



SIGAR

**Special Inspector General for
Afghanistan Reconstruction**

AFGHAN NATIONAL SECURITY FORCES: LIMITED VISIBILITY OVER FUEL IMPORTS INCREASES THE RISK THAT U.S.-FUNDED FUEL PURCHASES COULD VIOLATE U.S. ECONOMIC SANCTIONS AGAINST IRAN

This product was completed under SIGAR's Office of Special Projects, the Special Inspector General's response team created to examine emerging issues in prompt, actionable reports to federal agencies and the Congress. The work was conducted pursuant to the Special Inspector General's authorities and responsibilities under the National Defense Authorization Act for FY 2008 (P.L. 110-181).

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The Honorable Leon Panetta
Secretary of Defense

The Honorable Hillary Rodham Clinton
Secretary of State

General James N. Mattis
Commander, U.S. Central Command

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Combined Security Transition Command-Afghanistan

The Honorable James B. Cunningham
U.S. Ambassador to Afghanistan

Afghanistan is largely dependent upon imports for meeting the majority of its energy needs and Iran, together with Russia and Turkmenistan, are the leading countries of origin for its fuel imports (see enclosure I for more information on Afghanistan's fuel imports). The U.S. economic sanctions program is intended to stop the flow of money into Iran and to shut off Iranian access to the U.S. financial markets. It prohibits virtually all trade and investment activities with Iran by U.S. persons—and to some degree third-countries—and with U.S. funds, including the financing of trade in Iranian oil or petroleum products refined in Iran (see enclosure II for more information on the U.S. economic sanctions program against Iran). The fact that the United States has paid for the acquisition and delivery of imported fuel for the Afghan National Security Forces (ANSF)—nearly \$1.1 billion for the Afghan National Army (ANA) alone between fiscal years 2007 and 2012—raises concerns that U.S. funds could have been used to pay for imports of fuel potentially in violation of US economic sanctions against Iran.

SIGAR initiated this review in response to allegations it received of potential violations of U.S. sanctions in the purchase of fuel for the ANSF and to follow up on key issues regarding Afghanistan's fuel imports identified in our quarterly reports and audits and investigations of ANA fuel. In this review, we sought to identify whether sufficient controls have been established in the ANSF fuel supply process to ensure the use of U.S. funding complies with U.S. and international sanctions against Iran. This review did not assess any procedures in place for assuring the quality of fuel imports purchased for the ANSF.

To conduct this review, we relied largely on data, documents, and interviews collected from the Department of Defense (DOD) during our ongoing audit of ANA fuel, Department of State and Department of the Treasury responses to SIGAR's quarterly data call, and information collected in support of ongoing fuel investigations. We also reviewed reports and available data on Afghanistan fuel consumption and imports, U.S. government sanctions against Iran, relevant United Nations Security Council resolutions, fuel blanket purchase agreements (BPAs) for the ANSF, Afghan government budget documents, and prior reports on ANSF logistic capabilities and oversight. We conducted this review in Washington, D.C., from December 2012 to January 2013. This work was conducted under the authority of Public Law No. 110-181, as amended; the Inspector General Act of 1978; and the Inspector General Reform Act of 2008.

Background

The United States and coalition partners have paid for the acquisition and delivery of fuel for the ANSF.¹ For example, between fiscal years 2007 and 2012, Congress appropriated approximately \$1.1 billion to provide fuels (specifically petroleum, oil, and lubricants) for the ANA alone.² DOD requested \$323 million to fund ANA fuel in fiscal year 2013, with an additional \$123 million expected to be provided by international donors for jet fuel and kerosene.³

The Combined Security Transition Command (CSTC-A) is responsible for the purchase and supply of fuel for the ANSF, under the BPAs. CJTSCC, on behalf of CSTC-A, is responsible for the contract administration of the BPAs. According to CSTC-A fuel order data, DOD funded the purchase of at least 115.2 million gallons of fuel for the ANA from September 21, 2009 to June 4, 2012, a period covering about 2 years and 8 months.⁴ The command currently provides this fuel through eight BPAs with eight separate Afghan vendors.⁵ In turn, these vendors import and deliver fuel to satisfy the ANA's fuel requirements, in some cases subcontracting with different transport and delivery vendors.

Despite Actions Taken by DOD to Prevent the Purchase of Iranian Fuel with U.S. Funds, Risks Remain that U.S. Economic Sanctions Could be Violated

Between 2007 and late 2012, CSTC-A acquired fuel for the ANA through 10 BPAs with 10 different vendors. By October 2012, eight of the BPAs had expired, leaving only two in use. During that time, CJTSCC did not require vendors to provide information on the sources of fuel or certify that their fuel purchases complied with U.S. sanctions prohibiting transactions with Iran. In November 2012, CJTSCC awarded seven new BPAs to seven vendors to provide fuel for the ANA, which included a requirement for the vendors to purchase and deliver fuel to Afghan National Police locations. The command retained one legacy BPA with an eighth company to mitigate performance risks during the transition to the new vendors.⁶ All eight of these vendors

¹For the purposes of this report, the term "fuel" means petroleum, oil, and lubricants, used for motor vehicles, aircraft, generators, and cooking.

²Funding for ANA fuel comes from DOD's Afghanistan Security Forces Fund, which is used to equip, train, base, and sustain the Afghan National Security Forces. Between fiscal years 2007 and 2012, the United States appropriated approximately \$47.7 billion to this fund. SIGAR's ongoing audit of fuel provided to the Afghan National Police is at the fieldwork stage; therefore, we are unable to provide reliable data for the purpose of this report on the cost and volume of fuel supplied to the Afghan National Police.

³CSTC-A estimates that the ANA will require \$555 million per year (for fiscal years 2014 through 2018), for a total of almost \$2.8 billion worth of fuel, to sustain the ANA with sufficient fuel supplies through 2018.

⁴SIGAR determined that CSTC-A's fuel order data was unreliable for reporting the total expenditures for ANA fuel. However, because this is the best information available, SIGAR determined the data was reliable for the purpose of identifying the minimum amount of fuel purchased under the CSTC-A's fuel contracts.

⁵These BPAs also provide fuel for the Afghan National Police. SIGAR initiated an audit of fuel provided to the Afghan National Police on September 12, 2012. The objectives of this ongoing audit are to 1) determine whether the budget requests submitted for ANP fuel are reasonable considering actual fuel funding levels needed to meet ANP mission requirements and 2) evaluate the internal controls in place to determine if they are sufficient to account for fuel and to prevent fraud, waste, and abuse.

⁶The vendors for the seven new BPAs are: 1) Cefe Trading and Logistics Ltd., 2) Khawar Sadaat Group International, 3) Areyana Group of Construction Co (AGCC), 4) GLC Group, 5) WAC Group, 6) Basir Hashimi Construction Company, and 7) Dawi Oil Co. Ltd. The eighth vendor, in the maintained legacy BPA, is West & East Company.

have been identified as Afghan-owned companies.⁷ These vendors are responsible for the import and delivery of fuel to various locations throughout Afghanistan.⁸

In late 2012, CJTSCC took action to establish contracting mechanisms intended to prevent its vendors from purchasing fuel from Iran in violation of U.S. economic sanctions. CJTSCC ensured that the seven BPAs, signed in early November 2012, and the retained legacy BPA included the Federal Acquisition Regulation (FAR) clause FAR 52.225-13 restricting certain foreign purchases, including purchases of supplies and services from Iran.⁹ CJTSCC also established requirements for vendors to certify sources of fuel purchased. CJTSCC added standard language to the new BPAs to require certification by contractors that they are not purchasing fuel from prohibited sources, specifically Iran. The new requirement explicitly prohibits vendors from providing petroleum products that are sourced from Iran and other countries prohibited by clause or federal statute. The language also reinforces the vendors' responsibility for all activities of any subcontractor in fulfillment of the requirements in the BPA. In January, CJTSCC provided copies of fuel certifications from four of the vendors currently providing fuel which reported Turkmenistan and Kazakhstan as the primary sources of fuel delivered by those four vendors. We are unable to determine at this time whether CJTSCC has established a process for verifying or testing the certifications as reported by the fuel vendors.

In November 2012, SIGAR met with a senior CSTC-A official in Afghanistan and raised the issue of whether U.S. funds were being used to purchase Iranian fuel for the ANSF. In that meeting, the senior CSTC-A official stated that quality control testing measures were in place to test fuel but that it still may be a possibility that fuel purchases could include Iranian fuel, given the multiple sources involved in the fuel acquisition process for operations in Afghanistan. He stated that it is important to examine this topic, including the controls that are in place to prevent any violations of U.S. sanctions with Iran.

The senior CSTC-A official also stated that he believes that fuel imported from Russia and Turkmenistan is usually blended. According to SIGAR investigators, a fuel vendor in Afghanistan stated that Afghanistan's neighboring countries to its west may be exporting blended fuel from various sources, including Iran. The potential that fuel may be blended at sites from where vendors import into Afghanistan raises the importance for CSTC-A's process to include verification of the original sources of any blended fuels that are imported under these BPAs. In response to a draft of this report, the U.S. Embassy in Kabul stated that it is possible that if blending is taking place in Turkmenistan it could contain some Iranian fuel; however, it would be very unlikely that fuel imported from refiners in Russia and transitioned through Kazakhstan and Uzbekistan would be blended with Iranian fuel prior to its import into Afghanistan. The U.S. Embassy Kabul noted that all fuel imports carry a "verified Fuel Passport" from the refinery, which provides information on the origin, quantity, quality, and specifications of the fuel. The U.S. Embassy Kabul also indicated that suppliers are unlikely to blend Iranian fuel, or any other product, with other sourced fuel because of the potential that blending could cause product deviation from specification standards and potentially cause a rejection of the entire shipment.

⁷SIGAR's review of business license numbers available in the Afghanistan Investment Support Agency's online database and two licenses provided by CJTSCC found that all of the vendors were identified as Afghan-owned companies. While the Afghanistan Investment Support Agency's database contains business license numbers, we have previously reported that the database included incorrect data on business ownership (see SIGAR Audit-12-6, *Afghan First Initiative Has Placed Work with Afghan Companies, but Is Affected by Inconsistent Contract Solicitation and Vetting, and Employment Data Is Limited*, January 31, 2012). As a result, we could not definitively determine the ownership of six vendors solely based on this data.

⁸These locations include two national depots in Kabul, six Regional Logistic Support Centers, and several power plants. Once vendors deliver the CSTC-A-ordered fuel, the ANA is responsible for allocating, storing, and consuming the fuel.

⁹CJTSCC indicated that it modified the retained BPA to match the terms and conditions of the seven new BPAs. Our review of the five BPAs that were still active in early 2012 showed that four included the standard FAR clause.

U.S. Forces-Afghanistan Task Force 2010 (TF2010) has attempted to collect data on the sources of imported fuel, including vendor and subcontractor information for supply and delivery vendors.¹⁰ To date, this information is not complete or conclusive. TF2010 has identified vendor information for five of the 10 previous BPAs, to include country of origin for fuel suppliers. It is currently working to identify similar information for the 7 current BPA vendors, including whether these vendors have registered with the Afghan government to import fuel from Iran, as required in a bilateral trade agreement. This information will be important to CJTSCC as it seeks to verify the fuel sources reported in vendors' monthly certifications.

Despite Weaknesses in ANSF Logistics Processes, DOD Plans to Provide Direct Assistance Funding to the Afghan Government for the Purchase of Fuel

We and other audit agencies have reported on weaknesses in various ANSF logistics processes that decrease accountability for goods purchased, thus increasing the risk of fraud, waste, and abuse. For example, our interim report on ANA fuel and recent Congressional testimonies state that CSTC-A does not have a valid method for estimating ANA fuel needs or complete records on ANA fuel purchased, delivered, and consumed.¹¹ Further, we have found that ANA units regularly send fuel requests directly to CSTC-A, thus circumventing the process required by Afghanistan's Ministry of Defense (MOD).¹² In such cases, CSTC-A has purchased fuel, through its vendors, for delivery to the requesting ANA location without MOD approval.

In addition, the Department of Defense Office of Inspector General reported in December 2011 that there are significant vulnerabilities and weaknesses in the ANA logistics system, including the challenge of establishing a more effective system of oversight with respect to equipment, supplies, and installations.¹³ The report specifically notes that internal controls for fuel accountability and management are inadequate at some supply depots. This is primarily due to a lack of enforcement of published MOD procedures for fuel storage and distribution. Poor logistics leadership, lack of equipment with which to track the quality and quantity of fuel moving through the supply chain, and a shortage of trained logistics personnel also contribute to this weakness in fuel accountability.

In commenting on a draft of this report, CSTC-A indicated that it is taking several steps to improve accountability for fuel purchases and address weaknesses in the logistics processes identified by SIGAR.¹⁴ According to CSTC-A, it has recently taken several actions to enhance oversight of the ordering, delivery,

¹⁰TF 2010 provides commanders and acquisition teams with situational understanding regarding the flow of contract funds and property losses and recommends actions to deny power brokers, criminal networks, and insurgents the opportunity to benefit from the stolen property or illicit revenues.

¹¹See SIGAR Audit-12-14, *Interim report on Afghan National Army Petroleum, Oil, and Lubricants*, September 10, 2012; SIGAR-12-15T *Department of Defense Cannot Accurately Account for Over \$1.1 Billion in Fuel for the Afghan National Army*, September 13, 2012; and SIGAR-12-16T *Department of Defense Not Adequately Prepared To Transfer Responsibility For Fuel Management to the Afghan National Army*, September 20, 2012.

¹²MOD has issued decrees that specify policies, procedures, and forms to be used for ANA fuel logistics operations. Decree 4.6 specifically describes the organization, responsibilities, and procedures for ANA fuel activities. The required processes and forms specified in Decree 4.6 are intended to maintain accurate records of fuel orders, issues and receipts throughout the fuel procurement process. The decree requires ANA units to request fuel based on documented consumption. Units are to send requests to the Regional Logistics Support Command, which will then submit the request to the Material Management Center-Army (MMC-A). Once MMC-A approves a request, MMC-A sends the fuel request to national depots to fill the order or submits it to CSTC-A to order from vendors.

¹³See DODIG-2012-028, *Assessment of U.S. Government and Coalition Efforts to Develop the Logistics Sustainment Capability of the Afghan National Army*, December 9, 2011.

¹⁴See SIGAR Audit-13-4, *Afghan National Army: Controls Over Fuel for Vehicles, Generators, and Power Plants Need Strengthening to Prevent Fraud, Waste, and Abuse*, January 24, 2013.

receipt, and payment of fuel, including five specific actions aimed at resolving discrepancies between fuel ordered and fuel delivered and identifying theft.

DOD plans to provide direct assistance funding to the Afghan government for the purchase of fuel. According to a review of the Afghan budget,¹⁵ the Afghan government's proposed development budget¹⁶ for its fiscal year 1392 (i.e., 2013) is approximately \$3.27 billion, a 47 percent increase from the 9-month budget for Afghanistan's fiscal year 1391.¹⁷ In addition to the 3 additional months, this increase is associated with increased direct assistance from donors primarily for the security sector, which consists largely of the ANSF. This direct assistance includes projected funding to professionalize and equip the ANSF.

In our September 2012 and January 2013 ANA fuel reports, we noted that CSTC-A plans to transition fuel responsibilities to MOD and begin funding ANA fuel through direct contributions from the Afghanistan Security Forces Fund to the Afghan government beginning in March 2013.¹⁸ CSTC-A currently plans to provide at least one-third of the estimated \$3.1 billion—over \$1 billion—in funding for fuel for fiscal years 2013 through 2018 directly to the Afghan government to self-purchase fuel for the ANA. In preparation for this transition to direct assistance, CSTC-A intends to increase the MOD's capacity to manage all national logistics and maintenance functions, including those for fuel. Several recent reports have raised concerns about the ability of the Afghan government, including the MOD, to oversee and expend direct assistance funds, which may challenge CSTC-A's ability to ensure accountability for direct assistance funding.¹⁹

Conclusion

DOD's lack of visibility—until recently—over the source of fuel purchased for the ANSF raises some concerns. DOD lacked certification procedures prior to November 2012 and had limited visibility over the import and delivery sub-contracts used by fuel vendors. As a result, DOD is unable to determine if any of the \$1.1 billion in fuel purchased for the ANA between fiscal year 2007 and 2012 came from Iran, in violation of U.S. economic sanctions. Controls—recently added by CJTSCC to the BPAs for ANSF fuel—requiring vendor certification of fuel sources should improve visibility over fuel sources. To enhance that visibility, it is important that adequate measures are in place to test the validity of the certifications and ensure that subcontractors are abiding by the prohibitions regarding Iranian fuel. Recently reported steps to correct weaknesses in the fuel acquisition process may not help U.S. officials' in verifying the sources of fuel purchased with U.S. funds for the ANSF. Given the Afghan government's continued challenges in overseeing and expending direct assistance funds, it will become more difficult for DOD to account for the use of U.S. funds as it begins to transfer funds—in

¹⁵Afghan Coalition for Transparency and Accountability, *1392 National Budget Review*, p.3.

¹⁶The Afghan government's core budget includes funds that flow through its treasury system and includes core operating and development expenditures. The operating budget largely consists of payroll costs for Afghan civil servants and security personnel and some operation and maintenance expenditures. The development budget supports key development projects.

¹⁷In 2011, the Afghan Parliament approved a change the government's fiscal year from the Hijri solar year—March 21st to March 20th of the following year—to the Gregorian calendar year. Thus, fiscal year 1391, which began in March 2012 and ended in December 2012, was shortened to nine months. 1392 is the first full Afghan fiscal year to coincide with the Gregorian calendar year.

¹⁸See SIGAR Audit-12-14 and SIGAR Audit-13-4.

¹⁹See DODIG-2012-028; GAO-12-951T, *Afghanistan Security: Long-standing Challenges May Affect Progress and Sustainment of Afghan National Security Forces*, July 24, 2012; and GAO-11-66, *Afghanistan Security: Afghan Army Growing but Additional Trainers Needed; Long-term Costs Not Determined*, January 27, 2011.

March 2013—directly to the Afghan government for the procurement and delivery of ANSF fuel. In light of capacity and import limitations of the Afghan government, the U.S. government may need to take steps to place safeguards on its direct assistance funding—over \$1 billion alone for ANSF fuel from 2013-2018—to ensure that the Afghan government does not use the funds in violation of U.S. economic sanctions.

Agency Comments and Our Response

We received technical comments on a draft of this report from CSTC-A, CJTSCC, the Departments of State and the Treasury, and the U.S. Embassy in Kabul, which we have incorporated into the report, as appropriate. In their responses to our report, CSTC-A and CJTSCC noted that they have not uncovered evidence or received allegations that vendors are acquiring fuel from Iran or other prohibited sources. CJTSCC also indicated that it intends to explore the possibility of implementing additional inspection and oversight measures with CSTC-A to enhance oversight and enforcement of the fuel vendors' contractual obligations. In its comments, CSTC-A indicated that it is taking several steps to improve accountability for fuel purchases and address weaknesses in the logistics processes identified by SIGAR's recent audit of ANP fuel and that these measures will mitigate the weaknesses identified in this report. CSTC-A stated that it has taken several actions recently to enhance oversight of the ordering, delivery, receipt, and payment of fuel, including five specific actions aimed at resolving discrepancies between fuel ordered and fuel delivered and identifying theft. With respect to direct contributions to the Afghan government, CSTC-A stated that it plans to disburse fuel funds to MOD incrementally utilizing monthly financial audits to determine whether the department is able to account for the funding. Should CSTC-A find accounting discrepancies that are associated with corruption, the command noted that it will stop direct funding and resume fuel purchases under the BPAs. We believe these are good measures that, when implemented, will improve weaknesses in the fuel acquisition process and provide some potential safeguards on direct assistance funding. However, it is not clear if these measures will provide CSTC-A and CJTSCC with the ability to test the vendor-reported certification of fuel sources and validate fuel source information to provide assurances that fuel imports, in western Afghanistan in particular, are not at risk of violating U.S. economic sanctions.

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Enclosures

ENCLOSURE I: AFGHANISTAN RELIES LARGELY ON IMPORTED FUELS TO SATISFY ITS ENERGY NEEDS

Afghanistan relies on imports to satisfy its fuel requirements. According to a 2005 study of petroleum fuel markets funded by the United Kingdom Department for International Development, Afghanistan uses petroleum fuel products primarily for large-scale energy needs.²⁰ Gasoline, kerosene, diesel, and aviation fuel make up most of the country's petroleum product use. The study estimated that diesel accounted for 60 percent of petroleum product consumption, followed by gasoline and aviation fuel at 20 percent and 15 percent respectively; kerosene used for cooking and heating accounted for 5 percent of consumption. Data from the U.S. Energy Information Administration shows that Afghanistan's total petroleum fuel imports were approximately 76.7 million gallons per year until 2009. Imports spiked in 2009 and 2010, reaching as high as 551.9 million gallons in each of those 2 years.²¹ Fuel imports receded back to around 76.7 million gallons in 2011.

Due to its limited reserves and refining capacity, Afghanistan imports much of its fuel from neighboring countries, mainly from Turkmenistan and Russia in the north, Iran in the west, and Pakistan on the country's eastern and southern borders. According to the State Department's response to an October 2012 SIGAR data call, Iran is the single largest source of Afghan fuel imports. Although accurate fuel import statistics are difficult to obtain due to a lack of reporting and capacity in the Afghan Customs Department, State estimated that Afghanistan imports roughly between one-third and a half of its fuel from Iran; about one quarter from Russia, Kazakhstan, and Uzbekistan; approximately one quarter from Turkmenistan; and the remainder from Kyrgyzstan and Pakistan. Further, State noted that Afghanistan has few reliable and predictable fuel sources other than Iran. They added that Afghanistan has limited options for increasing its fuel imports and difficulties securing alternate fuel supplies. In commenting on a draft of this report, the U.S. Embassy in Kabul stated that accurate figures on Afghan fuel imports to Afghanistan from Iran do not exist. Given subsequent research, the U.S. Embassy in Kabul reported that estimates of fuel imported from Iran can range from less than 10 percent to 50 percent of Afghanistan's total fuel imports.

A Bilateral Trade Agreement and Afghan Government Regulations Guide the Purchase of Fuel from Iran

On December 26, 2011, the Afghan and Iranian governments signed a trade agreement under which the Afghan government and private sectors are permitted to buy approximately 307.9 million gallons of fuel each year from Iran. Reportedly, 60 to 70 percent of the purchases would be oil/gas, 20 to 30 percent gasoline, and the remaining 10 to 20 percent aviation fuel. The Afghan government requires that private companies wishing to purchase fuel from Iran apply and adhere to several rules. For example, companies must have prior experience in the fuel business, buy the fuel in accordance with Afghan and Iranian government rules and regulations, report the exact cost of fuel purchased to the Afghan government, and guarantee that the fuel "will not be resold" to North Atlantic Treaty Organization/International Security Assistance Force services or contracts. Reporting provided to the U.S. Embassy Kabul indicates that the amount of fuel purchased from Iran under this agreement has been minimal due, in part, to bureaucratic obstacles.

²⁰Anna Paterson, Afghanistan Research and Evaluation Unit, *Understanding Markets in Afghanistan: A Study of the Market for Petroleum Fuels*, October 2005, p. 3.

²¹The figures reported for 2009 and 2010 vary dramatically from the figures for the years that preceded and followed that period. We were unable to determine whether those numbers are accurate, or if they are, what the reason was for this purported spike in fuel consumption.

ENCLOSURE II: U.S. ECONOMIC SANCTIONS PROGRAM PROHIBITS U.S. FINANCING OF TRADE IN IRANIAN OIL OR PETROLEUM PRODUCTS REFINED IN IRAN

A panoply of U.S. laws, executive orders, and regulations restrict U.S. firms from investing in Iran's energy sector through sanctions to discourage Iran from supporting terrorism and developing nuclear weapons. The sanctions provide that U.S. persons may not directly or indirectly trade in Iranian oil or petroleum products refined in Iran, nor may they finance such trade.²² In addition, U.S. persons may not provide services, including financing services, or supply goods or technology to Iran. The sanctions further direct the President to impose prohibitions or strict conditions on the opening or maintaining of correspondent accounts by foreign financial institutions found to knowingly facilitate transactions involving Iranian goods and services.²³ An Executive Order issued in July 2012 provides additional sanctions with respect to significant U.S. or foreign transactions for the purchase or acquisition of Iranian petroleum, petroleum, or petrochemicals products.²⁴

The U.S. Treasury Department's Office of Foreign Assets Control (OFAC) administers the Iranian economic sanctions program detailed in the Iranian Transactions and Sanctions Regulations,²⁵ among others. The Federal Acquisition Regulation (FAR) provides contracting requirements for implementing the economic sanctions program administered by OFAC and public laws restricting activities with Iran.²⁶ The FAR prohibits U.S. government entities from contracting with persons or corporations that engage in activity for which sanctions may be imposed under the Iran Sanctions Act of 1996²⁷ unless the President of the United States waives the requirement. Additionally, as updated in 2010, each person who is a prospective contractor for the United States must certify that they do not engage in any activity for which sanctions can be imposed.²⁸ Further, the FAR requires that solicitations and contracts include the standard clause 52.225-13 restricting certain foreign purchases, unless an exception applies.²⁹

Most recently, on January 2, 2013, the President signed the Iran Freedom and Counter-Proliferation Act, within the fiscal year 2013 National Defense Authorization Act (NDAA),³⁰ which is the most robust update to the sanctions regime since the Iran Threat Reduction and Syria Human Rights Act of 2012.³¹ In many instances the fiscal year 2013 NDAA made sanctions stricter, including restricting Iran's ability to barter its oil for gold and precious metals, imposing sanctions on Iran's energy, shipping, and shipbuilding sectors; and imposing sanctions on significant financial transactions knowingly facilitated by foreign financial institutions on behalf of certain Iranian individuals and entities on the U.S. Treasury Department's Specially Designated Nationals and Blocked Persons list.

²²Pub. L. 104-172.

²³ Pub. L. 112-239 § 1244(d)(2).

²⁴E.O. 13622.

²⁵31 CFR § 560.

²⁶FAR 25.7—Prohibited Sources.

²⁷Pub. L. 104-172.

²⁸Pub. L. 111-195.

²⁹FAR 52.225-13 prohibits the contractor from acquiring, for the use of performance in a contract, any supplies or services if any proclamation, Executive order, or statute administered by OFAC prohibits such a transition by a person subject to the jurisdiction of the United States. The clause states that most transactions involving Cuba, Iran, and Sudan are prohibited. Further, the contractor is required to include the full clause in all subcontracts.

³⁰Pub. L. 112-239.

³¹Pub. L. 112-158.

However, Congress for the first time carved out an explicit exception for reconstruction assistance or economic development for Afghanistan.³² Upon submitting a notification and justification to the appropriate Congressional committees, the President may provide an exception to the imposition of certain sanctions on the energy, shipping, and shipbuilding sectors of Iran, including the purchase of petroleum and petroleum products, if he determines the exception to be in the national interest of the United States.

Internationally, the United Nations (UN) Security Council has adopted several resolutions aimed at disrupting Iran's nuclear proliferation activities, with the most recent resolution adopted in June 2010.³³ While non-binding, these measures serve to put UN member nations on notice about the risks associated with illicit Iranian activity, and nations are expected to take steps to comply with the agreed upon measures. The resolutions recognize the potential connection between Iran's energy sector and the funding of Iran's proliferation-sensitive nuclear activities. According to the resolutions, nations are to require persons and firms subject to their jurisdiction to exercise vigilance when doing business with Iranian firms if there are reasonable grounds to believe that such business could contribute to Iran's proliferation of sensitive nuclear activities. However, the resolutions do not state that nations are completely prohibited from purchasing fuel from Iran, nor do they describe the level of vigilance required or expected, leaving room for nations to implement the resolutions in accordance with their own interests.

³²Pub. L. 112-239§ 1244(f).

³³UN Security Council Resolution 1929.

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The mission of the Special Inspector General for Afghanistan Reconstruction (SIGAR) is to enhance oversight of programs for the reconstruction of Afghanistan by conducting independent and objective audits, inspections, and investigations on the use of taxpayer dollars and related funds. SIGAR works to provide accurate and balanced information, evaluations, analysis, and recommendations to help the U.S. Congress, U.S. agencies, and other decision-makers to make informed oversight, policy, and funding decisions to:

- improve effectiveness of the overall reconstruction strategy and its component programs;
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- improve contracting and contract management processes;
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