



June 29, 2016

MEMORANDUM FOR: Michael Poth
Chief Executive Officer
First Responder Network Authority

FROM: *Carol N. Rice*
Carol N. Rice
Assistant Inspector General for Economic
and Statistical Program Assessment

SUBJECT: *FirstNet Can Strengthen Its Controls by Documenting Procedures to
Close and Track Interagency Agreements*
Final Report No. OIG-16-035-A

This report provides the results of our most recent audit to evaluate the First Responder Network Authority's (FirstNet's) process for managing interagency agreements (IAAs), including entering into, monitoring, and closing IAAs. We reviewed relevant policies and procedures, assessed documentation for a non-statistical sample of eight IAAs, and interviewed FirstNet and Department of Commerce officials involved in initiating, monitoring, or closing IAAs. See appendix A for specific details on our objective, scope, and methodology.

Background

The Middle Class Tax Relief and Job Creation Act of 2012 created FirstNet—an independent authority within the Department's National Telecommunications and Information Administration (NTIA)—to provide emergency responders with the first nationwide, high-speed, broadband network dedicated to public safety.¹ As part of FirstNet's efforts to fulfill this mission, FirstNet has entered into IAAs with other federal agencies to obtain various goods and services in furtherance of its programs and initiatives.

An IAA is a written agreement between federal agencies in which one agency requests goods or services (requesting agency) from another agency (servicing agency). IAAs establish the general terms and conditions that govern the relationship between the agencies, including, but not limited to, defining the goods or services to be provided, costs, payment terms, and signatures needed to make the agreement effective. FirstNet, as the requesting agency, benefits from the capabilities or expertise of the servicing agency and the efficiencies and economies associated with leveraging resources.

For fiscal year (FY) 2015, FirstNet reported total operating expenses of \$49 million, of which approximately \$14 million (29 percent) were IAA expenses. FirstNet, as the requesting agency, obtained a variety of basic and mission-critical services, including assistance with FirstNet's

¹ See *Middle Class Tax Relief and Job Creation Act of 2012*, Pub. L. No. 112-96, § 6206(b)(1), 126 Stat. 211-12.

acquisitions, legal services, human resources functions, technical research and development, outreach support, and financial and accounting services. To acquire these services, FirstNet entered into IAAs with several Commerce offices, including the Office of Acquisition Management (OAM), Office of General Counsel (OGC), and Office of Human Resources Management. FirstNet also entered into IAAs with such agencies as the U.S. Departments of Agriculture, Defense, Homeland Security, and Interior, and the General Services Administration.

To manage its IAAs, several offices within FirstNet and Commerce coordinate with one another and have responsibilities during the process. These coordinating entities include FirstNet program offices requesting IAAs; FirstNet Offices of the Chief Financial Officer (OCFO), Chief Administrative Officer (OCAO), and Chief Counsel (OCC); and the Department's OGC and OAM.² For a summary of the offices' responsibilities with respect to IAAs, see appendix B.

During the course of the audit, we noted progress in the following areas:

- FirstNet developed and documented written internal procedures for its processes to enter into and monitor IAAs. These procedures defined the operational roles and responsibilities of FirstNet offices, explained the step-by-step process to obtain final clearance, and established timelines for offices to begin and complete IAA reviews.
- FirstNet—with support from Commerce OGC—implemented annual training for FirstNet officials who have IAA oversight responsibilities (oversight officials). Although not all FirstNet oversight officials attended the FY 2015 training, FirstNet officials stated that future trainings would be mandatory, beginning in FY 2016. The FY 2015 training provided guidance for drafting agreements, ensuring agreements contain key elements, using standard IAA forms, considering fiscal law and other legal matters, using federal funds appropriately, and defining roles and responsibilities of FirstNet offices for entering into and monitoring IAAs.
- FirstNet officials stated that it provided access to internal IAA policies and procedures and other external guidance on FirstNet's shared drive available to all staff involved with IAAs. The shared drive includes FirstNet's internal guidance including policies, procedures, and training, such as "Review and Authorization of Key Deliverables," "FirstNet Interagency Agreement Development, Review, and Clearance Process," and "Interagency Agreement Training for FirstNet Staff," respectively. The shared drive also includes external guidance such as the Department of Commerce *Agreements Handbook* and *Commerce Acquisition Manual*, and Office of Management and Budget (OMB) guidance *Improving the Management and Use of Interagency Acquisitions*.

² U.S. Department of Commerce, November 2011. *Agreements Handbook*, Sect. IV-B, p. 24. Washington, DC. The *Agreements Handbook* requires all Commerce bureaus, including FirstNet, to obtain legal review and clearance of all agreements and amendments by the Department's OGC.

Findings and Recommendations

We found FirstNet’s process for managing IAAs to be reasonable in regards to the process of entering into and monitoring IAAs. We examined a non-statistical sample of eight IAAs and did not detect any material errors or issues in FirstNet’s process to:

- Ensure agreements contained the necessary elements;
- Obtain proper approval and signatures prior to obligating funds; and
- Monitor IAAs to ensure delivery of services.

Although we found FirstNet’s processes to be reasonable for entering into and monitoring agreements, we identified opportunities to strengthen controls in their process for closing IAAs. In addition, FirstNet can improve the controls associated with tracking IAAs and timely providing documentation to support monitoring efforts. We also communicated technical inconsistencies in all three phases we observed during the course of the audit to FirstNet management.

I. FirstNet Can Strengthen Controls for Closing and Tracking IAAs

To strengthen its controls, FirstNet should develop and document written procedures for closing and tracking IAAs.

A. FirstNet Did Not Document Procedures for Closing IAAs

Although FirstNet established written procedures for entering into and monitoring IAAs, it did not document procedures for FirstNet staff to close them. FirstNet provided high-level guidance to OIG, such as the *Department of Commerce Agreements Handbook* and *Commerce Acquisition Manual*, and OMB guidance; however, this guidance did not establish specific roles and responsibilities for FirstNet staff to close IAAs.

FirstNet also provided documented guidance from the National Institute of Standards and Technology (NIST)—its provider of financial management services—explaining the steps it needed to take to de-obligate funds after FirstNet (1) determined that obligated funds would no longer be used and (2) determined no further servicing agency invoices would be received.³ However, this guidance was not supplemented with FirstNet operational procedures defining who makes these determinations, when they should take place, how they should be made, and when the closeout process should be completed.

The Government Accountability Office’s (GAO’s) *Standards for Internal Control in the Federal Government (Standards for Internal Control)* states that controls are documented to meet operational needs and may define day-to-day procedures including the timing of when a control activity occurs.⁴ “Effective documentation assists in management’s design

³ NIST, a bureau within Commerce, provides financial accounting services for FirstNet via an IAA.

⁴ GAO, September 2014. *Standards for Internal Control in the Federal Government*, GAO-14-704G, p. 29, 56.

of internal control by establishing and communicating the who, what, when, where, and why of internal control execution to personnel.”⁵

FirstNet could not demonstrate that it has documented closeout procedures. The process we observed demonstrates that FirstNet staff coordinates closeout actions among themselves based on high-level guidance and knowledge of the individuals involved. FirstNet officials stated that they did not document closeout procedures because it was not specifically required by the Department’s *Agreements Handbook*.

Without documented procedures for staff, FirstNet sacrifices a useful tool to establish consistency, clarity, and accountability in its closeout process. There is also an increased risk it will not perform needed procedures, leading to IAAs that are not closed properly or timely. FirstNet would strengthen its controls by including documented closeout processes with the other effective, documented controls it has established for the rest of its IAA process.

B. *FirstNet Did Not Document Procedures for Tracking IAAs*

FirstNet did not document the procedures it uses to track IAAs after they are initiated. Instead, FirstNet primarily relies on one individual, the IAA coordinator, to perform a number of steps to track key IAA information based on the coordinator’s knowledge of the processes. The IAA coordinator maintains an internal spreadsheet tracker that contains key components of each FirstNet IAA, alerts program officials 90 days before IAA expiration, and periodically reconciles the internal tracker to the Commerce Business System (CBS) to ensure that FirstNet’s financial records are accurate and complete.⁶ Although many steps are performed, the IAA coordinator stated that no written procedures had been developed to formalize this process.

GAO’s *Standards for Internal Control* states documentation “provides a means to retain organizational knowledge and mitigate the risk of having that knowledge limited to a few personnel”⁷ Internal controls are documented to meet operational needs and define day-to-day procedures.⁸ The Department’s *Agreements Handbook* does not address any requirement for internal IAA tracking; however, FirstNet established this internal control as a tool for tracking and managing its IAAs.

Without documented procedures incorporating standards for maintaining the tracker, FirstNet is relying on the knowledge of one key individual primarily responsible for tracking IAAs. FirstNet also risks losing that knowledge should the IAA coordinator separate from the organization or if staff duties change. Formalizing and documenting the process would ensure that tracking duties are maintained to provide internal control continuity.

⁵ *Id.* at p. 29.

⁶ After being notified by FirstNet, NIST records FirstNet’s financial transactions in CBS, a financial management system.

⁷ GAO, *Standards for Internal Control in the Federal Government*, p. 29.

⁸ *Id.* at p. 29, 56.

Other Matter

For one of the eight IAAs we reviewed, FirstNet did not timely provide documentation to support that the IAA was monitored. For this IAA—where an agency loaned an employee to FirstNet for 18 months⁹—OIG originally requested documentation by March 4, 2016, to support activities the employee performed. On May 9, 2016, over 2 months after our initial request, FirstNet produced adequate documentation.

FirstNet’s procedure, “FirstNet Interagency Agreement Development, Review, and Clearance Process,” states that the program official is responsible for maintaining a complete file of the IAA, including all related documentation. Additionally, GAO’s *Standards for Internal Control* states that “[m]anagement clearly documents internal control and all transactions and other significant events in a manner that allows the documentation to be readily available for examination.”¹⁰ Maintaining readily available documentation and providing timely responses to audit requests demonstrate transparency and accountability of programs and operations.

Recommendations

We recommend that the FirstNet Chief Executive Officer

1. Develop and document procedures to explain the roles and responsibilities of FirstNet offices involved in the IAA closeout process and identify internal standards for initiating and executing closeouts.
2. Document procedures to explain the steps that are needed to effectively track FirstNet IAAs.
3. Train responsible FirstNet personnel on documenting IAA monitoring efforts to ensure timely provision of documentation.

In accordance with Departmental Administrative Order 213-5, please submit to us—within 60 calendar days of the date of this memorandum—an action plan that responds to the recommendations in this report. This final report will be posted on OIG’s website pursuant to section 8M of the Inspector General Act of 1978, as amended (5 U.S.C. app., § 8M).

We appreciate your cooperation and courtesies extended to us by your staff during our audit. If you have any questions or concerns about this report, please contact me at (202) 482-6020 or Chris Rose at (202) 482-5558.

Summary of Agency Response and OIG Comments

On June 17, 2016, OIG received FirstNet’s response to the draft report, which we include as appendix C of this report. FirstNet agreed with our findings, noting that they have either already implemented, or are in the process of implementing, corrective action to address the OIG’s recommendations.

⁹ This IAA is a *detail agreement*, which is an agreement that involves the detail of an employee from one organization (loaning agency) to another (requesting agency).

¹⁰ GAO, *Standards for Internal Control in the Federal Government*, p. 48.

Appendix A. Objective, Scope, and Methodology

The objective of our audit was to evaluate FirstNet's processes for managing IAAs, including entering into, monitoring, and closing IAAs. We assessed risks related to managing IAAs and developed our audit program accordingly.

To accomplish our objective we

- interviewed FirstNet personnel regarding the policies and procedures it used to manage the IAA process, including the initiation, monitoring, and closing processes;
- interviewed Commerce OGC personnel regarding their role in providing clearance for all of FirstNet's IAAs;
- reviewed FirstNet's policies and procedures for IAA management;
- selected and analyzed a non-statistical sample of 8 out of 46 IAAs in place during FY 2015 and FY 2016 to determine whether they were properly initiated and monitored;¹¹
- reviewed documentation pertaining to the sample, including signed agreements, amendments, orders, legal clearances, support for receiving deliverables stated in the IAA, and support for FirstNet's monitoring efforts;
- reviewed supporting closeout documentation for three of the eight sampled IAAs to determine whether they were properly closed;¹²
- reviewed payments for the IAA sample to assess whether FirstNet made payments according to IAA payment terms and reconciled FirstNet's internal Excel spreadsheet IAA tracker to financial information reported in NIST's CBS to determine whether records were complete and accurate; and
- interviewed FirstNet program officials responsible for monitoring the IAA sample regarding their efforts for initiating, monitoring, and closing IAAs.

The following laws, regulations, policies, and documents were reviewed:

- Middle Class Tax Relief and Job Creation Act of 2012
- Department of Commerce, *Agreements Handbook* (November 2011)
- Department of Commerce, *Commerce Acquisition Manual 1317.570* (revised April 2010)
- Government Accountability Office, *Standards for Internal Control in the Federal Government* (September 2014)

¹¹ We based our selection of the IAA sample on the largest agreement dollar amounts, variety in the type of IAA, services critical to FirstNet's mission, and IAAs that have expired in order to assess the closeout phase. We determined the sample size was sufficient to evaluate FirstNet's processes for managing IAAs. Additionally, the 46 IAAs include the OIG's agreement with FirstNet for financial and performance audit services and investigative services. We did not include this IAA in the sample of 8 we reviewed.

¹² From the sample selected, these three IAAs were the only IAAs that closed prior to the audit period. The other five IAAs were still in effect and the closeout process could not be evaluated.

- FirstNet's relevant internal policies and procedures

We reviewed controls significant within the context of the audit objective by interviewing officials at FirstNet, examining relevant policies and procedures, and reviewing documentation. In satisfying our audit objective, we did not rely on computer-processed data. Instead, we reviewed documentation submitted by FirstNet; therefore, we did not test the reliability of FirstNet's information technology systems.

We conducted this performance audit in accordance with generally accepted government auditing standards. These standards require that we plan and perform our audit to obtain sufficient, appropriate evidence that provides 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 objective.

We conducted our review from January 2016 through April 2016 under the authority of the Inspector General Act of 1978, as amended (5 U.S.C. app.), and Department Organization Order 10-13, dated April 26, 2013. We performed our work at the Department of Commerce headquarters in Washington, DC; FirstNet offices in Reston, Virginia; and the OIG regional office in Denver, Colorado.

Appendix B.

FirstNet and Commerce Roles and Responsibilities in the IAA Process

Several offices within FirstNet and Commerce coordinate with one another and have responsibilities during the IAA process. These coordinating entities include FirstNet program offices requesting IAAs; OCFO, OCAO, and OCC; and the Department's OGC and OAM.

FirstNet Program Offices. Senior officials within the program offices (herein referred to as program officials) are responsible for initiating IAAs when a need is identified. Program officials are responsible for:¹³

- identifying other federal agencies that can fill a need for goods or services;
- taking the lead in drafting and negotiating the terms and conditions of the IAA;
- coordinating IAAs through FirstNet's review and clearance process, which requires reviews from other FirstNet offices and Commerce;
- obtaining all necessary signatures to finalize the IAA;
- monitoring the performance and progress under the IAA to ensure the activities are being performed as scheduled; and
- maintaining a complete file of the IAA.

FirstNet OCFO and OCAO. OCFO provides assistance to program officials pertaining to IAA financial elements, and OCAO has a dedicated IAA coordinator who tracks all FirstNet IAAs. OCFO, with support from OCAO, is responsible for:

- confirming funding availability;
- verifying billing and payment terms;
- initiating obligation and de-obligation of funds; and
- maintaining relevant IAA files, including the final, approved IAAs and amendments, Commerce OGC clearances, and any other relevant information.

FirstNet OCC. OCC reviews all IAAs and coordinates the Commerce OGC review. OCC is responsible for:

- ensuring FirstNet has programmatic authority to undertake the activity contemplated in the IAA;¹⁴ and
- ensuring IAAs contain key elements, such as responsibilities of the parties, parties involved, and scope of the agreement, etc.

¹³ FirstNet program offices include OCC, OCFO, OCAO, and the Offices of the Executive Director, Chief Technology Officer, Chief Information Officer, Chief User Advocacy Officer, and the Chief Procurement Officer.

¹⁴ Programmatic authority is the legal basis upon which FirstNet engages in its day-to-day mission. Programmatic authority is determined by asking: "(1) what part of the agency's mission will be accomplished by undertaking these activities, and (2) what statute or executive order requires or authorizes the agency to undertake that mission?" U.S. Department of Commerce, *Agreements Handbook*, Sect. I-B(2), p. 5.

Department of Commerce OGC and OAM. Commerce OGC coordinates with FirstNet's OCC and program officials to provide final clearance for all IAAs.¹⁵


- The General Law Division within Commerce OGC reviews IAAs to ensure compliance with fiscal law and other requirements.
- If the IAA is an assisted acquisition (i.e., FirstNet requests that another agency conduct an acquisition on its behalf), the Contract Law Division within Commerce OGC conducts a preliminary review of the IAA.

¹⁵ If an IAA is an assisted acquisition, FirstNet is required to prepare a Best Procurement Approach (BPA) and/or a Determinations and Finding (D&F), and FirstNet is required to obtain approval from Commerce OAM. For assisted acquisition IAAs, FirstNet's OCAO coordinates with Commerce OAM for review and signature of the BPA and/or D&F. FirstNet, "FirstNet Interagency Agreement (IAA) Development, Review, and Clearance Process," March 2015.

Appendix C. Agency Response



MEMORANDUM FOR: Carol N. Rice
Assistant Inspector General for Economic and Statistical Program
Assessment

FROM: TJ Kennedy 
President
First Responder Network Authority (FirstNet)

DATE: June 17, 2016

SUBJECT: Comments on the Draft Memorandum Entitled, "*FirstNet Can Strengthen Its Controls by Documenting Procedures to Close and Track Interagency Agreements*"

Thank you for sharing with us the June 13, 2016, memorandum by the Office of Inspector General (OIG) entitled "*FirstNet Can Strengthen Its Controls by Documenting Procedures to Close and Track Interagency Agreements.*" We appreciate the opportunity to respond, and our specific comments on the OIG's findings are attached.

In its audit, the OIG reviewed FirstNet's process for managing interagency agreements (IAAs), including entering into, monitoring, and closing IAAs. The OIG noted FirstNet's progress in developing written procedures for entering into and monitoring IAAs, and implementing annual training for FirstNet officials with IAA oversight responsibilities. The OIG also found that FirstNet provided access to IAA policies and procedures to all staff involved with IAAs. Based on a sample review of eight IAAs, the OIG found that FirstNet's processes ensured that: the IAAs contained the necessary elements; proper approval and signatures were obtained prior to obligating funds; and the IAAs were monitored to confirm delivery of services. In sum, the OIG found FirstNet's processes to be reasonable for entering into and monitoring agreements, and did not identify any material deficiencies in the FirstNet process or any violation of applicable laws, regulations, policies, or procedures.

FirstNet appreciates the OIG's recognition of the controls it has developed, and of its IAA policies and procedures. We welcome the OIG's identification of areas where FirstNet can strengthen controls for closing out IAAs, monitoring IAAs, and training FirstNet personnel on

documenting IAA monitoring efforts. As detailed in our attached response, FirstNet agrees with, and has already begun implementing, the OIG's recommendations.

Attachment

FirstNet Comments on “FirstNet Can Strengthen Its Controls by Documenting Procedures to Close and Track Interagency Agreements”

Response to Finding on Documenting IAA Closeout Procedures

We appreciate the OIG’s recognition of FirstNet’s efforts, and written procedures, for entering into and monitoring IAAs. The OIG has recommended that FirstNet also document its current process for closing IAAs through written procedures, including the memorialization of the specific roles and responsibilities of FirstNet staff.

FirstNet agrees that it is useful to document the procedures it is using for closing IAAs, both to ensure such procedures are being followed and to create a record so that in the future such procedures can be readily accessed by all relevant current and future FirstNet staff. FirstNet has thus already completed the procedures. These procedures are now available on FirstNet’s shared drive to all staff involved with IAAs, and will be incorporated into the mandatory annual training for IAA program officials.

Response to Finding on Documenting Procedures for Tracking IAAs

In its memorandum, while the OIG recognized that FirstNet had adequate procedures in place for tracking IAAs after initiated, it noted that FirstNet had not fully documented such procedures. Specifically, the OIG acknowledged that FirstNet has an IAA coordinator, who tracks IAA information and maintains an internal spreadsheet tracking IAA components; and that the IAA coordinator alerts program officials 90 days before IAA expiration and appropriately reconciles the internal IAA tracker against the Commerce Business System to ensure it is accurate. However, the OIG recommends that FirstNet memorialize its procedures in writing for tracking IAAs, including documenting procedures currently in use.

FirstNet agrees that it would be useful to document its procedures for tracking IAAs after they are initiated. FirstNet has thus already completed the procedures providing guidance on how to maintain and update FirstNet’s internal IAA tracking document. These procedures are now available on FirstNet’s shared drive to all staff involved with IAAs.

Response to Finding on Training Staff to Document IAA Monitoring Efforts

The OIG notes that for one of the eight IAAs it reviewed, there was a delay in providing documentation demonstrating that the IAA was monitored. While the OIG recognizes that FirstNet provided fully responsive documentation related to the relevant IAA, it also noted that FirstNet’s “FirstNet Interagency Agreement Development, Review, and Clearance Process” flowchart requires that the IAA program official is responsible for maintaining a complete file for the IAA, including related documentation. Accordingly, the OIG recommends that FirstNet staff responsible for monitoring IAAs receive training on documenting their monitoring efforts.

FirstNet agrees that staff responsible for monitoring IAAs should document their monitoring efforts and that this documentation should be readily available. FirstNet will develop guidance on documenting IAA monitoring efforts. Once approved, FirstNet will ensure that all staff responsible for monitoring IAAs are informed of these procedures. Additionally, these procedures will be available on FirstNet's shared drive, accessible to all staff involved with IAAs.