award types.

^bUSAID officials generally refer to grants and cooperative agreements with limited competition as having restricted eligibility. While the terminology used under USAID guidance differs for contracts, USAID's data system uses the terms above for all three award types.

^cUSAID officials generally refer to grants and cooperative agreements with no competition as having restricted eligibility. While the terminology used under USAID guidance differs for contracts, USAID's data system uses the terms above for all three award-types.

Below are examples of the rationale USAID provided for limiting competition for selected contracts, grants, and cooperative agreements:

- USAID limited competition for one of the contracts in our sample because of potential impairment to a foreign aid program, and another contract was limited to local competitors. This exemption to full and open competition is based on a unique statutory authority available to USAID and other agencies operating foreign assistance programs, which has been implemented in the USAID Supplement to the FAR.⁵⁷ USAID also exempted one of the contracts in our sample from full and open competition using a provision in the FAR that allows for solicitation from a single source when the purchase falls below a threshold of \$150,000. However, USAID officials indicated that they erroneously cited FAR 13.106-1(b), which permits sole source awards

⁵⁷Under 40 U.S.C. § 113, agencies can limit competition when full and open competition would have an adverse effect on a program conducted for the purposes of foreign aid, relief, and rehabilitation. Additionally, the Consolidated Appropriations Act, 2012 Pub. L. No. 112-74, § 7077 (Dec. 23, 2011), created a pilot program under which USAID may restrict eligibility for awards to local entities when it will result in cost savings, develop local capacity, or enable USAID to initiate an activity in appreciably less time than if competition were not limited. This authority was amended and extended during fiscal years 2013 through 2016 as well.

for acquisitions not exceeding the simplified acquisition threshold if only one source is reasonably available, when they should have cited FAR 13.501(a)(2)(i), which permits sole source acquisitions of commercial items (including brand-name items) for acquisitions greater than \$150,000.⁵⁸

- For two of the grants in our sample, USAID limited the awards to local competition, according to USAID officials.
- For one cooperative agreement in our sample, competition was limited, according to USAID data, but USAID did not provide additional information on how the award competition was limited. The recipient of this award had submitted an unsolicited application, which under ADS 303, may be included in a relevant competition for an award, if USAID finds that the unsolicited application reasonably fits an existing program. USAID found that this unsolicited application was responsive to an existing solicitation and thus provided no additional justification.

For more information on the rationales USAID used to exempt contracts, grants, and cooperative agreements in our sample from full and open competition, see appendix V.

⁵⁸Under FAR subpart 13.5, agencies can conduct a sole source acquisition when simplified acquisition procedures are used and a commercial item is being acquired.

Contracts More Often Included a Greater Number of Activities Working with Host-Country Governments or Other National Institutions, While Grants and Cooperative Agreements More Often Included a Greater Number of Activities Working with Civil Society Organizations

We found that the scope of work for contracts, grants, and cooperative agreements included similar types of activities. We also found that contracts more often included a greater number of activities working with the host-country government or other major national institutions, and grants and cooperative agreements more often included a greater number of activities working with civil society organizations.

Seven of the 13 contracts in our sample included more activities focused on engaging with host-country governments and national institutions, while only 2 of the 13 contracts included more activities focused on engaging civil society organizations.⁵⁹ Grants and cooperative agreements, by contrast, more often included a greater number of activities to support civil society organizations and media organizations than government or major national institutions of the country of performance. Three of the 5 grants in our sample included more objectives or activities focused on engaging civil society organizations, rather than engaging with host government or other major national institutions, while none of the grants included more objectives or activities related to the host government or other major national institutions. Cooperative agreements slightly more often included a greater number of objectives or activities to engage civil society organizations than they did to work with host government and national institutions, with 9 cooperative agreements including more objectives or activities focused on engaging civil society organizations and 7 with more objectives or activities focused on engaging host governments or other national institutions.

Below are some examples of the activities and types of parties engaged with as stated in the awards in our sample:

- One contract in our sample provided various advisors to assist the government of a foreign country in implementing transparent policies, laws, and systems to strengthen public financial management and provide for a well-regulated financial sector, among other things. For more information on program objectives for selected democracy assistance awards by contract type, see appendix VI.

⁵⁹The scope of work for 1 contract in our sample included working with both national institutions and civil society organizations to improve fairness of the national justice system and improve access for disadvantaged populations to the legal system. In addition, 5 contracts provided professional services for USAID.

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- A grant in our sample sought to increase the capacity of civil society organizations and the media to promote transparent democratic elections and political processes, among other things. Activities under the scope of work for this award included building alliances with stakeholders, conducting election-day observations, and analyzing electoral results.
 - A cooperative agreement in our sample was intended to support a political transition through, among other things, organizational capacity development and grant-making opportunities for civil society organizations working to raise awareness about electoral events.

In addition, for our award sample, we found that activities such as technical assistance, training, and local capacity building were conducted under grants, cooperative agreements, and contracts.

Estimated Profits Ranged from 1 to 6 Percent of Estimated Contract Cost; Cost Sharing Ranged from Less Than 1 to 74 Percent of Total Value of Grants and Cooperative Agreements

Eight of the 13 contracts in our sample were cost-plus-fixed-fee contracts, under which the contractor is reimbursed its costs in implementing the program in addition to a fee (profit) that is fixed at the outset.⁶⁰ For these 8 contracts, the estimated percentage of profit ranged from about 1 to 6 percent of the estimated contract cost.⁶¹ According to the FAR, under cost-plus-fixed-fee contracts, the fee cannot exceed 10 percent of the contract's estimated cost excluding fee. The average estimated fixed fee percentage for these contracts was about 5 percent of the estimated contract cost.

While USAID contracts may be structured to provide for contractor profit in accordance with the FAR, USAID guidance does not allow profit under

⁶⁰When we refer to profit, we are simply referring to the fixed fee established at the outset of the contract. There may be additional amounts that would constitute profit as well. From our sample, we calculated what we refer to as the estimated fee percentage of estimated contract cost by dividing the stated fixed fee by the estimated contract cost established at the time of award, not including the fixed fee. A cost-plus-fixed-fee contract can be used to support efforts that might otherwise present too great a risk to the contractors. However, it provides the contractor only a minimum incentive to control costs. Additional contracts may have included profit for the contractor, but we were able to calculate the percentage of profit only for fixed fee awards. For example, in a firm-fixed-price contract, the amount to be paid the contractor is fixed at the beginning of the contract and provides maximum incentive for the contractor to control costs, since the fee or profit is the difference between the fixed price and the contractor's actual costs.

⁶¹The fixed fees also ranged from \$265,832 to \$4,491,491; these dollar values do not correspond to the percentages presented above.

grants and cooperative agreements.⁶² For the grants and cooperative agreements in our sample, the awards did not specifically provide any fee (profit), and the awardees often agreed to contribute to the cost of the program through cost sharing.⁶³ In addition, USAID guidance identifies cost sharing—whereby an awardee contributes to the total cost of an agreement—as an important element of the USAID-awardee relationship for grants and cooperative agreements. According to this guidance, although there is no general requirement for the awardees of grants and cooperative agreements to share in providing the costs of programs, cost sharing can be a mechanism to help awardees build their organizational capacity. For the awards in our sample, USAID included provisions for cost sharing in 3 of the 5 grants, and the awardees agreed to contribute about 11 percent, 13 percent, and 74 percent of the respective total award funding, including the cost share amount. USAID also included cost sharing provisions in 10 of the 23 cooperative agreements, with the awardee contribution ranging from less than 1 percent to 36 percent of the total award funding, including the cost share amount. All of the grants and cooperative agreements that included cost sharing provisions were awarded to nonprofit organizations, according to USAID data. Some of these awardees agreed to contribute to cost sharing by covering in-kind costs, such as donated time from volunteer legal specialists, and others agreed to contribute cash to cover some of the direct costs of implementing programs, such as personnel and benefits.

According to USAID officials, cost sharing is rarely used under USAID contracts because under a cost sharing contract the contractor agrees to absorb a portion of its costs in expectation of substantial compensating benefits, such as certain research and development efforts, and these circumstances rarely occur under USAID's programming. USAID did not include cost sharing provisions in any of the 13 contracts in our sample. For additional information about profit in our sample, see table 8.

⁶²According to USAID officials, profit and cost sharing should not be considered in making an award-type decision because such decisions should be made on the basis of the Federal Grant and Cooperative Agreement Act. USAID guidance as outlined in ADS 304 also indicates that the effect on USAID resources must not be the criterion for determining the appropriate award type.

⁶³Cost sharing may include both cash and in-kind contributions, such as donated time, supplies, and equipment. We calculated the cost sharing percentage by dividing the stated dollar value of cost sharing by the total estimated cost of the award.

Table 8: Estimated Profit Percentage Based on Estimated Contract Cost for Selected USAID Contracts

Dollars (in thousands)

Award type	Estimated contract cost (excluding fee)	Amount of fee	Estimated fee percentage of estimated contract cost
Contract	14,773	812	5.5
Contract	31,078	1,624	5.2
Contract	60,825	3,096	5.1
Contract	50,249	2,512	5
Contract	21,567	1,076	5
Contract	91,931	4,491	4.9
Contract	42,076	1,668	4
Contract	19,460	266	1.4

Source: GAO analysis of U.S. Agency for International Development (USAID) documents. | GAO-18-136

Note: The sample was limited to contracts that were awarded by USAID in fiscal years 2012 through 2015 because fiscal year 2015 was the most recent fiscal year for which data were available at the time of our sample selection. When we refer to profit, we are simply referring to the fixed fee established at the outset of the contract. There may be additional amounts that would constitute profit as well. From our sample, we calculated what we refer to as the estimated fee percentage of estimated contract cost by dividing the stated fixed fee by the estimated contract cost established at the time of award, not including the fixed fee.

Table 9 provides additional information about cost sharing under the awards in our sample.

Table 9: Percentage of Cost Sharing of Total Award Value for Selected USAID Grants and Cooperative Agreements

Dollars (in thousands)

Award type	Award amount	Cost sharing amount	Total	Cost sharing percentage of total
Grant	750	2,103	2,853	73.7
Cooperative Agreement	2,654	1,462	4,116	35.5
Cooperative Agreement	1,503	480	1,983	24.2
Grant	1,160	174	1,334	13
Grant	894	112	1,006	11.1
Cooperative Agreement	30,500	3,050	33,550	9.1
Cooperative Agreement	69,427	6,943	76,370	9.1
Cooperative Agreement	2,235	85	2,321	3.7

Award type	Award amount	Cost sharing amount	Total	Cost sharing percentage of total
Cooperative Agreement	4,993	177	5,170	3.4
Cooperative Agreement	499	13	512	2.6
Cooperative Agreement	1,430	17	1,446	1.2
Cooperative Agreement	1,620	13	1,633	0.8
Cooperative Agreement	1,414	3	1,417	0.2

Source: GAO analysis of U.S. Agency for International Development (USAID) documents | GAO-18-136

Note: The sample was limited to grants and cooperative agreements that were awarded by USAID in fiscal years 2012 through 2015 because fiscal year 2015 was the most recent fiscal year for which data were available at the time of our sample selection. Numbers may not sum to totals because of rounding.

Below are some examples of profit and cost sharing arrangements included in contracts, grants, and cooperative agreements in our sample:

- A contract in our sample sought to, among other things, improve the access of vulnerable and disadvantaged populations to the country's legal system by engaging in activities such as working to build the capacity of government and civil society organizations to be more responsive to the needs of these populations. Under this award, the contractor was to receive approximately \$1.7 million in profit, which was 4 percent of the estimated value of the award.
- The awardee for a grant in our sample agreed to provide \$2.1 million of the program costs, about 74 percent of the total cost of the program, which sought to develop public opinion survey research capacity in the host country, among other things. USAID's grant to this awardee funded additional support for the program, which the awardee was already executing prior to USAID assistance.
- A cooperative agreement in our sample included a requirement for the awardee to contribute about 9 percent of program expenditures, or about \$3 million, for a program that sought to improve access to health services, as well as strengthen health delivery systems and health governance.

Contracts Had Different Oversight and Evaluation Requirements Than Grants and Cooperative Agreements, due to Differences in Award Types' Applicable Legal Frameworks

We found that USAID oversight requirements differed for contracts compared with grants and cooperative agreements for the awards in our sample. This is because contracts (1) at times required more frequent reporting and (2) more often required evaluations of the contractor's performance.⁶⁴

Reporting requirements: We found that while most awards in our sample required quarterly financial and performance reporting, some contracts required these reports to be submitted monthly.⁶⁵ USAID required quarterly financial and performance reporting for the majority of grants and cooperative agreements in our sample. None of the grants or cooperative agreements in our sample included requirements for financial reporting more frequently than quarterly, and no grants and only one cooperative agreement included a more frequent performance reporting requirement.

According to Title 2 of the Code of Federal Regulations (C.F.R.), Section 200.327, under grants and cooperative agreements, financial reports must be collected by agencies with the frequency required by the award, but no less frequently than annually and no more frequently than quarterly,⁶⁶ except in unusual circumstances, such as where more frequent reporting is necessary for effective monitoring of the award.⁶⁷ USAID officials confirmed that there would have to be a reason to justify quarterly or more frequent reporting requirements for grants or cooperative agreements. For example, considerations related to risk

⁶⁴Recipients of contracts are generally referred to as contractors, while recipients of grants and cooperative agreements are generally referred to as awardees.

⁶⁵For purposes of this review, we included all required financial or performance reporting, regardless of the terminology used in the award or the extent of reporting required. We did not include reporting requirements where we were able to determine that the information was for broader agency-wide and regional monitoring, however.

⁶⁶Additionally, the same section of the C.F.R. states that it is preferable for financial reporting to be submitted in coordination with performance reporting.

⁶⁷The reporting requirements found in 2 C.F.R. § 200 et seq. apply to grants and cooperative agreements that were awarded after December 26, 2014. Prior to that date, the Office of Management and Budget's Circular A-110 established government-wide policies for federal agencies administering grants and cooperative agreements with non-profit organizations. This guidance was superseded by 2 C.F.R. § 200. However, with respect to both Circular A-110 and 2 C.F.R. § 200, while agencies may apply the requirements in 2 C.F.R. § 200 to foreign organizations, they are not required to do so.

could result in the need for more frequent reporting for grants and cooperative agreements.

Table 10 shows the financial and performance reporting requirements for the contracts, grants, and cooperative agreements in our sample.

Table 10: Financial and Performance Reporting Requirements for Selected USAID Contracts, Grants, and Cooperative Agreements

Type of award	Type of reporting	No requirement/ type of reporting indeterminate	Quarterly requirement	Requirement more frequent than quarterly
Contract	Financial	1 ^a	9	4
	Performance	1 ^a	9	3
Grant	Financial	2 ^b	3	0
	Performance	1 ^c	4	0
Cooperative agreement	Financial	0	23	0
	Performance	1	21	1

Source: GAO analysis of U.S. Agency for International Development (USAID) information. | GAO-18-136

^aOnly one contract had no financial and performance reporting requirements, but this award was for the rental of a hotel ballroom space and related services for an event.

^bOne grant required financial reporting, but the award documentation did not specify how frequently financial reports should be submitted. The other grant discussed financial reporting but did not specify that such reporting was required.

^cThis grant required performance reporting but the award documentation did not specify how frequently performance reports should be submitted.

Evaluations of performance: For the majority of contracts in our sample, USAID included provisions for evaluation of the contractor’s performance at the conclusion of performance.⁶⁸ According to the FAR, evaluations of a contractor’s performance shall be prepared at the time the work under the contract is completed, and, for contracts longer than 1 year, interim evaluations should be prepared at least annually. USAID officials indicated that there is no similar government-wide or USAID requirement for grants and cooperative agreements. None of the grants and only a few of the cooperative agreements in our sample included

⁶⁸USAID guidance requires certain external evaluations of projects and project activities for all award types. USAID staff also have discretion over initiating additional project evaluations according to USAID officials.

such evaluation provisions.⁶⁹ However, USAID officials noted that, in accordance with USAID policy, the past performance of a potential awardee is considered in conducting risk assessments for grants and cooperative agreements.

Table 11 shows the number of USAID contracts, grants, and cooperative agreements in our sample that included provisions for evaluation of the contractor or awardee's performance.

Table 11: Number and Percentage of Selected USAID Awards Including Provisions for Evaluation of Contractor or Awardee Performance, by Award Type

Type of award	Number of awards including provision for evaluation of contractor or awardee performance	Award-type subtotal in sample	Percentage of award-type subtotal in sample
Contract	12	13	92
Grant	0	5	0
Cooperative agreement	5	23	22

Source: GAO analysis of U.S. Agency for International Development (USAID) information. | GAO-18-136

For most of the contracts in our sample, award documentation indicated that the contractor's performance would be assessed on a variety of factors such as quality of service, cost control, timeliness of performance, and effectiveness of key personnel. These evaluations form the basis of the contractor's performance record for the contract. Only one contract in our sample had no requirement for a performance evaluation of the contractor, and that award was for the rental of a hotel ballroom and related services for an event.

For three of the cooperative agreements in our sample that included provisions for the evaluation of the awardee's performance, the award documentation indicated that USAID officials were to ensure prudent management of the award and to make the achievement of program objectives easier by, among other things, evaluating the awardee and its performance. One cooperative agreement included a provision that

⁶⁹According to USAID officials, they do not conduct evaluations of award-type decisions to determine the cost effectiveness or efficiency of using a particular award type to implement a program. The Federal Grant and Cooperative Agreement Act generally requires that award-type decisions be made on the basis of the purpose of the relationship with the award recipient, among other things, but does not include cost effectiveness or efficiency as the basis for making this decision.

USAID will fund or conduct an external midterm evaluation during the second year of the project. For the one remaining cooperative agreement with an evaluation provision, documentation indicated that the evaluation would be used to inform a decision about a potential follow-on award.

Conclusions

Democracy assistance has been a key component of U.S. foreign assistance, supporting activities related to rule of law and human rights, good governance, political competition and consensus-building, and civil society. USAID and State together have allocated about \$2 billion annually for democracy assistance in fiscal years 2012 through 2016. USAID's information systems enable it to track and report the amount of democracy assistance funding through contracts, grants, and cooperative agreements. However, State lacks the ability to provide comparable agencywide data. The quality of democracy assistance award data provided by 10 State bureaus and offices varied, and three of these bureaus were unable to provide reliable data. Of the State bureaus, INL is the only bureau that regularly makes use of contracts, and it provided unreliable data. Without reliable data from INL, State cannot accurately report on its use of the various award types. In addition, since EUR's and SCA's award data are maintained across embassies, offices, and the two bureaus, opportunities for data errors may increase when regional data needs to be compiled. Without reliable data from all relevant bureaus, State cannot be sure that it is fully and accurately reporting on democracy assistance awards, which limits, among other things, congressional oversight of democracy assistance funding.

While USAID requirements for complete and timely documentation of award-type decisions have existed since at least 2011, for our sample of 41 USAID awards for which an award-type decision was required, only 5, or about 12 percent, had both complete and timely documentation of the award-type decision. USAID recently introduced processes and procedures to improve the documentation of these decisions. However, until USAID assesses its updated processes and procedures, it cannot know if the changes resulted in award-type decisions being documented in a complete and timely manner, as required by its guidance, or if additional steps are needed.

Recommendations for Executive Action

We are making three recommendations, two to State and one to USAID.

The Secretary of State should direct the Bureau of International Narcotics and Law Enforcement Affairs to identify and address factors that affect the reliability of its democracy assistance data, such as miscoded or missing data. (Recommendation 1)

The Secretary of State should direct the Director of the Office of U.S. Foreign Assistance Resources to implement a process to improve the reliability, accessibility, and standardization of democracy assistance data across the geographic regions of the Bureaus of European and Eurasian Affairs and South and Central Asian Affairs, such as utilizing a centralized database for award data. (Recommendation 2)

The USAID Administrator should direct the Office of Acquisition and Assistance to assess whether current processes and procedures as outlined in revised guidance result in complete and timely documentation of award-type decisions for democracy assistance. (Recommendation 3)

Agency Comments and Our Evaluation

We provided a draft of this report to State, USAID, and NED for review and comment. State, USAID, and NED provided technical comments on the draft, which we incorporated as appropriate. State and USAID also provided written comments in letters that are reproduced in appendices VII and VIII, respectively. In their written comments, both State and USAID concurred with our recommendations. State also requested that the report provide more information about its commitment and efforts to improve accountability of foreign assistance under its Foreign Assistance Data Review process. We have added more details about these efforts, including a discussion of State's recent report to Congress on the outcomes of Phases One and Two of its four-phase review, which is expected to be completed in fiscal year 2021. State's letter also described other efforts to improve the quality and accessibility of data at the bureau-level and at posts.

In its written comments, USAID stated that it will take steps to assess documentation of award-type decisions and planned to complete this assessment by September 30, 2018. USAID also underscored certain details regarding required documentation of award-type decisions for some awards in our sample of 41 USAID democracy assistance awards. USAID noted that three contracts in our sample consisted of task orders, which do not require award-type decision documentation separate from

their base awards under USAID guidance, according to agency officials. The draft report included these details, and we added more information to the report to further clarify them.

We are sending copies of this report to the appropriate congressional committees, the Secretary of State, the Administrator of the U.S. Agency for International Development, and the President of the National Endowment for Democracy. In addition, the report is available at no charge on the GAO website at <http://www.gao.gov>.

If you or your staff have any questions about this report, please contact me at (202) 512-3149 or gootnickd@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made key contributions to this report are listed in appendix IX.

Sincerely yours,

A handwritten signature in black ink that reads "David Gootnick". The signature is written in a cursive style with a large, looping initial "D".

David B. Gootnick
Director, International Affairs and Trade

Appendix I: Objectives, Scope, and Methodology

This report (1) examines funding that the U.S. Agency for International Development (USAID), National Endowment for Democracy (NED), and U.S. Department of State (State) obligated for democracy assistance through contracts, grants, and cooperative agreements; (2) evaluates USAID documentation of award-type decisions; and (3) compares USAID contracts with grants and cooperative agreements across selected award elements.

To examine funds obligated by USAID, NED, and State for democracy assistance by award types, we obtained data on awards that USAID, NED, and State administered during fiscal years 2012 through 2016 under the Democracy, Human Rights, and Governance (DRG) portfolio. The data we obtained included awards to public international organizations (PIO). However, awards to PIOs are governed by USAID guidance separate from the guidance that applies to awards to other types of organizations. The data we obtained also included interagency agreements. However, interagency agreements are governed by separate USAID guidance that does not require the same award-type decision as when agencies obligate funds to entities through contracts, grants, and cooperative agreements. We analyzed the award data for fiscal years 2012 through 2016 but did not include fiscal year 2011 data in our analysis because State did not consistently track obligations data at the award level prior to fiscal year 2012, according to State officials.¹ We assessed the reliability of these data by reviewing related documentation; interviewing knowledgeable officials; and conducting electronic or manual data testing for missing, nonstandard, or duplicative data; among other things. We determined that data provided by USAID, NED, and State, except for data from State's Bureau of International Narcotics and Law Enforcement Affairs (INL), Bureau of European and Eurasian Affairs (EUR), and Bureau of South and Central Asian Affairs (SCA), were sufficiently reliable for the purposes of our report.² For the USAID, NED, and State data that were sufficiently reliable, we analyzed the amount of

¹According to State officials, the Bureau of Democracy, Human Rights and Labor reported obligations by fiscal year of appropriation. According to State officials, any decreases in fiscal year 2016 obligations are due to delay in obligations for multiyear awards.

²We determined that data from the following State bureaus or offices were sufficiently reliable for the purposes of our report: Bureau of Democracy, Human Rights and Labor; Bureau of African Affairs; Bureau of East Asian and Pacific Affairs; Bureau of Energy Resources; Bureau of Near Eastern Affairs; Bureau of Western Hemisphere Affairs; and Office of Global Women's Issues.

funding by award type, among other variables. We assessed State's data reliability challenges against federal internal control standards.³

To evaluate USAID's award-type decisions, we reviewed relevant regulations and agency policies, and we interviewed knowledgeable agency officials about these policies. State and NED were not included in our sample because most State bureaus did not regularly use all three types of awards and NED only provides assistance through grants. In addition, three State bureaus were unable to provide reliable data from which to select a sample. We also selected a roughly proportional,⁴ random, nongeneralizable sample of 41 awards—13 contracts, 5 grants, and 23 cooperative agreements.⁵ These awards were selected based on characteristics, such as award type, DRG program area, and place of performance. The sample focused on the 14 countries for which USAID obligated the most democracy funding. Democracy assistance projects in these 14 countries received over 70 percent of USAID's democracy assistance funding.⁶ The sample was also limited to contracts, grants, and cooperative agreements that were awarded by USAID in fiscal years 2012 through 2015 because fiscal year 2015 was the most recent fiscal year for which data were available at the time of our sample selection. We excluded (1) grants made to PIOs because these awards are governed by USAID guidance separate from the guidance that applies to awards to other types of organizations; (2) interagency agreements because engaging other federal agencies through interagency agreements does not require the same award-type decision under USAID guidance as when agencies obligate funds to entities through contracts, grants, and cooperative agreements; and (3) awards that fell below the simplified

³GAO, *Standards for Internal Control in the Federal Government*, [GAO-14-704G](#) (Washington, D.C.: September 2014).

⁴We randomly selected awards for the sample to generally reflect the population's number of awards by award type and DRG program area. For example, the number of contracts for rule of law and human rights in our sample is roughly proportional to the number of contracts for rule of law and human rights in our population.

⁵Three of the contracts in our sample were base awards with task orders issued under them, for which we did not receive documentation of the award-type decision for the base awards. Although we received documentation for the decision of the specific task order type chosen, this documentation does not apply to the base award-type decision. USAID did not identify any other awards beyond the three task orders for which documentation of award-type decisions was not necessary.

⁶For more information on the 14 countries for which USAID obligated the most democracy funding, see appendix II.

acquisition threshold, which is \$150,000, because there are different acquisition procedures allowable for awards that fall below the threshold. For the selected awards, we obtained and analyzed preaward documentation relevant to the award-type decision and evaluated this documentation against the relevant regulations and agency guidance. To ensure accuracy, we cross-checked information from the documentation for the selected awards with USAID's award data.

In collaboration with subject-matter experts, we selected four award elements—competition, cost sharing and profit, scope of work, and oversight requirements—for a comparison of contracts with grants and cooperative agreements. To compare USAID contracts with grants and cooperative agreements across selected award elements, we obtained and conducted a review of documentation associated with the same sample of 41 USAID awards. Additionally, we obtained information about award recipients from a public database maintained at SAM.gov.⁷ Using information collected from the documentation, we analyzed the selected awards' competition, cost sharing and profit, scope of work, and oversight activities. Subsequently, we reviewed the documentation and applicable legal frameworks, including federal regulations and guidance pertaining to the award elements we selected, to compare differences between award types. We also interviewed relevant agency officials as well as the leading industry organizations that represent implementers of foreign assistance programs to better understand the use of various award types.

We conducted this performance audit from July 2016 to December 2017 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.

⁷SAM.gov is a public database operated by the U.S. General Services Administration that can be used to search for registration information on applicants for federal awards.

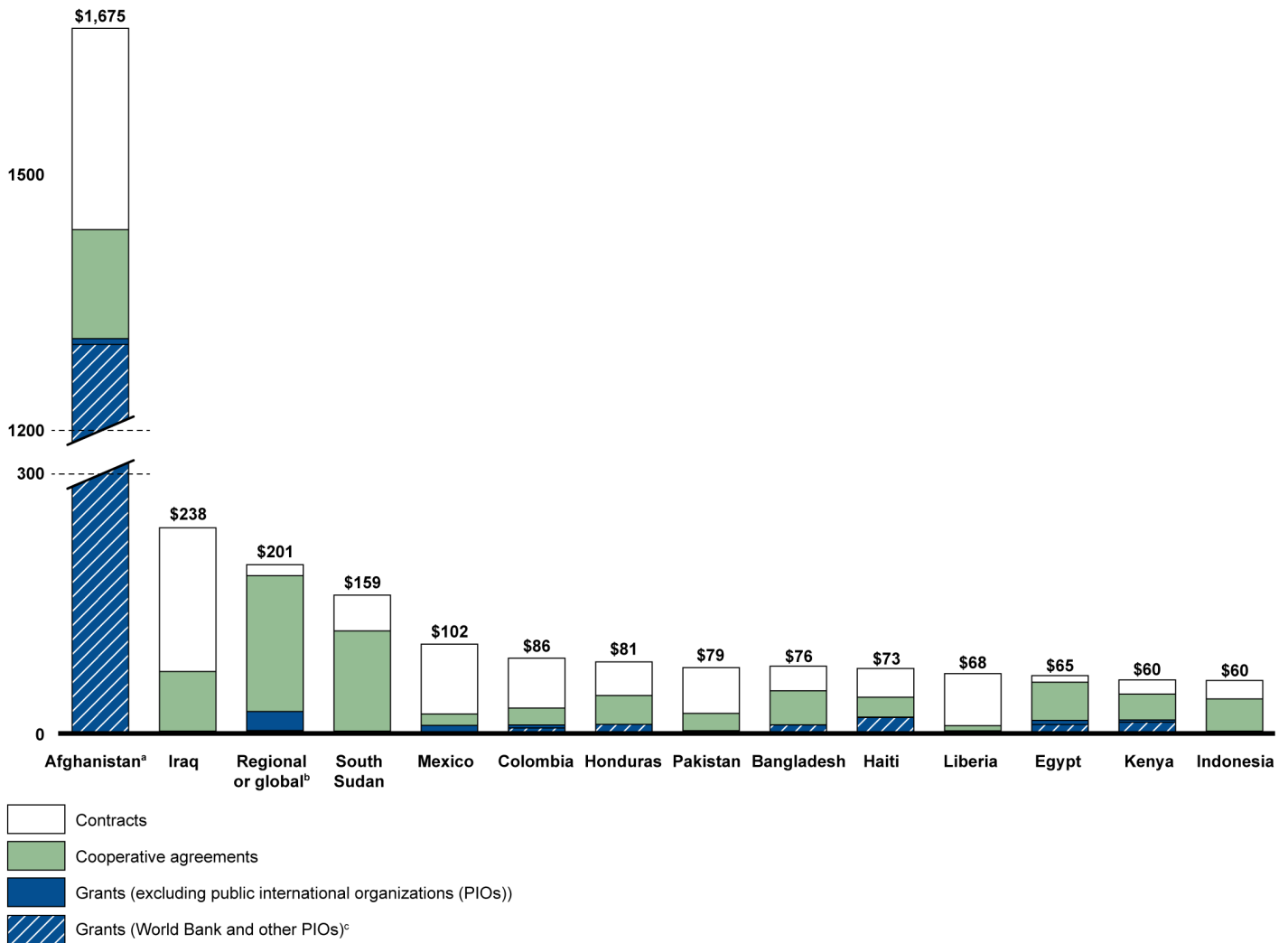
Appendix II: USAID's Use of Various Award Types for Democracy Assistance by Place of Performance during Fiscal Years 2012 through 2015

Our nongeneralizable sample of U.S. Agency for International Development (USAID) awards was limited to fiscal years 2012 through 2015 and to the 14 countries for which USAID obligated the most democracy funding, which accounted for over 70 percent of USAID's democracy assistance funding. Total USAID democracy assistance funding for projects in Afghanistan was greater than for any other country, amounting to almost 39 percent of USAID's total democracy assistance obligations during fiscal years 2012 through 2015. The total USAID democracy assistance funding for projects in Afghanistan included obligations to public international organizations (PIOs) of more than \$827 million in fiscal year 2012, more than \$55 million in fiscal year 2013, more than \$48 million in fiscal year 2014, and more than \$369 million in fiscal year 2015. USAID's use of award types for democracy assistance varied across these 14 countries during fiscal years 2012 through 2015, as shown in figure 11.

Appendix II: USAID's Use of Various Award Types for Democracy Assistance by Place of Performance during Fiscal Years 2012 through 2015

Figure 11: USAID's Use of Various Award Types for Democracy Assistance in the 14 Countries for Which USAID Obligated the Most Democracy Funding in Fiscal Years 2012–2015

Dollars (in millions)
1800



Source: GAO analysis of U.S. Agency for International Development (USAID) data. | GAO-18-136

Note: Interagency agreements are governed by separate USAID guidance that does not require the same award-type decision as when agencies obligate funds to entities through contracts, grants, and cooperative agreements. Obligations through interagency agreements are not included in the figure due to the minimal dollar amount obligated through this award type.

^aUSAID obligated considerably more funding for democracy assistance projects in Afghanistan than any other country. Democracy assistance projects in Afghanistan received 39 percent of total

Appendix II: USAID's Use of Various Award Types for Democracy Assistance by Place of Performance during Fiscal Years 2012 through 2015

obligations for democracy assistance during fiscal years 2012 through 2015. This included obligations to public international organizations (PIOs) of about \$1.3 billion, of which more than \$1.2 billion, or about 94 percent, went to the World Bank Group for two grants for the Afghanistan Reconstruction Trust Fund.

^bThe "Regional or global" category includes awards with a place of performance designated as the United States of America because USAID's data system requires the entry of only one country, but this designation, among others, is used to refer to more than one place of performance, i.e., multiple countries, including regional or global awards.

^cPIOs are governed by USAID guidance separate from the guidance that applies to awards to other types of organizations.

Appendix III: USAID and State Guidance in Response to the Consolidated Appropriations Act, 2016

The Consolidated Appropriations Act, 2016, states that not later than 90 days after enactment of the act, the U.S. Department of State (State) and U.S. Agency for International Development (USAID), following consultation with democracy program implementing partners, shall each establish guidelines for clarifying program design and objectives for democracy programs, including the use of contracts versus grants and cooperative agreements in the conduct of democracy programs carried out with funds appropriated by the act. The joint explanatory statement accompanying the act further elaborated that the act requires the development of guidelines for the use of contracts versus grants and cooperative agreements for the unique objectives of democracy programs, and that the guidelines should assist contracting and agreement officers in selecting the most appropriate mechanism for democracy programs, among other things.

In 2016, USAID released its revised agencywide guidance, Automated Directives System (ADS) Chapter 304 (ADS 304), on how to make award-type decisions between contracts, grants, and cooperative agreements. According to USAID officials, USAID expects to release guidance further clarifying ADS 304 at a future date. USAID intends to issue the guidance after it completes final consultations with implementing partners, the Congress, and other stakeholders. It includes scenarios and examples to further clarify existing government-wide and agencywide guidance. According to USAID officials, in drafting its guidance to further clarify ADS 304, USAID pursued multiple rounds of review within USAID, and with implementing partners, the Congress, and other stakeholders.

According to State, it met the requirement to establish additional guidelines for democracy assistance through State's release of a Program Design and Performance Management Toolkit in fall 2016 and State's updating of its Federal Assistance Directive in May 2017. The aim of the Program Design and Performance Management Toolkit was to clarify program design and objectives for foreign assistance programs broadly. The Federal Assistance Directive combined both policies and procedures from the Federal Assistance Policy Directive and the Procedural Desk Guide into one document and clarified appropriate mechanisms for all programs. Although applicable to democracy programs, neither of these actions was specific to democracy programs. According to State, the Bureau of Democracy, Human Rights, and Labor; the Bureau of International Narcotics and Law Enforcement; and other relevant State bureaus that work closely with democracy assistance implementing partners consult regularly with and provide guidance to implementing partners on the use of the guidelines.

Appendix IV: USAID Obligations through Different Award Types by Fiscal Year and Democracy, Human Rights, and Governance (DRG) Program Area

U.S. Agency for International Development (USAID) democracy assistance obligations through different award types varied by fiscal year and DRG program area, as shown in tables 12, 13, and 14.

Table 12: Total USAID Obligations through Democracy Assistance Awards, by Award Type and Fiscal Year, for Fiscal Years 2012 through 2016

Dollars (in millions)

Award type	Fiscal year 2012	Fiscal year 2013	Fiscal year 2014	Fiscal year 2015	Fiscal year 2016
Contracts	273	346	278	426	369
Cooperative agreements	320	373	407	371	325
Grants	859	98	105	438	449
Grants (excluding grants to public international organizations)	22	25	31	29	119
Grants (public international organizations) ^a	837	73	74	409	330
Total	1,453	817	790	1,235	1,143

Source: GAO analysis of U.S. Agency for International Development (USAID) data. | GAO-18-136

Note: Numbers may not sum to totals because of rounding. In addition to the award types in the table above, USAID obligated democracy assistance through interagency agreements. Interagency agreements are governed by separate USAID guidance that does not require the same award-type decision as when agencies obligate funds to entities through contracts, grants, and cooperative agreements. USAID obligated \$2.5 million in democracy assistance through interagency agreements in fiscal year 2012, \$6.7 million in fiscal year 2013, \$2.7 million in fiscal year 2014, \$7.5 million in fiscal year 2015, and \$4.5 million in fiscal year 2016.

^aPublic international organizations (PIOs) are governed by USAID guidance separate from the guidance that applies to awards to other types of organizations. Funding to PIOs included two grants to the World Bank for the Afghanistan Reconstruction Trust Fund totaling \$1.5 billion during fiscal years 2012 through 2016, which was 85 percent of the total democracy assistance funds USAID obligated through grants to all public international organizations during that period.

**Appendix IV: USAID Obligations through
Different Award Types by Fiscal Year and
Democracy, Human Rights, and Governance
(DRG) Program Area**

Table 13: Total USAID Obligations through Democracy Assistance Awards, by Fiscal Year and Democracy, Human Rights, and Governance Program Area, for Fiscal Years 2012 through 2016

Dollars (in millions)

	Fiscal year 2012	Fiscal year 2013	Fiscal year 2014	Fiscal year 2015	Fiscal year 2016
Rule of law and human rights	87	173	139	162	196
Good governance	1,104	259	284	733	602
Political competition and consensus-building	106	185	161	151	157
Civil Society	158	207	209	196	193
Total	1,455	824	792	1,242	1,147

Source: GAO analysis of U.S. Agency for International Development (USAID) data. | GAO-18-136

Note: Numbers may not sum to totals because of rounding. This table includes obligations through interagency agreements and awards to public international organizations. Interagency agreements are governed by separate USAID guidance that does not require the same award-type decision as when agencies obligate funds to entities through contracts, grants, and cooperative agreements. Public international organizations are governed by USAID guidance separate from the guidance that applies to awards to other types of organizations.

**Appendix IV: USAID Obligations through
Different Award Types by Fiscal Year and
Democracy, Human Rights, and Governance
(DRG) Program Area**

Table 14: Total USAID Obligations through Democracy Assistance Awards, by Award Type and by Democracy, Human Rights, and Governance Program Area, for Fiscal Years 2012 through 2016

Dollars (in millions)

Award type	Rule of law and human rights	Good governance	Political competition and consensus-building	Civil Society
Contracts	454	1,022	52	163
Cooperative agreements	232	381	483	700
Grants	65	1,569	219	97
Grants (excluding grants to public international organizations)	29	24	81	93
Grants (public international organizations) ^a	36	1,545	138	4
Total	751	2,972	755	960

Source: GAO analysis of U.S. Agency for International Development (USAID) data. | GAO-18-136

Note: Numbers may not sum to totals because of rounding. In addition to the award types in the table above, USAID obligated \$23.9 million in democracy assistance through interagency agreements during fiscal years 2012 through 2016. Interagency agreements are governed by separate USAID guidance that does not require the same award-type decision as when agencies obligate funds to entities through contracts, grants, and cooperative agreements.

^aPublic international organizations are governed by USAID guidance separate from the guidance that applies to awards to other types of organizations. The World Bank received two grants for the Afghanistan Reconstruction Trust Fund totaling \$1.5 billion during fiscal years 2012 through 2016.

Appendix V: Regulations and Policy Allowing USAID to Limit Competition for Contracts, Grants, and Cooperative Agreements

Regulations, law, and policy enable the U.S. Agency for International Development (USAID) to limit competition in awarding contracts, grants, and cooperative agreements under certain circumstances. One source of USAID's authority to limit competition for contracts is the Competition in Contracting Act of 1984, as implemented in the Federal Acquisition Regulation (FAR), which outlines policies and procedures for acquisition by all federal agencies, including policies and procedures pertaining to exemptions from competition. In addition, for contracts awarded under USAID programs, the FAR, among other regulations and legislation, contains specific provisions on exemptions from competition. For grants and cooperative agreements, USAID's Automated Directives System Chapter 303 outlines circumstances under which competition can be limited.

In accordance with applicable policies, procedures, and guidance, USAID can use some exemptions from competition only for contracts and others only for grants and cooperative agreements. For example, USAID can limit competition for contracts for the sake of public interest or when circumstances are such that competition would compromise U.S. national security; however, according to USAID officials, they rarely have cause to use these grounds for limiting competition. USAID guidance outlines some unique exemptions to competition for grants and cooperative agreements. For example, USAID can exempt follow-on awards, which are the same or substantively similar to recently completed awards, if the awardee will be the same, or can exempt awards from competition in certain instances when USAID has received an unsolicited application.

For the awards in our sample, USAID limited competition for only 3 of the 13 contracts, based on USAID data.¹ However, for one of these contracts, USAID officials indicated that they erroneously cited FAR 13.106-1(b), which permits sole source awards for acquisitions not exceeding the simplified acquisition threshold if only one source is reasonably available, when they should have cited FAR 13.501(a)(2)(i), which permits sole source acquisitions of commercial items (including brand-name items) for acquisitions greater than \$150,000. For the exemptions from competition that USAID used for these awards, see table 15.

¹Our nongeneralizable sample of USAID awards focused on the 14 countries for which USAID obligated the most democracy funding. Democracy assistance projects in these 14 countries received over 70 percent of USAID's democracy assistance funding.

**Appendix V: Regulations and Policy Allowing
USAID to Limit Competition for Contracts,
Grants, and Cooperative Agreements**

Table 15: Exemptions from Competition Used for USAID Contracts in Our Sample

Exemption from competition	Source of authority	Number of contracts exempted from full and open competition
<i>Limited to local competition:</i> USAID may restrict eligibility for awards to local entities when it will result in cost savings, develop local capacity, or enable USAID to initiate an activity in appreciable less time than if competition were not limited.	Consolidated Appropriations Act, 2012, Pub. L. No. 112-74, § 7077 (Dec. 23, 2011) ^a	1
<i>Impairment of the foreign aid program:</i> In instances in which full and open competition would impair foreign assistance objectives, and would be inconsistent with the fulfillment of the foreign assistance program.	AIDAR 706.302-70 ^b	1
<i>Using simplified acquisition procedures:</i> For purchases not exceeding the simplified acquisition threshold, contracting officers may solicit from one source if the contracting officer determines that the circumstances of the contract action deem only one source reasonably available. ^c	FAR 13.106-1(b)	1
Total		3

Percentage of contracts in our sample exempted from competition: 23 percent.

Source: GAO analysis of U.S. Agency for International Development (USAID) information. | GAO-18-136

Note: USAID exempted all of the grants and most of the cooperative agreements in our sample from full competition using exemptions outlined in guidance in its Automated Directives System Chapter 303.

^aThis authority was amended and extended during fiscal years 2013 through 2016 as well.

^bThe AIDAR is USAID's Acquisition Regulation, its supplement to the Federal Acquisition Regulation (FAR).

^cCompetition requirements do not apply to contracts awarded using simplified acquisition procedures which may be used for acquisitions that do not exceed the simplified acquisition threshold, generally \$150,000. However, simplified acquisition procedures may also be used for acquisitions of certain "commercial items" costing more than \$150,000. All awards in our sample exceeded the \$150,000 threshold. For one contract in our sample, USAID officials indicated that they erroneously cited FAR 13.106-1(b), which permits sole source awards for acquisitions not exceeding the simplified acquisition threshold if only one source is reasonably available, when they should have cited FAR 13.501(a)(2)(i), which permits sole source acquisitions of commercial items (including brand-name items) for acquisitions greater than \$150,000.

USAID exempted from full competition all five of the grants and 15 of the 23 cooperative agreements in our sample.² Table 16 outlines exemptions from competition that USAID may use for grants and cooperative agreements in our sample.

²Our nongeneralizable sample of USAID awards focused on the 14 countries for which USAID obligated the most democracy funding. Democracy assistance projects in these 14 countries received over 70 percent of USAID's democracy assistance funding.

**Appendix V: Regulations and Policy Allowing
USAID to Limit Competition for Contracts,
Grants, and Cooperative Agreements**

Table 16: Exemptions from Competition Used for Grants and Cooperative Agreements in Our Sample under USAID’s June 2016 Guidance

Exemption from competition	Basis for exemption
<i>Limited to local entities:</i> USAID may restrict eligibility for awards to local entities that are legally organized under the laws of, have their principal place of business or operations in, is majority owned by individuals whom are citizens or lawful permanent residents of, and is managed by a governing body the majority of whom are citizens or lawful permanent residents of the country receiving assistance.	Automated Directives System (ADS) 303.3.6.5b(2)
<i>Critical to the objectives of the foreign assistance program:</i> When it is critical to the foreign assistance program, USAID can restrict competition for awards if no other exemption applies	ADS 303.3.6.5 ^a (2)(f)
<i>Exclusive or predominant capability of the awardee:</i> USAID may restrict competition when USAID considers an awardee to have proprietary resources, specialized facilitates or programmatic expertise, or an existing or unique relationship with cooperating countries or beneficiaries, among other things.	ADS 303.3.6.5 ^a (2)(a)
<i>Associate award under a leader award:</i> USAID does not require competition for associate awards when they are issued under a previously competed leader award.	ADS 303.3.26d
<i>Unsolicited applications:</i> USAID can make an award without competition or consider the application under an open competitive procedure when an unsolicited application clearly demonstrates a unique, innovative, or proprietary program, represents an appropriate use of funds to support or stimulate a public purpose, and fits within an existing development objective.	ADS 303.3.6.5 ^a (2)(g)

Source: GAO analysis of U.S. Agency for International Development (USAID) information. | GAO-18-136

Note: USAID exempted from full competition all of the grants and most of the cooperative agreements in our sample using exemptions outlined in guidance in its Automated Directives System Chapter 303.

^aFor grants and cooperative agreements, USAID officials indicated that they generally refer to full competition as having unrestricted eligibility. While the terminology used under USAID guidance differs for contracts, USAID’s data system uses the terms above for all three award types.

Appendix VI: Program Objectives of Selected USAID Democracy Assistance Awards by Contract Type

For the contracts in our sample, we found that program objectives varied by type of contract. For example, the firm fixed price award and three of the four indefinite quantity awards in our sample procured goods and services with specific deliverables that were directly for the U.S. Agency for International Development’s (USAID) benefit. Nearly all of the cost-plus-fixed-fee contracts sought to achieve improvements in the public sector of the country of performance through activities such as supporting developments in public policy or strengthening national institutions. For examples of differences in program objectives by contract type in our sample, see table 17.

Table 17: Examples of Differences in Program Objectives by Contract Type in Our Sample

Contract type	Number of USAID contracts in sample	Examples of objectives of the contracts in sample
<p><i>Firm-Fixed-Price</i></p> <p>Appropriate for acquiring commercial items or other supplies and services when a fair and reasonable price can be determined at the outset. It places upon the contractor maximum risk and full responsibility for all costs resulting in profit or loss. It also provides maximum incentive for the contractor to control costs and perform effectively.</p>	1	<ul style="list-style-type: none"> Rental of a ballroom and related services for the U.N. General Assembly Conference
<p><i>Cost-Plus-Fixed-Fee</i></p> <p>Can be used when circumstances do not allow the agency to estimate costs with sufficient accuracy to use a fixed-price contract. This type of contract can be used to support efforts that might otherwise present too great a risk to the contractor. However, it provides the contractor only minimum incentive to control costs.</p>	8	<ul style="list-style-type: none"> Strengthen and expand the base of skilled, high-performing professionals and institutions in the public and private sector. Improve economic governance by strengthening policies and enhancing the capacity of key institutions Develop more effective and accountable governance, including improved management capacity
<p><i>Indefinite Quantity</i></p> <p>Can be used when the government cannot predetermine, above a specified minimum, the precise quantities of supplies or services required during the period of performance and it is inadvisable for the U.S. government to commit to more than a minimum quantity.</p>	4	<ul style="list-style-type: none"> Provide USAID technical and advisory services for evaluation activities worldwide Provide architectural and engineering technical services and oversight of USAID infrastructure projects and related engineering activities

Source: GAO analysis of U.S. Agency for International Development (USAID) information. | GAO-18-136

Appendix VII: Comments from the U.S. Department of State



United States Department of State

Comptroller

Washington, DC 20520

Charles M. Johnson, Jr.
Managing Director
International Affairs and Trade
Government Accountability Office
441 G Street, N.W.
Washington, D.C. 20548-0001

NOV 14 2017

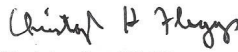
Dear Mr. Johnson:

We appreciate the opportunity to review your draft report, "DEMOCRACY ASSISTANCE: State Should Improve Accountability Over Funding; USAID Should Assess Whether New Processes Have Improved Award Documentation" GAO Job Code 100983.

The enclosed Department of State comments are provided for incorporation with this letter as an appendix to the final report.

If you have any questions concerning this response, please contact Anne Chick, Branch Chief, Office of Resource Management, Bureau of International Narcotics and Law Enforcement Affairs at (202) 663-2546 and Ivars Kuskevics, Office of the Coordinator of U.S. Assistance to Europe and Eurasia at (202) 647-6997.

Sincerely,


Christopher H. Flaggs

Enclosure:
As stated

cc: GAO – David B. Gootnick
State/OIG - Norman Brown

State Department Response to GAO Draft Report

**DEMOCRACY ASSISTANCE: State Should Improve Accountability
Over Funding; USAID Should Assess Whether New Processes Have Improved
Award Documentation**
(GAO 18-136, GAO Code 100983)

Thank you for the opportunity to comment on your draft report, *Democracy Assistance: State Should Improve Accountability Over Funding; USAID Should Assess Whether New Processes Have Improved Award Documentation*.

Improving the Department's reporting to the American public on the expenditure of U.S. taxpayer dollars is a priority goal of the Department. In his testimony before the House Foreign Affairs Committee on September 26, Deputy Secretary Sullivan assured members that a key feature of the proposed redesign plan is to "maximize the impact and accountability of U.S. foreign assistance." We concur with the report's Recommendations 1 and 2.

We ask that the report more accurately describe the Department's well-documented commitment and efforts to improve accountability of foreign assistance under the auspices of the Foreign Assistance Data Review (FADR) process. More information about the FADR is available [here](https://2009-2017.state.gov/f/releases/fs/2015/250710.htm): (<https://2009-2017.state.gov/f/releases/fs/2015/250710.htm>)

Responding to the OIG Compliance Follow-Up Review ISP-C-17-27 "Department of State is Still Unable to Accurately Track and Report on Foreign Assistance Funds," in June, Deputy Secretary Sullivan accepted the OIG's recommendations and committed to assign a senior Department official to oversee the process of developing and executing a plan to address the Department's foreign assistance tracking and reporting requirements. On July 21, the Department transmitted to the Committees on Appropriations a report on the plan to implement the recommendations contained in the Foreign Assistance Data Review (FADR) Findings Report and in State OIG report ISP-I-15-14 "Department Financial Systems Are Insufficient to Track and Report on Foreign Assistance Funds." The plan provided to Congress summarized the objectives of FADR Phase Three, which will identify the instances in which reporting of foreign assistance data is needed as a legal or policy matter, and will then identify changes to policies, processes, technology, and training, as applicable to meet those needs.

Significant improvements impacting the reliability, accessibility, and standardization of assistance data were implemented or are in the process of being implemented. Bureau-specific responses are provided below:

Bureau of International Narcotics and Law Enforcement Affairs (INL)

Starting with FY 2015 funds, INL funds controls were established at the function level for country, regional, and global programs as reflected in Office of Management and Budget (OMB) apportionments for the INL appropriation account. These controls facilitate the tracking and management of INL regional program funds by country and project.

The Bureau of the Comptroller and Global Financial Services (CGFS) and INL worked together to develop and implement the Regional Financial Management System (RFMS)-INL bilateral processing model, which links all bilateral agreement project-funded activity from the country agreement through to expenditures under specific spending chains. Fully implemented in 2017, this new processing model ensures that funding, obligations, and expenditure transactions associated with INL bilateral agreement projects can be accurately tracked, managed, and reported in RFMS, including for democracy assistance.

Through the Department's procurement system upgrade, INL bilaterally funded procurement transactions now reference the relevant bilateral agreement project document number and integrate the commitment and obligation transaction steps to the RFMS-INL bilateral processing model. This upgrade eliminated the duplicate entry of fiscal data, including project codes, and reduced manual data-entry errors.

CGFS and INL partnered to improve reporting by leveraging the Global Business Intelligence (GBI) platform. CGFS is developing the ability to explore, visualize, and report on post-specific INL data. CGFS is also committed to assisting INL with developing a solution to its pipeline reporting to limit any need for manual data processing outside the financial system.

CGFS has also partnered with State's Office of U.S. Foreign Assistance Resources (F) to implement an extract that corresponds with the data dictionary developed by the Foreign Assistance Data Review (FADR) Working Group. This multi-phased effort will provide F, and ultimately U.S. taxpayers (via public reporting such as ForeignAssistance.gov), with accurate foreign assistance spending totals and supporting details on procurements, interagency agreements, grants, and contributions.

F staff have also been working with INL, the Bureau of Administration, CGFS, the Bureau of European and Eurasian Affairs (EUR), the Bureau of South and Central Asian Affairs (SCA), and other bureaus throughout FADR Phases I and II. As the FADR lead, F is reengaging with bureaus to finalize requirements for systems improvements for Phase III to inform the foreign assistance tracking improvements that will be implemented in Phase IV.

**Bureau of European and Eurasian Affairs (EUR)
Bureau of South and Central Asian Affairs (SCA)**

The report accurately describes the lack of a centralized database to track award obligations at the sectoral level (e.g., democracy vs. higher education). Throughout most of the period covered by the report, the U.S. Embassy Public Affairs Sections that were receiving foreign assistance funding to implement democracy programs in the Europe and Eurasia region employed spreadsheets, rather than a centralized database, to track and oversee their foreign assistance awards, each of which was reviewed and approved by the EUR Bureau's Public Diplomacy office in Washington. The manual transfer of large volumes of award data into multiple copies of the GAO data-call spreadsheet led to errors and duplications, requiring subsequent corrections.

Starting in FY 2016, the Bureau of Administration began the roll-out of the centralized State Assistance Management System (SAMS) to a limited number of EUR and SCA posts, with additional posts brought online during FY 2017. Most posts are now using SAMS. The EUR and SCA Bureaus' Public Diplomacy offices have been working with the remaining posts to ensure the transition is completed in an efficient manner. Going forward, the mandatory use of SAMS to record assistance funding awards will improve the Department's ability to oversee and to report on the uses of foreign assistance funding at the country and sectoral levels, as well as to compile such award-level data in a timely manner without the need for manual data transfer by individual bureaus and posts.

The Office of the Coordinator of U.S. Assistance to Europe, Eurasia, and Central Asia (EUR/ACE) is working with the Office of Public Diplomacy of the Bureau of European and Eurasian Affairs (EUR/PD) and the Office of Press and Public Diplomacy of the Bureau of South and Central Asian Affairs (SCA/PPD) to ensure adequate tracking of award data during the transition of Public Affairs Sections at our embassies to mandatory use of SAMS.

Europe and Eurasia

In Europe and Eurasia, nine of the 13 U.S. Embassy Public Affairs Sections that receive assistance funding to carry out democracy programs are now recording their assistance funding awards in SAMS. One Embassy is in the process of deploying SAMS. The remaining three U.S. Embassy Public Affairs Sections that receive foreign assistance funding should have access to SAMS by the end of FY 2019 or sooner. Until this transition takes place, EUR/ACE and EUR/PD will work with these three posts to ensure that their tracking spreadsheets contain the same data fields as SAMS, so as to allow for easier data merging in the future.

Central Asia

In the Central Asia region, four out of the five U.S. Embassy Public Affairs Sections that are funding democracy programs are now using SAMS to record awards:

- Ashgabat, Turkmenistan
- Bishkek, Kyrgyz Republic
- Dushanbe, Tajikistan
- Tashkent, Uzbekistan

Kazakhstan should have access to SAMS by the end of FY 2019 or sooner.

Afghanistan, Pakistan, and South Asia

The U.S. Embassy Kabul in Afghanistan just completed its SAMS deployment, and SAMS will be deployed at U.S. Embassy Islamabad and its consulates in Pakistan in December 2017.

All posts in South Asia have converted to SAMS with the exception of Bangladesh, which should have access to SAMS by the end of FY 2019.

SCA/PPD will continue to track award data through existing systems as well as through SAMS, to ensure full data access.

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Conclusion

The Department appreciates the opportunity to comment on the draft report. We are fully committed to improving accountability over funding. The items identified in the report will have our continued attention. We look forward to working with you and other stakeholders to address these issues.

Appendix VIII: Comments from the U.S. Agency for International Development



NOV 15 2017

Mr. David B. Gootnick
Director, International Affairs and Trade
U.S. Government Accountability Office
441 G Street, NW
Washington, DC 20548

Re: DEMOCRACY ASSISTANCE: State Should Improve Accountability Over Funding;
USAID Should Assess Whether New Processes Have Improved Award
Documentation (GA0-18-136)

Dear Mr. Gootnick:

I am pleased to provide the United States Agency for International Development's (USAID) formal response to the U. S. Government Accountability Office (GAO) draft report entitled "*DEMOCRACY ASSISTANCE: State Should Improve Accountability Over Funding; USAID Should Assess Whether New Processes Have Improved Award Documentation*" (GA0- 18-136).

This letter and the enclosed USAID comments are provided for incorporation as an appendix to the final report. Thank you for the opportunity to respond to the GAO draft report and for the courtesies extended by your staff while conducting this GAO engagement.

Sincerely,

A handwritten signature in blue ink, appearing to read "Angelique M. Crumbly".

Angelique M. Crumbly
Acting Assistant Administrator
Bureau for Management

Enclosure: a/s

-2-

USAID COMMENTS ON GAO DRAFT REPORT
DEMOCRACY ASSISTANCE: State Should Improve Accountability Over Funding; USAID
Should Assess Whether New Processes Have Improved Award Documentation
(GAO-18-136)

USAID's policies and guidance in relation to determining and documenting the selection of instrument among acquisition (contracts) and assistance (grants and cooperative agreements) were updated at times during the fiscal years 2012-2016 under the GAO review. On April 18, 2016, USAID revised its primary policy guidance, Automated Directive System (ADS) Chapter 304 entitled "Selecting the Appropriate Acquisition and Assistance (A&A) Instrument." The revision clarified, among other things, the documentation process and requirements. In addition, on May 25, 2017, USAID issued standard templates for documenting selection determinations in order to facilitate more timely and thorough documentation.

The GAO sample of democracy awards included 41 awards of which 31 had some type of documentation related to selection of instruments. We would like to take this opportunity to clarify that separate "selection of instrument" memorandums are not required for task orders or associate awards, which account for at least three of the awards in the sample lacking documentation. The base contracts and leader awards are required to have "selection of instrument" memorandums, but the subsequent task orders or associate awards do not require additional memorandums since they are utilizing existing available mechanisms.

In regard to the timeliness of completing the documentation, historically, Contracting/Agreement Officers (COs/AOs) document their earlier determinations as part of the Memorandum of Negotiation with the final award documentation. In April 2016, USAID's revisions to policy and guidance clarified that formal standalone documentation is required prior to issuance of a solicitation through use of a standard template.

Furthermore, regarding timeliness related to public awareness of the Agency's intended type of mechanism for upcoming A&A opportunities, the Agency has a very robust Business Forecast where the intended approach is indicated prior to the issuance of a solicitation. The Business Forecast can be updated on a daily basis, and we consistently undertake quarterly outreach to partners to answer questions. Also, at any point in time, an organization or individual can raise questions on the intended instrument type with our Agency's A&A Ombudsman. When concerns are raised, the Ombudsman in conjunction with senior leaders within the Management Bureau's Office of Acquisition and Assistance (M/OAA) undertake reviews and makes recommendations as appropriate to ensure compliance with ADS 304, and the Federal Grant and Cooperative Agreement Act.

In conclusion, we concur with the GAO's recommendation to assess current procedures on complete and timely documentation of selection of instrument decisions in democracy assistance. USAID will review a sampling of FY2017 major democracy awards to assess documentation for selection of instrument prior to issuance of a solicitation. The target date for completion is September 30, 2018.

This report has one recommendation for USAID as shown on pages 44-45 of the draft report:

Recommendation: The USAID Administrator should direct the Office of Acquisition and Assistance to assess whether current processes and procedures as outlined in revised guidance result in complete and timely documentation of award-type decisions for democracy assistance.

Appendix IX: GAO Contact and Staff Acknowledgments

GAO Contact

David B. Gootnick, (202) 512-3149 or gootnickd@gao.gov

Staff Acknowledgments

In addition to the contact named above, Mona Sehgal (Assistant Director), Justine Lazaro (Analyst-in-Charge), Lindsey Cross, Christopher Hayes, Carl Barden, Karen Cassidy, David Dayton, Timothy DiNapoli, Justin Fisher, Alexandra Jeszeck, Heather Latta, Madeline Messick, Natarajan Subramanian, Alex Welsh, and Bill Woods made key contributions to this report.

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