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(U) Review of Department of State End-Use Monitoring in Ukraine

TARGETED REVIEW

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(U) Summary of Review

(U) Between the time of Russia’s full-scale invasion of Ukraine in February 2022 and the time of this Office of Inspector General (OIG) review, the U.S. government had committed to providing approximately \$30 billion in civilian and military security assistance to Ukraine.¹ U.S. law requires the establishment of a program for end-use monitoring (EUM) of U.S.-origin defense articles and services sold, leased, or exported under the authority of the Arms Export Control Act or the Foreign Assistance Act of 1961.² Although the Department of State (Department) has broad interagency policy responsibilities for the supervision and direction of exports of U.S.-origin defense articles and services, it has EUM responsibility only for the programs it directly manages, including commercial sales monitored by the Blue Lantern program³ and direct foreign assistance to Ukraine’s State Border Guard Service and the National Police of Ukraine. OIG estimated the total property subject to EUM by the Department in Ukraine was \$311.7 million at the time of this review.⁴

(U) OIG’s objectives for this review were to determine whether the Department is: (1) implementing the required EUM for security assistance programs in Ukraine and appropriately developing any new procedures in response to challenges affecting the Department’s ability to safeguard such equipment; and (2) coordinating EUM and other safeguard activities in accordance with its responsibilities in 1 Foreign Affairs Manual (FAM) 013 to provide direction and leadership to other U.S. government foreign affairs agencies.

(U) OIG found that Embassy Kyiv had resumed limited in-person “primary” EUM activities in Ukraine as the evolving security situation allowed, but the Department bureaus responsible for EUM in Ukraine also depended on secondary EUM procedures, including relying on the Ukrainian government to assist directly and indirectly with EUM. According to Department officials, the Ukrainian government was forthcoming in providing detailed information related to the recipients of donated equipment, the location of such equipment, and details of battlefield losses, as necessary. At the time of this review, Department bureaus had not identified any instances of misuse of equipment subject to EUM. The Department required the same commitments from recipients and agreement to monitoring activities that applied before the February 2022 invasion. Although bureaus were developing or implementing pilots for new secondary EUM procedures, none had designed formal evaluations for these pilots. OIG identified several ongoing challenges to conducting EUM, such as security restrictions and ad hoc processes for reporting battlefield losses.

¹ (U) For more information, see: Department of State, “U.S. Security Cooperation with Ukraine,” <https://www.state.gov/u-s-security-cooperation-with-ukraine/> and “Bureau of International Narcotics and Law Enforcement Affairs: Ukraine,” <https://www.state.gov/bureau-of-international-narcotics-and-law-enforcement-affairs-work-by-country/ukraine-summary/>.

² (U) See 22 United States Code (U.S.C) § 2785(a).

³ (U) The Bureau of Political-Military Affairs conducts the Blue Lantern program for defense articles and services exported through direct commercial sales. This is discussed in more detail later in the report.

⁴ (U) As of February 10, 2023, the Department of Defense (DoD) Office of Inspector General estimated that the United States has provided more than \$1.8 billion in defense articles to Ukraine that require enhanced EUM. See *Management Advisory: DoD Review and Update of Defense Articles Requiring Enhanced End-Use Monitoring* (DODIG-2023-74, May 19, 2023).

(U) OIG also found the Department provided interagency direction and leadership for the coordination of EUM and other safeguard activities for security assistance programs in Ukraine.

(U) OIG made 6 recommendations: 2 to the Bureau of International Narcotics and Law Enforcement Affairs, 2 to the Bureau of International Security and Nonproliferation, and 2 to Bureau of Political-Military Affairs. In its comments on the draft report, the Department concurred with all 6 recommendations. OIG considers all 6 recommendations resolved. The Department's response to each recommendation and OIG's reply can be found in the Recommendations section of this report. The Department's formal written responses are reprinted in their entirety in Appendix C.

(U) BACKGROUND

(U) At the time of OIG's review, the U.S. government had provided approximately \$30 billion⁵ in civilian and military security assistance to the government of Ukraine since Russia's full-scale invasion of Ukraine in February 2022, a more than tenfold increase over the \$2.7 billion delivered from 2014 to 2021. The Department has broad interagency policy responsibilities for the continuous supervision and general direction of exports of U.S.-origin defense articles and services, and the Department has EUM responsibility for a limited portion of such exports.

(U) U.S. law requires the establishment of a program for EUM of U.S.-origin defense articles and services sold, leased, or exported under the authority of the Arms Export Control Act or the Foreign Assistance Act of 1961.⁶ Additionally, U.S. law requires EUM for equipment provided to countries under international narcotics control and law enforcement foreign assistance authorities.⁷ The purpose of EUM programs is to improve accountability with respect to U.S.-origin defense articles and other assistance sold, leased, or exported under these authorities and to provide reasonable assurance that recipients use equipment for the purposes for which it was provided. EUM is also intended to detect and deter misuse of U.S.-origin defense articles and other equipment. Finally, EUM is important for protecting sensitive U.S. military and intelligence technologies from falling into the hands of adversaries. EUM can include scheduled inspections, physical inventories, general inquiries, and reviews of accountability records by the U.S. government.

(U) Three Department bureaus conduct EUM programs: the Bureau of International Narcotics and Law Enforcement Affairs (INL), the Bureau of International Security and Nonproliferation (ISN), and the Bureau of Political-Military Affairs (PM). At the time of this review, the Department was directly responsible for implementing approximately \$696 million in security

⁵ (U) As of February 24, 2023.

⁶ (U) See 22 U.S.C. § 2785(a).

⁷ (U) See 22 U.S.C. § 2291c(b).

assistance funded since the full-scale invasion of Ukraine in February 2022, of which approximately \$95.8 million included U.S.-origin defense articles and services subject to EUM. Additionally, PM approved exports of U.S.-origin defense articles and services through direct commercial sales totaling \$215.9 million since February 2022 that are also subject to EUM. Table 1, below, describes the value and number of items and export transactions subject to Department EUM in Ukraine since February 2022.

(U) Table 1: Value of Equipment Provided to Ukraine Since February 2022 Subject to Department End-Use Monitoring

U.S. Foreign Assistance	Number of Items	Total Value (\$ in thousands)
Bureau of International Narcotics and Law Enforcement Affairs ^a	130,819	\$90,375
Bureau of International Security and Nonproliferation ^b	2,006	\$5,441
Direct Commercial Sales (shipped)^c	Number of Licenses	Total Value (\$ in thousands)
Bureau of Political-Military Affairs (Blue Lantern) ^d	71	\$215,889
Total Value		\$311,705

^a (U) As of December 31, 2022.

^b (U) As of December 31, 2022.

^c (U) Data reflects only the value of licensed exports reported by U.S. Customs and Border Protection to PM and does not include licensed exports that have not yet shipped to Ukraine.

^d (SBU) As of March 14, 2023, some licenses contain various line items to describe the type of article or service licensed and the quantity approved for each line item. (b) (7)(E)

(U) Source: OIG adapted from information furnished by the Department for equipment provided or shipped since February 2022. These numbers do not include equipment provided or shipped prior to February 2022 that is still subject to EUM. All material in the table is Unclassified.

(U) Before U.S.-origin defense articles and services are exported or transferred to foreign entities, those entities must agree to requirements in U.S. law and regulation. Federal law⁸ requires that U.S.-origin defense articles and services furnished as military assistance be furnished solely for internal security and for legitimate self-defense. The U.S. government employs multiple types of agreements to ensure that conditions required by law and regulation are in place. These include arms transfer agreements, bilateral agreements, and acceptance documentation such as donation letters for transferred equipment. Recipients of all U.S.-origin defense articles and services must agree to:

- (U) Not retransfer equipment to third parties without first receiving written U.S. government authorization.

⁸ (U) See 22 U.S.C. § 2302.

- (U) Not dispose of or use the U.S.-origin defense articles for purposes other than those for which they were furnished without first receiving written U.S. government authorization.
- (U) Maintain the security of any item with substantially the same degree of protection afforded to it by the U.S. government.
- (U) Make items available for inspection for the operational life of the equipment, in cases where items are transferred to a foreign government via Foreign Military Sales (FMS) or security cooperation programs.

(U) In peacetime, the Department generally relies on U.S. embassy staff to monitor the use of U.S.-origin defense articles and services and other equipment through a variety of methods, including inspections, inventories, and accountability reviews. These checks are focused on confirming that the designated end users have maintained control of the equipment subject to EUM. However, security restrictions on in-country travel due to Russia's ongoing war against Ukraine significantly limited the ability of Department staff in Embassy Kyiv to conduct in-person EUM in 2022. Moreover, unlike at some other U.S. embassies in conflict settings, there is no U.S. military security presence in Ukraine to enable conducting EUM checks in non-permissive areas.⁹ Although improved security conditions at the time of OIG's review allowed for some in-person EUM inspections in certain areas of Ukraine, many items subject to EUM were inaccessible or near combat zones, and the military situation remained fluid as Russia continued missile and drone attacks against urban centers, including Kyiv.

(U) Department Roles and Responsibilities

(U) PM reviews all arms transfer requests for U.S.-origin defense articles and services¹⁰ to Ukraine, whether through government-to-government or commercial sales mechanisms. PM reviews arms transfer requests to ensure they are consistent with foreign policy and security interests, international agreements, and applicable laws and regulations. In addition, PM's Directorate of Defense Trade Controls administers a program known as Blue Lantern to conduct EUM for U.S.-origin defense articles and services exported through direct commercial sales. Direct commercial sales are sales of U.S.-origin defense articles or services made under a Department-issued license by U.S. industry directly to a foreign buyer.¹¹ Ukraine has purchased firearms, ammunition, ordnance, and other laser, imaging, or guidance equipment directly from U.S. suppliers. The Blue Lantern program includes various checks—pre-license, post-license/pre-shipment, post-shipment verification,¹² and foreign acquisition of foreign defense

⁹ (U) A non-permissive area is one in which uncertainty, instability, inaccessibility, or insecurity constrain the Department's ability to operate safely and effectively.

¹⁰ (U) Defense articles are those that are enumerated on the United States Munitions List (22 CFR § 121.1).

¹¹ (U) The Department of State is responsible for the export and temporary import of defense articles and services governed by 22 U.S.C. 2778 of the Arms Export Control Act (AECA) and Executive Order 13637. The International Traffic in Arms Regulations ("ITAR," 22 CFR 120-130) implements the AECA.

¹² (U) Post-shipment verifications are used to confirm that licensed U.S.-origin defense articles or services exported from the U.S. have been received by the end-user(s) named on the license; determine whether those goods have been and are being used in accordance with the provisions of that license; identify any parties involved in the transaction not listed on the license application; and inquire with end-users as to specific use and handling of the

entities.¹³ However, Blue Lantern checks are limited to transactions that are assessed by PM as having a higher risk of diversion and are typically conducted on less than 2 percent of worldwide annual defense article sales. In FY 2022, PM authorized more than 18,000 export requests worldwide and conducted 305 Blue Lantern checks.¹⁴ A sample lifecycle of a direct commercial sale subject to EUM is shown in Table 2, below.

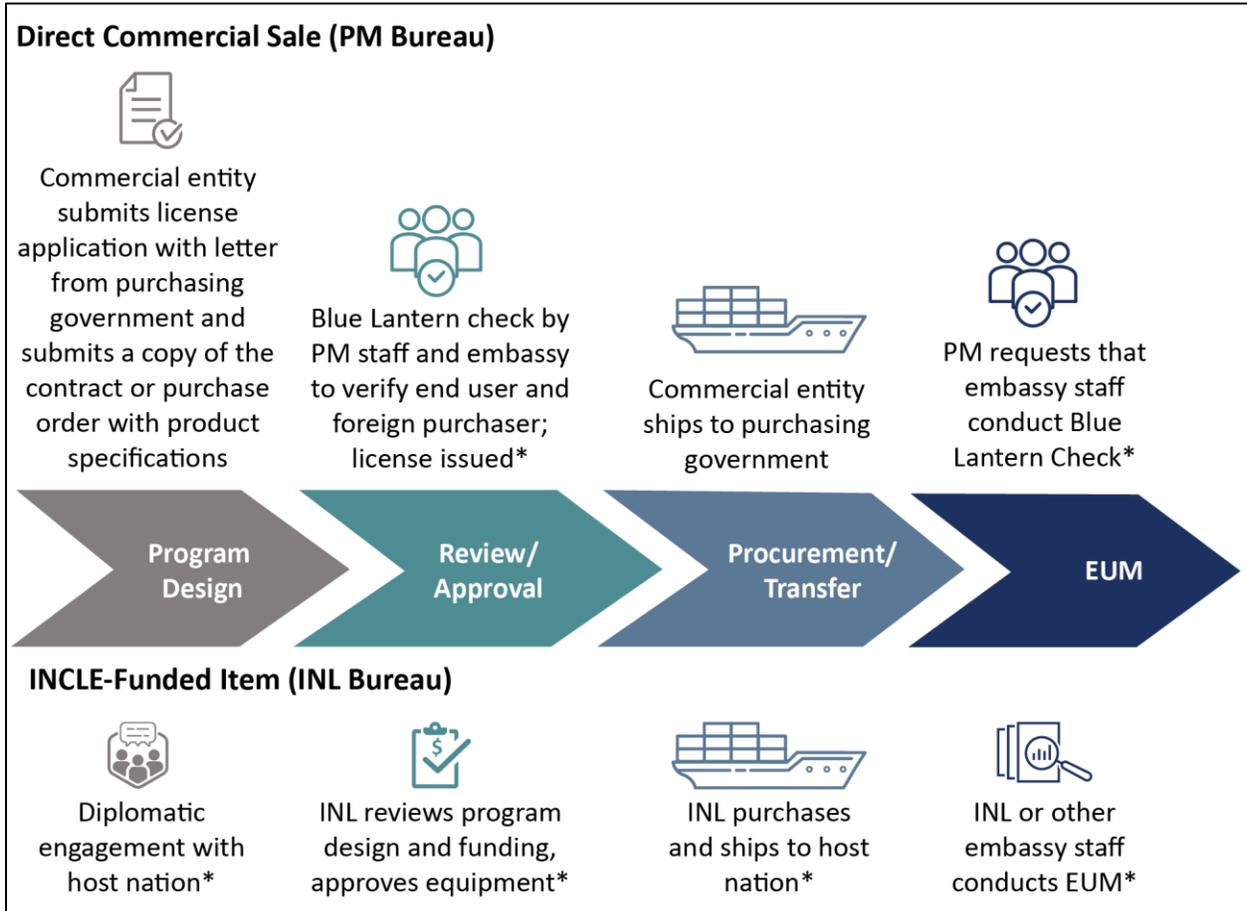
(U) INL provides civilian security assistance, primarily to Ukraine's State Border Guard Service and the National Police of Ukraine, through programs funded by the International Narcotics Control and Law Enforcement (INCLE) account. Such assistance primarily includes non-lethal items such as personal protective equipment and medical kits, communications gear, night vision and thermal devices, operational and patrol vehicles, modular buildings, and essential field supplies. As of the end of January 2023, approximately 26 percent of INL's assistance to Ukraine (in terms of number of items) was subject to EUM. Between February and December 2022, INL provided Ukraine \$90.4 million of assistance subject to EUM. An additional \$34.1 million in INL assistance delivered to Ukraine prior to February 2022 also was still subject to EUM. A sample lifecycle of an INCLE-funded item subject to EUM is shown in Table 2, below.

exported articles or other follow-up matters related to the transaction and compliance with U.S. regulations and laws.

¹³ (U) Blue Lantern checks of foreign acquisition of foreign defense entities analyze the management structure and security controls of foreign companies that may pose a risk of diversion due to their acquisition by another foreign entity.

¹⁴ (U) These checks, conducted in over 60 countries, included 74 pre-license checks, 190 post-shipment verifications, and 41 checks that involved both pre-license and post-shipment elements.

(U) Table 2: Sample Lifecycle of U.S.-Origin Equipment Subject to End-Use Monitoring



(U) Note: * Signifies U.S. government activity.

(U) Source: OIG adapted from information provided by the Department. All material in the table is Unclassified.

(SBU) ISN provides foreign assistance to Ukraine consisting of training and equipment for countering weapons of mass destruction; protecting against, mitigating, and responding to chemical, biological, radiological, nuclear, and explosive incidents; and enforcing export controls, sanctions, customs, and border security. According to ISN, the bureau provided approximately \$33 million in equipment to Ukraine in 2022, most of which was not subject to EUM.¹⁵ However, ISN, through its Office of Export Control Cooperation (ISN/ECC), provided Ukraine’s State Border Guard Service approximately 2,000 items in 2022 funded by the Nonproliferation, Anti-terrorism, Demining, and Related Programs account subject to existing or planned EUM requirements. These items had a combined value of approximately \$5.4 million and represented approximately 16 percent of the value of all equipment ISN provided to Ukraine in 2022. (b) (7)(F)

¹⁵ (U) According to ISN, the bureau required recipients of transferred equipment, regardless of whether the specific items are subject to EUM, to sign agreements acknowledging that the U.S. government reserves the right to use EUM to ensure that the provided equipment is accounted for and used for its intended purposes.

(U) Finally, although the three bureaus in Washington, DC set EUM policies and programs that determine which equipment to prioritize and what information to collect, they rely on embassy staff in the field to implement EUM activities.

(U) Standard Operating Procedures

(U) The Department does not have a uniform EUM policy applicable to all bureaus because management of the subject programs is decentralized. As described in 18 FAM 301.4-1, bureaus and independent offices are responsible for program design, a responsibility formally delegated by the Secretary to Assistant Secretaries. Therefore, each bureau establishes its own EUM standard operating procedures based on the purposes of their programs, the mechanisms for implementing them, the types of equipment provided, the recipients of the assistance, and their own risk analysis.

(U) INL's Standard Operating Policy/Procedure for EUM requires monitoring U.S.-origin defense articles, 600 series munitions and dual-use items,¹⁶ and other items valued at \$2,500 or greater. INL's EUM requirements are also codified in a letter of agreement between the United States and Ukraine signed in 2015. ISN/ECC's standard operating procedures require EUM for all transferred items with a value of \$3,000 or more. Finally, PM's EUM procedures, contained in its Blue Lantern Guidebook, describe the bureau's risk-based approach for selecting direct commercial sales transactions for EUM checks.¹⁷

(U) Bureau standard operating procedures generally require EUM to be performed in person by U.S. government personnel checking items against inventory lists based on serial numbers or other identification unless prevented by safety concerns.¹⁸ This form of monitoring is referred to as "primary EUM" in this report. However, the bureaus have introduced a range of alternative EUM practices in recent years in response to COVID-19 constraints, including virtual monitoring visits and third-party contract monitoring, or "secondary EUM," to perform EUM activities.

(U) The bureaus also vary in the scope of EUM conducted. For high-risk and high-value items, INL and ISN/ECC require a 100 percent check of the inventory on a regular basis. INL also conducts spot checks of lower-value items. In contrast, PM conducts post-shipment verification checks of only a small number of items subject to Blue Lantern EUM based on its risk analysis. Department EUM standards are described in Table 3, below.

¹⁶ (U) "600 series" refers to certain items on the Department of Commerce's Commerce Control List that do not necessitate the stricter controls required for items on the U.S. Munitions List (22 CFR § 121.1). Dual-use goods are items that have both commercial and military applications.

¹⁷ (U) PM selects commercial sales of U.S.-origin defense articles and services for Blue Lantern checks based on risk factors such as unfamiliar foreign parties, sensitivity of the technology involved in the transaction, conditions within the destination country, and unusual shipping patterns.

¹⁸ (U) ISN/ECC's Standard Operating Procedure for EUM does not specify the methods by which equipment is to be monitored and does not require primary EUM.

(U) Table 3: Department End-Use Monitoring Standards

Items	INL	ISN/ECC	PM (Blue Lantern)
Defense articles regulated under the International Traffic in Arms Regulations (ITAR)	100% annual inventory check until property is disposed/destroyed.		Annual sample selected based on risk analysis and available resources. Includes pre-shipment and post-shipment verifications.
600 series munitions	100% annual inventory check for the duration of its useful life.	100% annual inventory check for items valued at more than \$3,000 for at least 3 years; 10 years for items valued at \$25,000 or more.	Not applicable
Dual-use items			
Non-export-controlled equipment	100% annual inventory for items valued at \$2,500 or more or otherwise designated for EUM for the duration of its useful life. Annual spot inspections for items valued under \$2,500 not otherwise designated for EUM.		

(U) Source: OIG adapted from information provided by the Department. All material in the table is Unclassified.

(U) Department guidance states that in the event the U.S. government receives notification or becomes aware through its own monitoring of various sources of information of a suspected violation of the underlying agreement that supported the transfer of U.S.-origin defense articles and services, the Department is responsible for working to gather information to confirm the validity of the report, assess whether the activities described in the report constitute a violation of the agreement, and determine the actions the U.S. government will take to prevent such violations from happening again. Notifications of suspected violations of underlying agreements may arise from sources other than the EUM checks conducted by bureaus.

(U) Interagency End-Use Monitoring Programs

(U) Other federal agencies manage EUM programs that are distinct from those of the Department. The Department of Defense (DoD) and the Department share policy responsibilities under a variety of authorities for equipment provided to Ukraine. However, DoD is responsible for EUM for U.S.-origin defense articles and services for the security assistance programs it implements, even if executed with Department authorities, funding, or

concurrence.¹⁹ DoD conducts EUM through its Golden Sentry program, which is intended to hold partners accountable for the proper use, storage, and physical security of U.S.-origin DoD defense articles and services transferred by DoD government-to-government programs. For direct commercial sales, the Department of Commerce conducts EUM for certain dual-use exports of articles described in the Export Administration Regulations. Finally, although the Department also is responsible for approving retransfers or re-exports of U.S.-origin equipment, these may be monitored by the Department, DoD, or the Department of Commerce, depending on the underlying authorities related to the approval. The Department engages with these other agencies in their EUM programs consistent with its legal responsibilities to ensure supervision of arms exports.²⁰ EUM programs for the Department, DoD, and the Department of Commerce are shown in Table 4, below.

¹⁹ (U) Presidential Drawdown Authority authorizes the President to provide defense articles and services from DoD inventories to foreign countries and international organizations to respond to unforeseen emergencies where the emergency requirement cannot be met under the authority of the Arms Export Control Act or any other law. See 22 U.S.C. § 2318(a)(1). The Excess Defense Articles program is a mechanism through which DoD disposes of excess military equipment by providing it to allied and friendly nations through grants or sales. Foreign Military Financing provides allied and friendly nations with grants to assist them in acquiring U.S. defense equipment, services, and training. The program is intended, in part, to ensure that recipient nations improve their defense capabilities and foster closer military relationships with the United States. The Ukraine Security Assistance Initiative (USAI) is designed to develop Ukraine's combat capabilities to defend its sovereign territory and enhance interoperability with other military forces, such as those of North Atlantic Treaty Organization (NATO) member countries. The USAI assists Ukraine's security forces through activities including personnel training and support for intelligence, equipment, and logistics. Additionally, the USAI funds the replacement of weapons and other defense articles provided to Ukraine from the U.S. government's inventory. See P.L. 114-92, § 1250. DoD's foreign security forces authority to build capacity ("Section 333") authorizes DoD—with joint development, planning, and coordinated implementation between the Department and DoD, and with Secretary of State concurrence—to provide assistance to the national security forces of foreign countries to build the capacity to conduct: (1) counterterrorism operations; (2) counter-weapons of mass destruction operations; (3) counter-illicit drug trafficking operations; (4) counter-transnational organized crime operations; (5) maritime and border security operations; (6) military intelligence operations; and (7) operations or activities that contribute to an international coalition operation that is determined by the Secretary of Defense to be in the national interest of the United States. See 10 U.S.C. § 333(a),(b). Finally, Foreign Military Sales (FMS) is a government-to-government program through which the U.S. government sells conventional military weapons, equipment, and services to allied and friendly nations. See 22 U.S.C. § 2751. Although DoD's Defense Security Cooperation Agency is responsible for implementing individual FMS programs, the Department first reviews and approves them.

²⁰ (U) The U.S. Department of State's Bureau of Political-Military Affairs oversees most government-to-government arms transfers and commercial export licensing of U.S.-origin defense equipment and technologies, consistent with the Arms Export Control Act, the Conventional Arms Transfer Policy, the Foreign Assistance Act of 1961, the International Traffic in Arms Regulations, and other statutory authorities and relevant international agreements.

(U) Table 4: Interagency End-Use Monitoring Programs

		Program/Account	Funding Source	Authority	Implementation	EUM Responsibility	
Security Assistance	Civilian Security Assistance	• International Narcotics Control and Law Enforcement (INCLE)	State	State	State (INL)	State (INL)	
		• Nonproliferation, Anti-terrorism, Demining and Related programs (NADR)	State	State	State (ISN)	State (ISN)	
	Military Assistance	• Foreign Military Financing (FMF) *	State	State	DoD	DoD (Golden Sentry) (includes “enhanced EUM” for certain items)	
		• Ukraine Security Assistance Initiative (USAI) • Section 333 programs	DoD	DoD (w/State concurrence)			
		• Presidential Drawdown Authority (PDA) • Excess Defense Articles (EDA)	DoD stocks	State			
Other Transfers of US Origin Equipment	• Foreign Military Sales (FMS)	Other country purchaser	State	Private company			State (PM) (Blue Lantern) Commerce
	• Direct Commercial Sales (DCS)	Other country or commercial purchaser	State license (U.S. Munitions List) Commerce license (Commerce Control List)				
	• Third Country Transfers of US origin equipment	Other country stocks	State approval	n/a	State, DoD, or Commerce: Depends on original transfer agreements		

(U) Note: * A limited number of countries are authorized to use FMF for direct commercial sales.

(U) Source: OIG adapted from information provided by the Department. All material in the table is Unclassified.

(U) Other Safeguard Processes

(U) EUM is only one element in broader efforts to safeguard security assistance and U.S.-origin equipment transfers. For example, the Department led development and now coordinates implementation of the *U.S. Plan to Counter Illicit Diversion of Certain Advanced Conventional Weapons in Eastern Europe*.²¹ As part of this plan, the Department provides assistance to bolster capabilities to safeguard advanced conventional weapons, support law enforcement and justice sectors, and build interdiction capabilities in bordering countries. The Department also leads the Man-Portable Air-Defense Systems (MANPADS) Task Force, which, following Russia’s February 2022 full-scale invasion, largely focused its regular meetings on mitigating the risks of weapons diversion in Ukraine.²² Other safeguard processes include licensing for entities involved in exports of U.S.-origin defense articles and services via direct commercial sales under the International Traffic in Arms Regulations, diplomatic engagement with foreign counterparts, interagency engagement to consider risks such as technology transfer and excess stockpiling in

²¹ (U) Department of State, *U.S. Plan to Counter Illicit Diversion of Certain Advanced Conventional Weapons in Eastern Europe - United States Department of State*, October 27, 2022, <https://www.state.gov/u-s-plan-to-counter-illicit-diversion-of-certain-advanced-conventional-weapons-in-eastern-europe/>.

²² (U) The MANPADS Task Force was founded in 2006 to mitigate the threat posed by the proliferation of MANPADS around the world in part through conducting programs and coordinating efforts within the U.S. government and with partner nations and international organizations. PM’s Office of Weapons Removal and Abatement leads the task force; members include experts from the interagency community.

arms transfer decisions, and Leahy vetting of units receiving U.S. security assistance.²³ According to Department officials and based on OIG’s review of documentation, related risks of conflict escalation in the Ukraine context are addressed through diplomatic engagement with Ukrainian officials and policy decision-making processes about what U.S. equipment is provided to Ukraine.

(U) FINDINGS

(U) End-Use Monitoring Implementation

(U) OIG assessed EUM implementation through a review of the processes and procedures that INL, ISN/ECC, and PM implemented following Russia’s February 2022 full-scale invasion of Ukraine; interviews with Department and interagency staff; review of records; and analysis of data furnished by Department bureaus. As detailed below, OIG determined that EUM implementation was occurring in limited form and with modifications, although standard operating procedures had not been updated to address a non-permissive environment nor had alternatives been evaluated. OIG also identified several ongoing challenges to conducting EUM in Ukraine, as described below.

(U) Bureaus Encountered Operational Challenges in Several Areas

(SBU) OIG identified several operating challenges that affected the Department’s ability to carry out its EUM programs. First, security restrictions limited the ability of staff to work and travel in Ukraine. (b) (7)(F)

[REDACTED]

(SBU) Second, the Department limited Embassy Kyiv’s direct-hire staffing for security reasons, limiting staff assigned to EUM duties which inhibited the ability of staff to carry out EUM checks. Locally employed staff with EUM duties were displaced by the conflict, further limiting embassy capacity to carry out EUM checks. (b) (7)(F)

[REDACTED]

According to Embassy Kyiv, staffing caps limited PM’s ability to conduct Blue Lantern checks.

²³ (U) The Leahy Amendment to the Foreign Assistance Act of 1961 prohibits the United States from furnishing certain assistance to a unit of a foreign security force if the Department has credible information that the unit has committed a gross violation of human rights. See 22 U.S.C. § 2378d and 9 FAM 303.8-5(B). Leahy vetting is the process of determining if the Department has credible information that units or individuals proposed to benefit from certain assistance have committed a gross violation of human rights. The Department helps implement a similar law applicable to “amounts made available to the Department of Defense” for assistance to foreign security forces. See 10 U.S.C. § 362. The Leahy Amendment does not apply to direct commercial sales.

²⁴ (SBU) (b) (7)(F)

(U) Department Resumed Limited End-Use Monitoring Checks in Ukraine

(SBU) INL and PM reported to OIG that staff in Embassy Kyiv resumed limited EUM checks in Ukraine by the end of 2022 after suspending activity from February to December 2022. For example, Embassy Kyiv's INL Section completed primary EUM checks in December 2022 for 24 percent of the 10,976 items of INL assistance subject to EUM in 2022 and used secondary EUM processes to check an additional 2.82 percent of items.²⁵ However, at the time of OIG's review, INL had yet to conduct EUM checks on 130,819 additional items delivered since February 2022. INL's standard operating procedures require development of an annual EUM report for equipment delivered in the previous calendar year and, therefore, equipment delivered in 2022 was not included in INL's EUM checks. The bureau told OIG it would include these items in its 2023 annual EUM report. (b) (7)(E)

PM reported also conducting some secondary checks, including by Ukrainian officials and in conjunction with other agencies. ISN/ECC reported that it had not conducted primary EUM in Ukraine since February 2022, but had received information documenting the status of approximately \$1.7 million of transferred equipment subject to EUM requirements through end-user self-reporting, a type of secondary EUM. This self-reporting included photographs of equipment and forms completed by Ukrainian counterparts.

(U) Department Lacked Processes for Developing and Updating Appropriate Standards for End-Use Monitoring in Non-Permissive Operating Conditions

(U) OIG found that Department bureaus lacked processes for developing and updating their EUM standard operating procedures in non-permissive operating conditions. As a result, the bureaus had not issued formal guidance for conducting EUM under the restrictive security and staffing conditions in Ukraine. OIG identified two primary areas where the lack of updated guidance created challenges. First, program managers lacked clear guidance on how to prioritize EUM checks based on risk. For example, INL staff could not conduct 100 percent in-person checks of U.S.-origin defense articles and services, as required by bureau standard operating procedures, but as of February 2023, did not have guidance as to what alternative level of EUM checks would be appropriate under the circumstances. Second, the lack of formal guidance on the use of secondary EUM procedures created risks that bureaus could adopt ineffective approaches. Building on approaches used during the COVID-19 pandemic, the bureaus adapted their EUM processes on the ground to incorporate secondary EUM procedures in Ukraine.²⁷ However, OIG found that none of the bureaus formally updated their standard operating procedures to reflect the use of secondary EUM procedures in Ukraine.²⁸

²⁵ (U) Items reported on by secondary means included those reported by Ukrainian officials to be destroyed, damaged, or lost.

²⁶ (SBU) (b) (7)(E)

²⁷ (U) In lieu of in-person checks performed by Department employees, bureaus relied on secondary monitoring, including virtual checks, data received from Ukrainians, and data from interagency partners.

²⁸ (U) PM's EUM standard operating procedures require in-person monitoring. ISN/ECC's standard operating procedures do not specify whether monitoring activities should be conducted in-person. INL's standard operating

Department employees told OIG that policy guidance was clear on accepting risks associated with their inability to conduct primary EUM. Nonetheless, bureaus had not formally identified, evaluated, and mitigated potential risks associated with secondary EUM procedures in their standard operating procedures.

(U) Department risk management standards²⁹ require systematic, timely, and transparent adjustments to processes as conditions change. The Government Accountability Office's *Standards for Internal Control in the Federal Government*,³⁰ Section 4, OV4.08 and Principle 12.05, call for management to document the organization's internal controls in policies and periodically review policies for continuing relevance and effectiveness. Finally, 2 FAM 032.4b requires Department leadership to set guidelines for risk tolerance and communicate these clearly to staff.

(U) Bureaus told OIG they did not update their global standard operating procedures to address non-permissive conditions because they believed that country-specific conditions varied too widely to make such updates practical. Furthermore, they said that wartime circumstances required them to rely on secondary EUM as a temporary measure that they expected to use only for an interim period.

(U) Without formal guidance on EUM in a wartime environment, Department personnel do not have clear instructions on acceptable levels of risk and how to provide reasonable assurance that U.S.-origin defense articles and other equipment subject to EUM are being used for the purposes provided.

Recommendation 1: (U) The Bureau of International Narcotics and Law Enforcement Affairs should develop and implement new end-use monitoring standard operating procedures, or update existing procedures, for use in non-permissive conditions. The bureau should consult with the Bureau of Political-Military Affairs and the Bureau of International Security and Nonproliferation and, as practicable, seek to adopt common approaches where there are common items provided or recipients. (Action: INL)

Recommendation 2: (U) The Bureau of International Security and Nonproliferation should develop and implement new end-use monitoring standard operating procedures, or update existing procedures, for use in non-permissive conditions. The bureau should consult with the Bureau of Political-Military Affairs and the Bureau of International Narcotics and Law Enforcement Affairs and, as practicable, seek to adopt common approaches where there are common items provided or recipients. (Action: ISN)

procedures specify processes for secondary monitoring, but do not specify when secondary monitoring is appropriate and how many items must be subject to EUM.

²⁹ (U) See 2 FAM 031c.

³⁰ (U) Government Accountability Office, *Standards for Internal Control in the Federal Government*, pages 19-20, 56-57 (GAO-14-704G, September 2014).

Recommendation 3: (U) The Bureau of Political-Military Affairs should develop and implement new end-use monitoring standard operating procedures, or update existing procedures, for use in non-permissive conditions. The bureau should consult with the Bureau of International Narcotics and Law Enforcement Affairs and the Bureau of International Security and Nonproliferation and, as practicable, seek to adopt common approaches where there are common items provided or recipients. (Action: PM)

(U) Bureaus Developed End-Use Monitoring Pilots for Ukraine But Did Not Plan to Formally Evaluate the Results

(U) OIG found that INL and PM were developing pilots to conduct secondary EUM but did not plan to formally evaluate these pilots to determine whether they met their intended objectives. At the time of OIG's review, ISN was not developing any pilots for new EUM mechanisms or procedures. Guidance in 18 FAM 301.4-1(B) defines pilots as any new, untested approaches that are implemented to learn of their potential feasibility and effectiveness because they are anticipated to be replicated or expanded. Furthermore, 18 FAM 301.4-4b states that pilots should be evaluated before they are replicated or expanded.

~~(SBU)~~ Specifically, INL and PM were considering or implementing secondary EUM checks to enhance monitoring, (b) (5)

[REDACTED]

(b) (7)(F)

[REDACTED]

[REDACTED] (b) (5)

[REDACTED] Separately, INL was reviewing the possibility of providing new scanner technology to Ukrainian police and border security units to enable secondary EUM with assistance from Ukrainian counterparts, in addition to the secondary EUM checks it already used. However, despite the use of pilots involving secondary EUM checks, at the time of OIG's review, neither bureau had planned to conduct formal evaluations of these pilots, as required in 18 FAM 301.4-4b, due to time and workload constraints. In the context of Ukraine, evaluations could be used to assess the technical and logistical capacity of Ukrainian government agencies to monitor and account for U.S. equipment. Additionally, evaluations could improve understanding of the advantages and limitations of different secondary EUM approaches, such as use of third-party contractors and technology-assisted monitoring.

(U) Evaluations are essential tools to improve program effectiveness and inform future decisions. Preparing and disseminating evaluations helps agencies and their implementing partners assess program results, adjust program design, and make evidence-based decisions about the use of resources; dissemination through formal evaluation registries allows for sharing of best practices. Without evaluations of the pilots for alternative EUM procedures, the Department risks adopting ineffective secondary EUM procedures, incurring unnecessary costs, and not capturing performance information needed to understand whether such procedures are meeting program objectives.

Recommendation 4: (U) The Bureau of Political-Military Affairs should plan and conduct an evaluation of alternative end-use monitoring procedure pilots in Ukraine. (Action: PM)

Recommendation 5: (U) The Bureau of International Narcotics and Law Enforcement Affairs should plan and conduct an evaluation of alternative end-use monitoring procedure pilots in Ukraine. (Action: INL)

Recommendation 6: (U) The Bureau of International Security and Nonproliferation should determine whether to test alternative end-use monitoring procedure pilots in Ukraine and, if so, conduct an evaluation of them. (Action: ISN)

(U) Department Coordination of End-Use Monitoring Activities and Safeguards

(U) OIG assessed the Department's efforts to coordinate its EUM activities and other safeguards in Ukraine. OIG found that INL, ISN, and PM had pre-existing mechanisms, or created new ones, when necessary, to deconflict their assistance programs both within the Department and with interagency partners.³¹ Additionally, OIG found the Department was fulfilling its responsibility to lead interagency planning efforts to provide future safeguards for security assistance to Ukraine. These efforts are discussed in more detail below.

(U) Department Coordinated Internally and With Interagency Partners to Deconflict Assistance and Implement Oversight Mechanisms

(U) OIG found that INL, ISN, and PM coordinated with each other and with the interagency community to oversee equipment transferred to Ukraine in accordance with Department standards. Guidance in 3 FAM 1214b(7) states that staff should establish constructive working relationships and share best practices, quality procedures, and innovative ideas to eliminate redundancies and reduce costs. To assess this coordination, OIG conducted interviews with Department and other agency staff, observed interagency working group discussions, and reviewed implementation plans and other written source materials.

~~(SBU)~~ All three bureaus reported they shared logistics for transferring equipment to Ukraine and monitoring it on arrival. (b) (7)(F)

[REDACTED]

[REDACTED] Department staff said that although PM had collaborated previously with DoD in support of their respective EUM efforts, this exercise represented the first time PM and EXBS program staff worked together on EUM-related activities in a significant way. OIG also observed that bureaus were discussing current and potential EUM approaches to share information.

³¹ (U) For further discussion of U.S. foreign assistance coordination in Ukraine, see OIG, *Review of Ukraine Foreign Assistance Coordination and Oversight* (ISP-I-23-18, July 2023).

(SBU) Similarly, OIG found the Department collaborated with interagency partners to monitor transferred equipment. (b) (7)(E)

The bureau also said it coordinated with other agencies to ensure that its assistance was both compatible with and complementary to other support provided to Ukraine.³² In addition, INL reported that it was entering into an interagency agreement with the Department of Justice's International Criminal Investigative Training Assistance Program to allow the program's contractors to perform EUM in certain areas of Ukraine where Department staff were unable to visit. Staff with an ISN program office told OIG that the office was considering joining INL in using that mechanism to further its own monitoring efforts.

(SBU) The Department's previously established EUM coordination mechanisms also assisted efforts to oversee equipment transferred to Ukraine. For example, PM reported that its regular processes included collaborating with DoD to determine the types of technology allowed to be transferred to other countries and sharing with the Department of Commerce a watchlist used to screen export license applications for diversion-related concerns. (b) (7)(F)

In September 2022, INL also conducted a visit to Poland to observe the delivery process of donated equipment, ensure compliance with the established EUM policies in procedures, and provide training to INL Ukraine EUM personnel. Additionally, INL met with the Defense Security Cooperation Agency to observe its scanner training conducted for Ukrainian partners.

(U) Department Developed Mechanisms to Safeguard Future Interagency Security Assistance Activities in Ukraine

(U) OIG found the Department developed mechanisms to safeguard future interagency security assistance activities in Ukraine in accordance with its responsibilities in 1 FAM 013 to provide direction and leadership to other U.S. government foreign affairs agencies. For example, the Department and the National Security Council maximized use of the PM-led interagency MANPADS Task Force. Following Russia's full-scale invasion in February 2022, OIG observed that the task force largely focused its regular meetings on mitigating the risks of weapons diversion in Ukraine. According to PM, the task force worked with ISN to conduct MANPADS recognition trainings with customs and border agents from a variety of countries. Additionally, Bureau of European and Eurasian Affairs staff indicated that the task force was creating an interagency system to collect and track cases of potential weapons diversion.

³² (U) According to ISN, the bureau's interagency coordination partners included DoD, USAID, the Department of Energy's National Nuclear Security Administration, the Nuclear Regulatory Commission, and the National Security Council.

(U) Similarly, the National Security Council tasked the MANPADS Task Force to lead interagency development and coordinate implementation of the *U.S. Plan to Counter Illicit Diversion of Certain Advanced Conventional Weapons in Eastern Europe*, in part to account for the inability to conduct traditional EUM in active war zones such as Ukraine. Through the plan, the interagency community devised a whole-of-government effort intended to strengthen the capacity of regional security forces in three primary areas: accounting for and safeguarding arms and ammunition, managing and securing borders, and countering illicit weapons trafficking. The plan set specific tasks in each of the three primary areas, with tasks separated by intended phase.³³ To implement the plan, PM maintained a spreadsheet to track applicable interagency actions and trainings, with each activity categorized by its lead agency, completion status, and the relevant primary line of effort as described in the plan. Through these planning and coordinating efforts, the Department seeks to reduce the risks to future security assistance to Ukraine.

(U) CONCLUDING OBSERVATIONS

(U) Overall, OIG found that the security restrictions due to the non-permissive environment in Ukraine and the accompanying staffing constraints significantly limited Embassy Kyiv's ability to conduct primary EUM. The Department bureaus responsible for Department EUM programs in Ukraine have therefore relied on secondary EUM checks, including by the Ukrainian government, to assist directly and indirectly with EUM. OIG observed that these limitations will continue until the security situation improves, allowing greater freedom of movement and the ability to support more staff working from Embassy Kyiv.

(U) OIG also found that the bureaus did not have standard operating procedures for its own EUM programs in non-permissive conditions that would govern how to identify, evaluate, and mitigate potential risks. As a result, Department personnel did not have clear instructions on acceptable levels of risk, guidance on preferred or allowable methods of secondary EUM, or how to provide reasonable assurance that U.S.-origin defense articles and other equipment subject to EUM were being used for the purposes provided. OIG also found that although bureaus were developing or implementing pilots for new secondary EUM procedures, none had designed formal evaluations for these pilots to assess the effectiveness and utility of these new procedures.

(U) Finally, OIG determined that the Department provided interagency direction and leadership for the coordination of EUM and other activities intended to safeguard security assistance programs in Ukraine. This included the development of the *U.S. Plan to Counter Illicit Diversion of Certain Advanced Conventional Weapons in Eastern Europe*. OIG will conduct future work to review the implementation of this plan by the Department.

³³ (U) The plan divides its activities into three phases, as conditions allow: the near-term (for actions through FY 2023), the medium-term (for actions through FY 2024), and the long-term (for actions beyond FY 2024).

(U) RECOMMENDATIONS

(U) OIG provided a draft of this report to Department stakeholders for their review and comment on the findings and recommendations. OIG issued the following recommendations to the Bureau of International Narcotics and Law Enforcement Affairs, the Bureau of International Security and Nonproliferation, and the Bureau of Political-Military Affairs. The Department's complete responses can be found in Appendix B. The Department also provided technical comments that were incorporated into the report, as appropriate.

Recommendation 1: (U) The Bureau of International Narcotics and Law Enforcement Affairs should develop and implement new end-use monitoring standard operating procedures, or update existing procedures, for use in non-permissive conditions. The bureau should consult with the Bureau of Political-Military Affairs and the Bureau of International Security and Nonproliferation and, as practicable, seek to adopt common approaches where there are common items provided or recipients. (Action: INL)

Management Response: (U) In its October 11, 2023, response, the Bureau of International Narcotics and Law Enforcement Affairs concurred with this recommendation. The bureau estimated completion by the end of October 2023.

OIG Reply: (U) OIG considers the recommendation resolved. The recommendation can be closed when OIG receives and accepts documentation of the following: (1) the Bureau of International Narcotics and Law Enforcement Affairs updated existing procedures for use in non-permissive conditions, and (2) the bureau consulted with the Bureau of Political-Military Affairs and the Bureau of International Security and Nonproliferation and sought to adopt common approaches where there are common items provided or recipients.

Recommendation 2: (U) The Bureau of International Security and Nonproliferation should develop and implement new end-use monitoring standard operating procedures, or update existing procedures, for use in non-permissive conditions. The bureau should consult with the Bureau of Political-Military Affairs and the Bureau of International Narcotics and Law Enforcement Affairs and, as practicable, seek to adopt common approaches where there are common items provided or recipients. (Action: ISN)

Management Response: (U) In its October 3, 2023, response, the Bureau of International Security and Nonproliferation concurred with this recommendation. The bureau noted an estimated completion date of October 2023.

OIG Reply: (U) OIG considers the recommendation resolved. The recommendation can be closed when OIG receives and accepts documentation of the following: (1) the Bureau of International Security and Nonproliferation implemented new end-use monitoring standard operating procedures for use in non-permissive conditions, and (2) the bureau consulted with the Bureau of International Narcotics and Law Enforcement Affairs and the Bureau of Political-

Military Affairs and sought to adopt common approaches where there are common items provided or recipients.

Recommendation 3: (U) The Bureau of Political-Military Affairs should develop and implement new end-use monitoring standard operating procedures, or update existing procedures, for use in non-permissive conditions. The bureau should consult with the Bureau of International Narcotics and Law Enforcement Affairs and the Bureau of International Security and Nonproliferation and, as practicable, seek to adopt common approaches where there are common items provided or recipients. (Action: PM)

Management Response: (U) In its September 21, 2023, response, the Bureau of Political-Military Affairs concurred with this recommendation.

OIG Reply: (U) OIG considers the recommendation resolved. The recommendation can be closed when OIG receives and accepts documentation of the following: (1) the Bureau of Political-Military Affairs updated existing procedures for use in non-permissive conditions, and (2) the bureau consulted with the Bureau of International Narcotics and Law Enforcement Affairs and the Bureau of International Security and Nonproliferation and sought to adopt common approaches where there are common items provided or recipients.

Recommendation 4: (U) The Bureau of Political-Military Affairs should plan and conduct an evaluation of alternative end-use monitoring procedure pilots in Ukraine. (Action: PM)

Management Response: (U) In its September 21, 2023, response, the Bureau of Political-Military Affairs concurred with this recommendation.

OIG Reply: (U) OIG considers the recommendation resolved. The recommendation can be closed when OIG receives and accepts documentation that the Bureau of Political-Military Affairs planned and conducted an evaluation of alternative end-use monitoring procedure pilots in Ukraine.

Recommendation 5: (U) The Bureau of International Narcotics and Law Enforcement Affairs should plan and conduct an evaluation of alternative end-use monitoring procedure pilots in Ukraine. (Action: INL)

Management Response: (U) In its October 11, 2023, response, the Bureau of International Narcotics and Law Enforcement Affairs concurred with this recommendation.

OIG Reply: (U) OIG considers the recommendation resolved. The recommendation can be closed when OIG receives and accepts documentation that the Bureau of International Narcotics and Law Enforcement Affairs planned and conducted an evaluation of alternative end-use monitoring procedure pilots in Ukraine.

Recommendation 6: (U) The Bureau of International Security and Nonproliferation should determine whether to test alternative end-use monitoring procedure pilots in Ukraine and, if so, conduct an evaluation of them. (Action: ISN)

Management Response: (U) In its October 3, 2023, response, the Bureau of International Security and Nonproliferation concurred with this recommendation. The bureau estimated completion by the third quarter of FY 2024.

OIG Reply: (U) OIG considers the recommendation resolved. The recommendation can be closed when OIG receives and accepts documentation that the Bureau of International Security and Nonproliferation tested and evaluated alternative end-use monitoring procedure pilots in Ukraine.

(U) APPENDIX A: OBJECTIVES, SCOPE, AND METHODOLOGY

(U) This review was conducted from October 17, 2022, to April 14, 2023, in accordance with the Quality Standards for Inspection and Evaluation, as issued in 2020 by the Council of the Inspectors General on Integrity and Efficiency, and the Inspections Handbook, as issued by the Office of Inspector General (OIG) for the Department and the U.S. Agency for Global Media (USAGM).

(U) The Office of Inspections provides the Secretary of State, the Chief Executive Officer of USAGM, and Congress with systematic and independent evaluations of the operations of the Department and USAGM. Consistent with Section 209 of the Foreign Service Act of 1980, OIG's specific objectives were to determine whether the Department was:

- (1) (U) Implementing the required end-use monitoring (EUM) for security assistance programs in Ukraine and appropriately developing any new procedures in response to challenges affecting the Department's ability to safeguard such equipment.
- (2) (U) Coordinating EUM and other safeguard activities in accordance with its responsibilities in 1 Foreign Affairs Manual (FAM) 013 to provide direction and leadership to other U.S. government foreign affairs agencies.

(U) OIG reviewed policies, programs, and activities related to EUM of security assistance provided to Ukraine by the Department of State in FY 2022.

(U) OIG conducted the review primarily through in-person interviews with Department and other personnel. OIG also reviewed pertinent records; circulated data calls and compiled the results; and reviewed the substance of this report and its findings and recommendations with offices, individuals, and organizations affected by the review. OIG used professional judgment and analyzed physical, documentary, and testimonial evidence to develop its findings, conclusions, and actionable recommendations.

(U) Laura Hall (Team Leader), Colleen Ayers (Team Manager), Eric Carlson, John Finkbeiner, Laura Hettinger, Pamela Kazi, John Lightner, and Daniel Tessler conducted this review. Other report contributors include Leslie Gerson, Caroline Mangelsdorf, and Patricia Stewart.

(U) APPENDIX B: RELATED OVERSIGHT REPORTING

(U) This report was conducted consistent with the [Joint Strategic Oversight Plan for Ukraine](#) Response and subsequent [report](#) to Congress on joint oversight released in March 2023 by the Inspectors General of the Departments of State, Defense (DoD), and the U.S. Agency for International Development. This report contains summaries of ongoing and completed Ukraine oversight related to EUM. In addition, OIG and other oversight organizations have published audits, inspections, and evaluations that address EUM issues in other countries.

(U) Related Ukraine Oversight Work Includes:

- (U) State OIG, *Review of Embassy Kyiv's Operating Status* (classified report) (Completed).
- (U) State OIG, *Review of Ukraine Foreign Assistance Coordination and Oversight* (ISP-I-23-18, July 2023).
- (U) DoD OIG, *Evaluation of the DoD's Accountability of Equipment Provided to Ukraine* (classified report) (Completed).
- (U) State OIG, *Audit of the Bureau of International Security and Nonproliferation's Assistance to Ukraine* (Ongoing).
- (U) Government Accountability Office (GAO), *Military Aid to Ukraine* (Ongoing).
- (U) DoD OIG, *Evaluation of DoD End-Use Monitoring and Enhanced End-Use Monitoring of Equipment Provided to Ukraine* (Ongoing).

(U) Related Oversight Reporting on Security Assistance and End-Use Monitoring:

- (U) GAO, *Northern Triangle: DoD and State Need Improved Policies to Address Equipment Misuse*, November 2022.
- (U) GAO, *Export Control: State Needs to Improve Compliance Data to Enhance Oversight of Defense Services*, September 2022.
- (U) GAO, *Yemen: State and DoD Need Better Information on Civilian Impacts of U.S. Military Support to Saudi Arabia and the United Arab Emirates*, June 2022.
- (U) Department of Commerce OIG, *Lack of Defined Processes and Procedures Impede Efforts to Monitor End-Use Check Performance Final Report*, March 2020.
- (U) DoD OIG, *Evaluation of Department of Defense Enhanced End-Use Monitoring for Equipment Transferred to the Government of Ukraine*, September 2020.
- (U) State OIG, *Audit of Department of State Directorate of Defense Trade Controls Export Licensing Processes*, February 2019.
- (U) GAO, *Iraq: DoD Needs to Improve Visibility and Accountability Over Equipment Provided to Iraq's Security Forces*, May 2017.
- (U) GAO, *Security Assistance: Guidance Needed for Completing Required Impact Assessments Prior to Presidential Drawdowns*, October 2016.

(U) Unclassified reports are available at www.oversight.gov or www.gao.gov.

(U) APPENDIX C: MANAGEMENT RESPONSES



United States Department of State

Washington, DC 20520

21 September 2023

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TO: OIG – Arne Baker, Acting Assistant Inspector General for Inspections

FROM: PM – Assistant Secretary Jessica Lewis

SUBJECT: Response to Draft OIG Report – Review of Department of State End-Use Monitoring in Ukraine

The Bureau of Political-Military Affairs has reviewed the draft OIG inspection report. We provide the following comments in response to the recommendations provided by OIG:

OIG Recommendation 3: (U) The Bureau of Political-Military Affairs should develop and implement new end-use monitoring standard operating procedures, or update existing procedures, for use in non-permissive conditions. The bureau should consult with the Bureau of International Narcotics and Law Enforcement and the Bureau of International Security and Nonproliferation and, as practicable, seek to adopt common approaches where there are common items provided or recipients. (Action: PM)

Management Response: PM concurs with this recommendation. While recognizing that the Blue Lantern end-use monitoring program was designed for peacetime environments, DDTC is working with Embassy Kyiv to develop best practices and lessons learned that can be adapted and employed in future non-permissive conditions. DDTC will incorporate these practices as an addendum to its Blue Lantern Standard Operating Procedure in anticipation that the conduct of EUM in conflict zones continues to be necessary in the future. DDTC will meet with INL and ISN, per this recommendation, to determine if there are new best practices to learn from for new exports to common recipients in Ukraine.

OIG Recommendation 4: (U) The Bureau of Political-Military Affairs should plan and conduct an evaluation of alternative end-use monitoring procedure pilots in Ukraine. (Action: PM)

Management Response: PM concurs with this recommendation. DDTC, in conjunction with Post, is consistently evaluating EUM in Ukraine and adapting our approach, as necessary. DDTC

shares this information with partner agencies to allow them to learn from our experience and is using it to develop an addendum to the Blue Lantern Standard Operating Procedure in anticipation that the conduct of EUM in conflict zones continues to be necessary in the future.

The DDTC Point of contact for this response is Richard Koelling, PM/DTCP.

Approved: PM A/S Jessica Lewis



United States Department of State
*Bureau of International Security and
Nonproliferation*
Washington, D.C. 20520

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MEMORANDUM

October 3, 2023

TO: OIG – Arne Baker, Acting Assistant Inspector General for
 Inspections

FROM: ISN – C.S. Eliot Kang

SUBJECT: Response to Draft OIG Report – Review of Department of State
 End-Use Monitoring in Ukraine

(U) The Bureau of International Security and Nonproliferation (ISN) has reviewed the draft OIG inspection report on end-use monitoring. We appreciate the efforts of OIG to help us identify improvements we can make to our programmatic end-use monitoring practices in a non-permissive environment.

(U) We have consulted with the Bureau of Political-Military Affairs, the Bureau of International Narcotics and Law Enforcement Affairs and Embassy Kyiv on this response.

(U) We provide the following responses to the (2) recommendations directed at ISN in the OIG report:

(U) OIG Recommendation 2: The Bureau of International Security and Nonproliferation should develop and implement new end-use monitoring standard operating procedures, or update existing procedures, for use in non-permissive conditions. The bureau should consult with the Bureau of Political-Military Affairs and the Bureau of International Narcotics and Law

Enforcement Affairs and, as practicable, seek to adopt common approaches where there are common items provided or recipients. (Action: ISN)

(U) Management Response: ISN concurs with this recommendation.

(U) ISN/ECC is currently developing standard operating procedures (SOPs) for end-use monitoring in Ukraine in coordination with INL.

(U) Under this new SOP, ISN/ECC will determine which items require what type of end-use monitoring (EUM) using a risk-based approach that balances the technology proliferation and potential diversion risk of individual items with the security risks and limitations entailed in monitoring them. The specific EUM methods, tools, and mechanisms are still being developed in coordination with INL but may include various forms of secondary monitoring by partners (such as remote inspections, partner reporting, etc.), potential third-party monitoring efforts, and well as target direct in-person EUM by USG personnel in limited cases. This SOP covers ISN/ECC programmatic EUM procedures and requirements and does not impact any additional EUM procedures or requirements by other offices or agencies stemming from export licensing or other requirements related to specific pieces of ISN/ECC-donated equipment (e.g., Blue Lantern checks, etc.).

(U) ISN/ECC expects to complete the draft SOP for Ukraine in October 2023. ECC will complete the EUM review of equipment already provided to Ukraine using the new EUM methodology by the end of Calendar Year 2023. In Ukraine, ECC will regularly monitor and update the list of equipment as new procurements occur and coordinate with INL, PM, and other relevant agencies and offices providing similar assistance to adjust procedures as necessary.

(U) The Ukraine SOP will serve as the basis for broader ISN guidance for EUM for non-permissive environments across ISN programs. The exact nature and scope of that guidance has yet to be determined.

(U) OIG Recommendation 6: The Bureau of International Security and Nonproliferation should determine whether to test alternative end-use

monitoring procedure pilots in Ukraine and, if so, conduct an evaluation of them. (Action: ISN)

(U) Management Response: ISN concurs with this recommendation.

(U) ISN is already working with INL on alternative end-use monitoring pilots for Ukraine, including both near-term efforts and a potential third-party contract. ISN will also join INL in any evaluations of these pilots.

(U) Evaluations conducted on the pilot programs will be in line with Department evaluation standards stated in 18 FAM 301.4. The evaluation will be done in consultation with INL but will be primarily focused on ISN/ECC's pilot efforts. The primary goal of the evaluation is to determine the effectiveness of new EUM programs for ISN/ECC, considering the findings of the OIG report and baseline data that will be collected ahead of the start of any pilot programs. It will include recommendations for the SOP and implementation of the SOP applicable to ISN and INL. Evaluation documentation will be Sensitive But Unclassified, will be provided to OIG upon request, and will be planned and executed Q1-Q3 of FY24.



United States Department of State
Washington, D.C. 20520

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October 11, 2023

MEMORANDUM FOR Arne Baker, Acting Assistant Inspector General for Inspections

FROM: INL/EX – Jeffrey C. Lee, Acting

SUBJECT: Review of Department of State End-Use Monitoring in Ukraine Audit

The Bureau of International Narcotics and Law Enforcement Affairs has reviewed the draft OIG inspection report. We appreciate the efforts of OIG to help us identify improvements we can make to our programmatic end-use monitoring practices in a non-permissive environment.

We have consulted with the Bureau of Political-Military Affairs, the Bureau of International Security and Nonproliferation (ISN), and Embassy Kyiv on this response.

The Bureau of International Narcotics and Law Enforcement Affairs (INL) is providing an official response to the two recommendations in the subject report.

INL Response to the OIG's Recommendations

Recommendation 1: The Bureau of International Narcotics and Law Enforcement Affairs should develop and implement new end-use monitoring standard operating procedures, or update existing procedures, for use in non-permissive conditions. The bureau should consult with the Bureau of Political-Military Affairs and the Bureau of International Security and

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Nonproliferation and, as practicable, seek to adopt common approaches where there are common items provided or recipients.

INL Response: The Department concurs with the recommendation. INL is currently finalizing an update to the existing INL EUM SOPP to include guidance for posts operating in non-permissive environments. The draft policy is under review by program offices and is expected to be finalized by the end of October. In order to align and harmonize the EUM strategy on the Departmental level, INL has been consulting the Bureau of Political-Military Affairs and the Bureau of International Security and Nonproliferation. In the interim, for the duration of CY23, INL Ukraine is operating based on the short-term, risk-based EUM strategy outlined in an Action Memo approved by PDAS Johnson in May 2023.

Recommendation 5: The Bureau of International Narcotics and Law Enforcement Affairs should plan and conduct an evaluation of alternative end-use monitoring procedure pilots in Ukraine.

INL Response: The Department concurs with the recommendation. INL and Embassy Kyiv – in coordination with ISN – are already developing plans for alternative end-use monitoring pilots for Ukraine. INL is in the process of procuring hand-held scanners to provide to Ukraine to pilot a new mechanism for secondary inspections and reporting on the condition of EUM assets in conflict areas. Additionally, in March 2023, INL signed an interagency agreement with DOJ's International Criminal Investigative Training Assistance Program (ICITAP) to conduct supplemental EUM site visits on INL's behalf. Finally, the bureau continues to explore starting a contract to hire additional staff to supplement our ability to conduct EUM. The INL program office and Embassy Kyiv intend to work closely with the INL Management Assistance and Post Support (MAPS) to evaluate the pilot programs.

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