



November 22, 2019

Dr. Mohammad Humayon Qayoumi  
Acting Minister of Finance and Senior Advisor  
To the President

Dear Dr. Qayoumi,

Thank you for taking the time to meet with me and my staff in Kabul on October 13, 2019. We very much appreciated your candid views about the developing Afghan economy and your Ministry's programs and accomplishments.

Following up on our discussion, I am requesting clarification regarding the June 11, 2019 memorandum issued by your office stating that Afghan investigative and security entities are prohibited from investigating or monitoring revenue-producing units of the Ministry of Finance, and that if such oversight organizations need information from the Ministry of Finance they may obtain it only after informing the Ministry of Finance High Authority.<sup>1</sup>

The June 11, 2019 memorandum refers to Presidential Order Number 3, dated 1/8/1393 (October 23, 2014), which reportedly states that none of the investigative organizations, including the Attorney General's Office, Supreme Audit Office, National Directorate of Security, and the Interior Ministry Directorate of Intelligence, may interfere in the Ministry of Finance's affairs, particularly those of Afghanistan's Customs and Revenue Department.

As I mentioned at our meeting in Kabul, we are concerned that the June 11, 2019 memorandum indicates that the Ministry of Finance has taken steps to shield itself from independent external oversight, including audits and investigations. This concern has also been expressed by a number of organizations in Afghan civil society and the Afghan media. For example, one civil society organization has stated that this restriction may prevent the free flow of information and represents extra-judicial activities that limit transparency and stifle anti-corruption measures.<sup>2</sup>

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<sup>1</sup> Dr. Mohammad Humayon Qayoumi, Acting Minister of Finance and Senior Adviser to the President, "Avoiding Interference of Outside/Other Authorities in the Ministry of Finance Units' Working Affairs," memorandum to Customs Deputy Minister Office/Department, No. CSO-4400, dated 21/3/1398 (June 11, 2019).

<sup>2</sup> Nai Supporting Open Media in Afghanistan, "The President Should Clarify His Oral Instruction and Guidance," July 8, 2019, <https://nai.org.af/the-president-should-clarify-his-oral-instruction-and-guidance/>.

To ensure that we have interpreted the June 11, 2019 letter as it was intended, we are requesting your clarification of this matter. In addition, please provide us with a copy of Presidential Order Number 3, referenced above, which served as a basis for your memorandum. The U.S. Congress has requested SIGAR to continue its assessments of Afghanistan's anti-corruption efforts, and this letter is in support of that request as well as my Agency's long standing concern over endemic corruption hindering the successful development and reconstruction of the Afghan economy.

Sincerely,

A handwritten signature in black ink, appearing to read 'John F. Sopko', with a long horizontal flourish extending to the right.

John F. Sopko  
Special Inspector General  
for Afghanistan Reconstruction

cc: Ambassador Roya Rahmani

## ENCLOSURE 1: MINISTRY OF FINANCE RESPONSE



Islamic Republic of Afghanistan  
Ministry of Finance  
Chief of Staff  
ریاست عمومی دفتر



د افغانستان اسلامي جمهوریت  
د مالیې وزارت

CSO-91

Date: 23<sup>rd</sup> Dec 2019

Mr. John F. Sopko  
Special Inspector General for Afghanistan Reconstruction

Dear Mr. Sopko,  
Thank you very much for sharing the concern with us expressed by SIGAR, Civil Society and the Afghan Media.  
As requested in your letter dated November 22, 2019, we are happy to clarify our Memorandum dated June 11, 2019, as follows:

1. Considering the Article 133 of the Constitution, and the Supreme Audit Law, we fully observe the autonomy of the entities enshrined in the relevant legislation and assure our cooperation. In our Memorandum, we use the word "Affairs" and have requested the respected entities not to disturb the day-to-day business of our offices, as this has unfortunately caused disruption in our duties thus, inefficiency.
2. The main responsibility of the security entities is to provide the security and protection arrangements to governmental offices and premises; not to evaluate and monitor revenue-generating units of the Ministry of Finance. If evaluation and monitoring help to enhance security measures, we are happy to extend our cooperation.
3. The Ministry of Finance remains committed to fully implement and honor the recently enacted "Access to Information Law" and any other law. The Ministry of Finance has been taking effective measures in improving governance and revenue collection; and strengthening financial and macroeconomic stability. The Ministry of Finance has successfully established a transparent operational framework intending to ensure transparency and accountability.

SIGAR requested copy of the Presidential Order Number 3, dated 1/8/1393. The referenced document is not a Presidential Order but a Cabinet Resolution, copy of which is attached to this letter.

Sincerely,

Prof. Mohammad Humayon Qayoumi  
Minister of Finance &  
Chief Advisor to the President

ریاست مداخلتی و نظارت، ریاست عمومی دفتر، وزارت مالیه، شماره تماس: ۰۰۱۱-۰۰۲۱۱-۰۰۲۱۱ و ۰۰۱۱-۰۰۲۱۱-۰۰۲۱۱  
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## ENCLOSURE 2: SIGAR EVALUATION OF MINISTER'S RESPONSE

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As stated in the Minister's response to our inquiry letter, the 11 June 2019 memorandum prohibiting Afghan investigative and security entities from investigating or monitoring revenue producing units of the Ministry of Finance was based on a Cabinet Resolution not a Presidential Degree. SIGAR's review of the Cabinet minutes showed that the Cabinet said:

"Attorney General's Office, Ministry of Interior, and the National Directorate of Security (NDS) do not have authority to monitor or audit the performance of ministries and government agencies because their legislative decree to monitor government agencies in the legislative documents was not issued"

The minutes also state that the Deputy Justice Minister provided information about the legal status of monitoring agencies within and outside government. According to the Deputy Justice Minister, only Parliament, the Independent Commission for Overseeing the Implementation of the Constitution, Supreme Audit Office and High Office on Implementation of the National Strategy on Counter Corruption have the overall authority to do monitoring and evaluation of government entities while the Attorney General's Office, Ministry of Interior and NDS have specific or limited monitoring.

The main inconsistency between the 11 June 2019 memorandum and the Cabinet minutes is that the 2019 memorandum prohibits the Supreme Audit Office from monitoring or evaluating the Ministry of Finance's revenue units especially in the customs affairs. As stated in the cabinet minutes, the Supreme Audit Office has overall authority to do monitoring and evaluation of all government entities. The cabinet minutes also do not refer to limitations on doing investigations but strictly refer to monitoring and auditing the performance of the ministries.

It appears that the 11 June 2019 memorandum significantly limits the oversight and transparency of the revenue generating units that are most susceptible to corruption. While the Minister in his response states that the Ministry of Finance has successfully established a transparent operational framework intended to ensure transparency and accountability he does not offer any specifics as to how this has been accomplished. This causes SIGAR to continue to be concerned about the ability of Afghan law enforcement and oversight agencies to properly monitor Ministry of Finance activities. SIGAR will request additional clarification from the Minister and will review this framework and assess the limitations placed on investigative organizations as part of our ongoing anti-corruption audit mandated by Congress.