



SIGAR

Office of the Special Inspector General
for Afghanistan Reconstruction

July 5, 2019

The Honorable Dr. Mark T. Esper
Acting Secretary of Defense

The Honorable Richard V. Spencer
Secretary of the Navy

The Honorable James F. Geurts
Assistant Secretary of the Navy

General Kenneth F. McKenzie Jr.
Commander, U.S. Central Command

General Austin Scott Miller
Commander, U.S. Forces–Afghanistan and
Commander, Resolute Support

Lieutenant General James E. Rainey
Commander, Combined Security Transition Command–Afghanistan

Vice Admiral Dean G. Peters
Commander, Naval Air Systems Command

I am writing to alert you to a significant lapse in oversight that we discovered during our ongoing audit of the Department of Defense's (DOD) nearly \$202 million ScanEagle program in Afghanistan. Although the Combined Security Transition Command–Afghanistan (CSTC-A) funds the program, the Naval Air Systems Command (NAVAIR) manages ScanEagle. Since awarding the third ScanEagle contract in July 2017, the NAVAIR Contracting Officer (CO) has not "appointed" or "designated" a Contracting Officer's Representative (COR) in Afghanistan to oversee contracts implemented under the program, as DOD requires.¹ CSTC-A has made two requests for NAVAIR to appoint one. Despite the requirement and CSTC-A's requests, however, NAVAIR has not appointed a COR in Afghanistan.

The ScanEagle program is intended to train and equip the Afghan National Army (ANA) with the ScanEagle Unmanned Aerial System to help the ANA develop an effective intelligence, surveillance, and reconnaissance program to support counter-terrorism and counter-insurgency operations. Since November 2015, NAVAIR has awarded five contracts totaling nearly \$202 million to procure ScanEagle systems, train the ANA to operate

¹ According to DOD, the COR oversees contractor performance for both the commander and the contracting officer. The COR is considered the technical expert on the contract. The CO "is responsible for appointing (or designating) the COR." See DOD, *Defense Contingency COR Handbook*, v. 2, September 2012, p.28.

and maintain these systems, and provide field-level support personnel.² Although NAVAIR designated a COR in Afghanistan on February 2, 2017 for the second ScanEagle contract implemented from January 2017 to November 2017, NAVAIR has not appointed or designated a COR to provide oversight on the next three contracts.³

DOD policy requires that CORs be assigned to oversee DOD contracts in Afghanistan. In January 2015, Defense Pricing/Defense Procurement and Acquisition Policy issued the Theater Business Clearance (TBC) update for Afghanistan.⁴ The update required all contracts with contractor personnel performing work in Afghanistan to have a COR in country. As part of the clearance process, the CO is required to submit a Government Furnished Life Support Validation Request and Approval form for each site where contractor personnel will be located. The form requires that the CO identify an in-country COR for each location. We reviewed request and approval forms for two of the five contracts and found that although NAVAIR listed personnel assigned to CSTC-A as the in-country CORs for the ScanEagle program, none of these personnel received an appointment/designation letter from the CO. One of these individuals told us that he was unaware that NAVAIR identified him as an in-country COR on the form. He said he was not a COR and did not have any direct contacts with the program.

In addition to the DOD requirement, senior DOD and CSTC-A officials have emphasized the need for the ScanEagle program to have a COR in Afghanistan. In March 2015, before NAVAIR awarded the first contract, a senior member of the Afghanistan Resource Oversight Council stated to the council that the program needed a COR in country.⁵ In addition, during our January 2019 fieldwork in Afghanistan, multiple officials in CSTC-A told us the program needed a COR. A CSTC-A official said in addition to needing direct oversight of the contractor, CSTC-A needs to have information about whether the contractor is performing to expectations.

On August 8, 2018, noting concerns about the relationships between the ScanEagle program, NAVAIR, and contractor field service representatives in Afghanistan, a senior CSTC-A official contacted PMA-263, the NAVAIR office responsible for the ScanEagle program, requesting that the office assign a COR to resolve these concerns. Unsatisfied with PMA-263's response to his request, on September 12, 2018, the same official wrote a letter to a senior NAVAIR official citing serious concerns with the program's execution, the contractor's performance, and the negative relationship between the contractor and CSTC-A personnel. His letter requested that NAVAIR assign a COR, stating his opinion that "the lack of an in-country COR is not acceptable to my CSTC-A chain of command." To date, CSTC-A has received no response to its requests.

According to the NAVAIR CO for the ScanEagle contracts, a COR is not required because the contracts mostly involve costs for supplies, and supply contracts do not require a COR. We requested that NAVAIR provide us with documentary evidence that a COR is not required, but none was provided. Instead, the CO told us he has the authority to make this determination. In addition, the CO stated that NAVAIR assigned a technical point of contact for the ScanEagle contract who could provide oversight. However, the CORs are delegated the authority to perform certain functions, duties, and responsibilities on behalf of the CO; a technical point of contact is not

² NAVAIR awarded all five contracts to Insitu Inc., an American company that designs, develops, produces, and operates unmanned aircraft systems.

³ The second and third ScanEagle contracts' periods of performance overlapped from July 2017 to November 2017. Each contract is required to have a COR appointed or designated.

⁴ On September 11, 2018, the organization formerly known as Defense Pricing/Defense Procurement and Acquisition Policy was renamed as Defense Pricing and Contracting. See DOD, "Theater Business Clearance Update for the USCENCOM Area of Responsibility," memorandum to "All DOD Heads of Contracting Activities," October 28, 2013.

⁵ The "Afghanistan Resources Oversight Council (AROC) must approve the requirement and acquisition plan for any service requirements in excess of" \$50 million annually using the Afghanistan Security Forces Fund (ASFF), and "any non-standard equipment requirements in excess of" \$100 million using the ASFF. The AROC is chaired by the Under Secretaries of Defense for Policy and Acquisition, Technology, and Logistics. See Consolidated Appropriations Act, 2018, Pub. L. No. 115-141, § 9009.

delegated such authority. Further, neither the CO nor the technical point of contact is located in Afghanistan where the contractor is performing work, and to date, neither one has visited Afghanistan to perform oversight.

SIGAR is greatly concerned about the lack of in-country oversight of the ScanEagle program. Without an in-country COR, the U.S. government does not have a presence on the ground in Afghanistan to document the contractor's performance and determine whether this performance is meeting contract requirements. Moreover, CSTC-A lacks valuable information it needs to provide reasonable assurance that the program is meeting its objectives and providing the ANA with the capabilities it needs. As a result, it is vital that DOD take immediate action to improve its oversight of the ScanEagle program.

On June 27, 2019, we notified the responsible CO at NAVAIR of our intention to issue this letter. In response, the CO stated that although not required, a COR had already been appointed to the current Afghanistan effort. NAVAIR then also provided us with evidence that a COR had been delegated to the current contract on March 18, 2019. However, this appointment and documentation is not enough evidence to mitigate SIGAR's concern that NAVAIR does not have personnel in-country providing technical or administrative monitoring of the contract, as required by the TBC update. Additionally, CSTC-A confirmed that they were not aware that a COR had been designated and were not familiar with the individual delegated to the role.

To ensure that DOD can oversee and measure contractor performance, to make any necessary changes to enhance the effectiveness of the ScanEagle program in Afghanistan, and because NAVAIR has failed to respond to prior requests from CSTC-A, we recommend that the Acting Secretary of Defense direct NAVAIR, in coordination with CSTC-A, to immediately appoint or designate an in-country COR for the current ScanEagle contract.

I am submitting this letter pursuant to my authority under Public Law No. 110-181, as amended, and the Inspector General Act of 1978, as amended. We conducted this work in accordance with generally accepted government auditing standards. Those standards and policies require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives.

Due to the urgency associated with this matter, please take the necessary actions and then inform SIGAR by providing evidence that the designated COR has completed the minimum required competencies, experience, and training, in accordance with DOD instruction 5000.72. In addition, by August 2, 2019, please provide SIGAR with documentation of the COR's redeployment date to Afghanistan for the purpose of performing the required oversight duties. We will continue to assess this and other matters related to ScanEagle program during the course of our ongoing audit. Should you or your staff have any questions about this request, please contact Mr. Jeffrey Brown, Deputy Assistant Inspector General for Audits and Inspections, at 703-545-6083, or jeffrey.c.brown65.civ@mail.mil.

Thank you in advance for your cooperation in this matter. I look forward to your response.

Sincerely,



John F. Sopko
Special Inspector General
for Afghanistan Reconstruction