

# SIGAR

Special Inspector General for  
Afghanistan Reconstruction

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QUARTERLY REPORT TO THE UNITED STATES CONGRESS





## **The National Defense Authorization Act for FY 2008 (Pub. L. No. 110-181) established the Special Inspector General for Afghanistan Reconstruction (SIGAR).**

SIGAR's oversight mission, as defined by the legislation, is to provide for the independent and objective

- conduct and supervision of audits and investigations relating to the programs and operations funded with amounts appropriated or otherwise made available for the reconstruction of Afghanistan.
- leadership and coordination of, and recommendations on, policies designed to promote economy, efficiency, and effectiveness in the administration of the programs and operations, and to prevent and detect waste, fraud, and abuse in such programs and operations.
- means of keeping the Secretary of State and the Secretary of Defense fully and currently informed about problems and deficiencies relating to the administration of such programs and operation and the necessity for and progress on corrective action.

Afghanistan reconstruction includes any major contract, grant, agreement, or other funding mechanism entered into by any department or agency of the U.S. government that involves the use of amounts appropriated or otherwise made available for the reconstruction of Afghanistan.

Source: Pub. L. No. 110-181, "National Defense Authorization Act for FY 2008," 1/28/2008.

(For a list of the congressionally mandated contents of this report, see Section 3.)

### **Cover photo:**

Procurements in Afghanistan include vast amounts of fuel and other supplies. Here, shipping barrels at an outpost in Paktika Province await recycling. (DOD photo by Staff Sgt. Luke Graziani)





SPECIAL INSPECTOR GENERAL FOR  
AFGHANISTAN RECONSTRUCTION

I am pleased to submit to Congress, and the Secretaries of State and Defense, SIGAR's 34th quarterly report on the status of the U.S. reconstruction effort in Afghanistan.

With a new Administration and Congress taking office, this is a prime opportunity to reflect on the U.S. investment in Afghanistan. Since 2002, Congress has appropriated more than \$117 billion for Afghanistan's reconstruction. It is the largest expenditure to rebuild a country in our nation's history. This tremendous amount of taxpayer money has been used to train Afghan security forces, stand up the Afghan government, provide health care and education to the Afghan people, and develop the Afghan economy. U.S. and international donors recently pledged to continue supporting Afghanistan through 2020, with our contribution expected to remain at or near current levels of about \$5 billion per year.

Congress established the Special Inspector General for Afghanistan Reconstruction (SIGAR) in 2008 to detect and prevent the waste, fraud, and abuse of the unprecedented U.S. funds being poured into Afghanistan. Since that time, SIGAR has issued 410 audits, inspections, alert letters, and other products—including over 700 recommendations—that identified roughly \$1 billion in potential savings to U.S. taxpayers. In addition, our criminal investigators have conducted 960 investigations, resulting in 104 arrests, 142 criminal charges, 107 convictions or guilty pleas, and 99 sentencing, and achieving over \$1 billion in U.S. government cost savings, fines, recoveries, and restitutions.

The body of SIGAR's work shows that reconstruction remains tenuous and incomplete. The Afghan security forces need continued donor support, plus mentoring and limited tactical support from the U.S. military, to block insurgent advances. Likewise, the Afghan government cannot survive without continued donor financial assistance.

This quarter, SIGAR issued an updated High-Risk List outlining the most critical issues threatening reconstruction. Of the eight issues identified, the two most critical are the questionable capabilities of the Afghan National Defense and Security Forces (ANDSF) and pervasive corruption. If these two risk areas are not addressed, I fear that our reconstruction efforts could ultimately fail, to the detriment of our national-security goals in Afghanistan.

This quarterly report also points out some of the successes of our struggle to rebuild Afghanistan. For example, the essay in Section 1 of this report examines the issue of national procurement reform in Afghanistan, an area that the civil-society organization Transparency International calls "a bright spot" in the country's fight against corruption. Since 2015, SIGAR has supported the Afghan National Unity Government's efforts to create a national procurement organization to reform procurement for all 64 ministries and procurement entities across Afghanistan. So far, these efforts have resulted in at least \$200 million in savings that might have been lost to corruption. SIGAR is the only U.S. civilian agency invited to observe the weekly sessions of President Ashraf Ghani's National Procurement Commission, in which President Ghani personally reviews all major Afghan government procurement and construction contracts.

This quarter, SIGAR issued 13 audits, inspections, alert letters, and other products, including an audit alert letter in response to a congressional inquiry about the Department of Defense's Task Force for Business and Stability Operations' use of private villas in Afghanistan. SIGAR also published a performance audit report that examined the accuracy of data the U. S. Agency for International Development used to report progress in Afghanistan's health-care sector.

SIGAR completed three financial audits of U.S.-funded contracts, grants, and cooperative agreements to rebuild Afghanistan. These financial audits identified more than \$2.4 million in questioned costs as a result of internal-control deficiencies and noncompliance issues. To date, SIGAR's financial audits have identified nearly \$380 million in questioned costs.

SIGAR also published a follow-up inspection report examining the Sheberghan teacher training facility and SIGAR's Office of Special Projects issued six products, expressing concern on a range of issues, including the abandonment of a large Overseas Private Investment Corporation-funded hotel and apartment building construction project in Kabul and a U.S. Embassy Kabul grantee's unsuccessful efforts to increase Afghan women's participation in the sport of cricket. Special Project products also included observations from site visits to 25 USAID-funded schools in Herat Province and site inspections of 30 USAID-supported health facilities in Baghlan Province.

During the reporting period, SIGAR criminal investigations resulted in one conviction and six sentencing; nearly \$2 million in criminal fines and restitutions; a recovery of \$320,000 from a civil settlement; and the termination of a process to award a \$99 million sole-source contract. SIGAR initiated 18 new investigations and closed 13, bringing the total number of ongoing investigations to 259.

SIGAR's suspension and debarment program referred six parties for suspension or debarment based on evidence developed as part of investigations conducted by SIGAR in Afghanistan and the United States. These referrals bring the total number of individuals and companies referred by SIGAR since 2008 to 809, encompassing 453 individuals and 356 companies to date.

SIGAR remains committed to its reconstruction oversight mission. My staff and I look forward to working together with the new Administration and Congress to ensure that American taxpayer dollars are spent wisely in Afghanistan.

Sincerely,



John F. Sopko

# EXECUTIVE SUMMARY

**This report summarizes SIGAR’s oversight work and updates developments in four major sectors of Afghanistan’s reconstruction effort from October 1, 2016 to December 31, 2016.\* It also includes an essay on Afghanistan’s need for continued procurement reform. During this reporting period, SIGAR issued 13 audits, inspections, alert letters, and other products assessing U.S. efforts to build the Afghan security forces, improve governance, facilitate economic and social development and combat the sale and production of narcotics. The reports identified a number of problems, including the eight issue areas of the reconstruction currently most at risk of waste, fraud and abuse. During the reporting period, SIGAR criminal investigations resulted in one conviction and six sentencings; nearly \$2 million in criminal fines and restitutions; a recovery of \$320,000 from a civil settlement; and the termination of a process to award a \$99 million sole-source contract. SIGAR initiated 18 new investigations and closed 13, bringing the total number of ongoing investigations to 259. Additionally, SIGAR’s suspension and debarment program referred six parties for suspension or debarment based on evidence developed as part of investigations conducted by SIGAR in Afghanistan and the United States.**

## SIGAR OVERVIEW

### AUDITS

This quarter, SIGAR issued one audit alert letter, one performance audit, three financial audits, and one follow-up inspection report.

The **audit alert letter** responded to a congressional inquiry about DOD’s Task Force for Business and Stability Operations’ use of private villas in Afghanistan.

The **performance audit** found that the U.S. Agency for International Development (USAID) did not disclose quality limitations in the data the agency relied upon to measure its achievements in Afghanistan’s health care sector. This lack of disclosure calls into question the extent of the achievements claimed in this sector for which USAID has obligated nearly \$1.5 billion since 2002.

The **financial audits** identified \$2,417,088 in questioned costs as a result of internal control deficiencies and noncompliance issues and \$109 in unremitted interest on

advanced federal funds or other revenue amounts payable to the government.

The follow-up **inspection report** found that the Sheberghan teacher training facility, which was funded by USAID and constructed under a U.S. Army Corps of Engineers (USACE) contract, had been completed and was being used. SIGAR also found that although the facility’s construction was substantially delayed, it was generally completed according to engineering standards and the electrical deficiencies SIGAR identified in its first inspection report had been resolved. However, the facility’s water quality and funding for fuel to meet generator requirements remain concerns.

### SPECIAL PROJECTS

This quarter, SIGAR’s Office of Special Projects wrote six **reviews**, **review letters**, and **inquiry letters**, expressing concern on a range of issues including:

# EXECUTIVE SUMMARY

- the abandonment of a large hotel and apartment building construction project in Kabul funded by \$85 million in loans from the Overseas Private Investment Corporation
- observations from site visits of 25 schools in Herat Province constructed or rehabilitated by USAID
- USAID's implementation and oversight of the Promoting Gender Equity in National Priority Programs (Promote), USAID's largest gender-focused initiative
- the results of site inspections of 30 USAID-supported health facilities in Baghlan Province
- a U.S. Embassy Kabul grantee's unsuccessful efforts to increase Afghan women's participation in the sport of cricket
- non-payment of Afghan contractors working on U.S.-funded contracts

## INVESTIGATIONS

During the reporting period, SIGAR criminal investigations resulted in one conviction and six sentencing; nearly \$2 million in criminal fines and restitutions; a recovery of \$320,000 from a civil settlement; and the termination of a process to award a \$99 million sole-source contract. SIGAR initiated 18 new investigations and closed 13, bringing the total number of ongoing investigations to 259, SIGAR's suspension and debarment program also referred six individuals for debarment based on evidence developed as part of investigations conducted by SIGAR in Afghanistan and the United States.

### Investigations highlights include:

- an Afghan major general convicted of bribery
- an investigation that resulted in the termination of a planned \$99 million sole-source contract prior to award
- a U.S. contractor convicted for tax evasion
- a former U.S. contracting official sentenced for signing a false tax return
- three former U.S. military members sentenced for fuel theft
- a former U.S. Army specialist sentenced for bribery conspiracy
- a U.S. Army captain sentenced for solicitation and receipt of gratuity

## RESEARCH AND ANALYSIS

This quarter, SIGAR's Research and Analysis Directorate issued an updated **High-Risk List** identifying the eight issue areas of the U.S.-funded reconstruction most vulnerable to waste, fraud and abuse. The eight areas are:

- Afghan Security Forces Capacity and Capabilities
- Corruption
- Sustainability
- On-Budget Support
- Counternarcotics
- Contract Management
- Oversight
- Strategy and Planning

\* SIGAR may also report on products and events occurring after December 31, 2016, up to the publication date.

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“Without efficient procurement, money gets wasted on a very large scale. ... Lack of transparency and corruption in procurement directly affects citizens, and the losses to corruption are estimated in the billions of dollars every year.”

—*The World Bank*

# 1 AFGHAN PROCUREMENT REFORM



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Afghan President Ashraf Ghani presides at a session of the National Procurement Commission that he established to review major procurements. Chief Executive Abdullah Abdullah is at the president's right. (Photo by Afghanistan's Office of the President)

## THE NEED TO CONTINUE AFGHAN PROCUREMENT REFORM

Government procurement spending worldwide—purchases and contracts for goods and services—accounts for 13–20% of countries’ gross domestic product, according to Transparency International. “With such vast sums at stake,” the civil-society organization notes, “few government activities create greater temptations or offer more opportunities for corruption than public sector procurement.”<sup>1</sup> Even among European Union countries with well-developed administrative systems, for example, the Organization for Economic Cooperation and Development reports, “Studies suggest that up to 20–25% of the public contracts’ value may be lost to corruption.”<sup>2</sup>

In Afghanistan, the potential for monetary losses from corruption—not to mention other losses from poor management and oversight practices—is almost certainly more substantial. As SIGAR and other organizations have repeatedly found, Afghanistan suffers from limited institutional capacity to conduct basic governmental functions, and from widespread and systemic corruption that consistently places it near the bottom of international rankings for public perception of corruption.

The Special Inspector General for Afghanistan Reconstruction (SIGAR) has taken an active role in supporting procurement reform in Afghanistan. SIGAR views vigilant oversight and Afghan reform initiatives as important means of protecting American taxpayers’ aid money as more of it passes into budgetary control by Afghan ministries.

A nearly \$1 billion fuel procurement initiated by the Afghan Ministry of Defense (MOD) illustrates both the need for reform and SIGAR’s involvement in problematic cases.

Until 2013, the U.S.-led Combined Security Transition Command-Afghanistan (CSTC-A) handled fuel procurements for the Afghan MOD and the Ministry of Interior (MOI), which control the Afghan army and police forces, respectively. In 2013, the ministries took over the function of soliciting bids for fuel contracts, with CSTC-A providing money to pay the bills via direct assistance.<sup>3</sup>

The MOD awarded a fuel contract that year to four Afghan vendors for a total value of nearly \$1 billion. SIGAR’s Investigations Directorate heard

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**Supplies are trucked** across Afghanistan. (USAID photo)

complaints about the award and launched an investigation into claims that the winning contractors had colluded to rig their bids and to jack up their prices above the competitive levels previously reflected in the MOI fuel contract.

Six companies had notified the MOD they planned to submit bids. However, two companies failed to submit their bids by the deadline. Reportedly the employees attempting to deliver bid documents for the companies were delayed by an unwarranted traffic stop in one case and a collision with a truck in another.

SIGAR later received allegations that representatives of the four contractors who submitted bids in time had met at a hotel in Dubai 10 days beforehand. SIGAR's investigation determined that the four companies who met in the hotel had fixed their prices and rigged their MOD contract bids. The four vendors offered exactly the same prices for diesel and gasoline for seven lots of fuel: exactly 86.25 cents per liter for diesel and exactly 83.84 cents per liter for gasoline.<sup>4</sup> They claimed they were obtaining fuel from four different sources and figuring their costs by completely different methods, so their pricing might represent a truly remarkable coincidence. But SIGAR consulted fuel and procurement experts who agreed the odds against multiple vendors' independently arriving at bids identical to within one one-hundredth of a cent were astronomical, and that they had never seen such a phenomenon.

Investigators also found evidence that the four colluding contractors had bribed several military personnel at the MOD, contracting officials, and financial advisors to make sure that no one else got any of the business. In addition, two competing firms—the two prevented, perhaps coincidentally,

from entering bids because of the traffic stop and the truck collision—had been offered bribes if they agreed not to submit competing bids. Both refused. When one of the competitors lodged a complaint about the alleged bribe, another bribe was offered to have the complaint withdrawn. The competitor refused that bribe as well.

The MOD contract award was worth \$999.5 million. Investigators discovered that the two vendors who could not reach the bid-submission office on time would have entered lower bids than the four who did. The lower of their two bids would have yielded a contract value of \$784.8 million—more than \$200 million below the contract value settled upon by the MOD.

SIGAR investigators briefed the commanding general of CSTC-A, and on February 1, 2015, presented their findings to President Ghani. The president reacted strongly. He cancelled the MOD contract, excluded the colluding contractors from award competitions, and removed five senior military personnel and a civilian advisor from the MOD.<sup>5</sup> Because CSTC-A pays for MOD's fuel, President Ghani's response to the SIGAR briefing saved U.S. taxpayers more than \$200 million that might have gone for illegally rigged prices.

The full story of the MOD fuel contract has yet to be told, however. After the bidding scandal broke, President Ghani ordered an Afghan investigation of the contract, but an Afghan news site reported in March 2016 that MOD, the investigative committee, and its head, Kabul University economist and former Minister of Economy Hamidullah Farooqi, refused to discuss it.<sup>6</sup> Nearly a year later, the investigative report has not been formally released.

A new twist to Afghan fuel-contract scandals was the January 9, 2017, conviction of MOI Major General Abdul Wase Raoufi for taking a \$150,000 bribe in exchange for awarding one of that ministry's fuel contracts. The general drew a 14-year prison sentence and a \$150,000 fine, subject to appeal. He was tried at Afghanistan's newly established Anti-Corruption Justice Center. SIGAR helped develop the case. See the Investigations portion of Section 2 of this report for more information.

## PROCUREMENT: NEARLY 50% OF AFGHAN BUDGET

Public procurement—of fuel, roads, buildings, textbooks, medical supplies, consulting, and other goods and services—is a big budget item in Afghanistan. The director of the country's National Procurement Authority recently said procurement accounts for nearly 50% of the Afghan national budget.<sup>7</sup> That important fact intersects with another: the United States, like other international donors, has officially committed to give at least 50% of its civilian development aid to Afghanistan **on budget**, whether through direct government-to-government grants or by channeling aid through multilateral trust funds. The generally stated aim of delivering aid

### On-Budget Assistance

According to USAID, "Assistance is qualified as 'On-Budget' [OBA] when USAID development funds are delivered through GIROA [Government of the Islamic Republic of Afghanistan] Public Financial Management (PFM) systems, which includes all components of GIROA's budget process—both upstream (including strategic planning, medium-term expenditure framework and annual budgeting) and downstream (including revenue management, procurement, control, accounting, reporting, monitoring and evaluation audit and oversight). OBA financing should comply with the following conditions: (i) a legal agreement (an OBA bilateral agreement or implementation letter(s) exists between USAID and GIROA; (ii) assistance is implemented and executed by a GIROA implementing entity, through national arrangements covering PFM systems at both the government-wide and ministerial/sectoral level; and (iii) assistance is reflected in the national budget and approved by the Parliament."

Source: USAID, "Mission Order 220.03," 3/24/2015.

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on budget—as distinct from off-budget expenditures controlled by the U.S. government or nongovernmental organizations and never incorporated into Afghan government budgets and control—is to cut costs, increase the host-country sense of ownership of reconstruction projects, and help build institutional capacity as ministries gain experience in financial management, procurement, and project oversight.

SIGAR understands the logic of increasing the proportion of aid delivered on budget. As a matter of oversight, however, whether the on-budget aid is delivered directly or via trust funds, U.S. ability to monitor, influence, and account for the distribution of its aid declines as more funds are executed by the Afghan government. As Special Inspector General for Afghanistan Reconstruction John F. Sopko warned the House Oversight and Governmental Reform Committee in 2013, “SIGAR does not oppose direct assistance. But if the Administration and Congress proceed with plans to increase direct assistance, we believe it is critical that they focus on three issues that could dramatically threaten our reconstruction objectives: the lack of Afghan government capacity to manage and account for donor funds, the effect of pervasive corruption, and the need to ensure adequate, long-term oversight.”<sup>8</sup>

SIGAR has urged that oversight of U.S. aid delivered on budget should include agreements on measurable outcomes and on access to relevant Afghan records, facilities, and staff.<sup>9</sup> SIGAR’s reports to Congress have also registered concerns about limited visibility into the stewardship and uses of U.S. funds that flow into Afghan budgets via multinational entities like the Afghanistan Reconstruction Trust Fund and the Law and Order Trust Fund for Afghanistan.<sup>10</sup>

Without comprehensive visibility into U.S. funding delivered to the Afghan government, U.S. law enforcement loses effective oversight and criminal jurisdiction for those who embezzle, steal, bribe, extort, or misappropriate in connection with procurements made with on-budget assistance funds.

That threat is aggravated by persistent concerns about ministry capabilities and the unintended consequences of large aid flows. Despite some statutory and administrative gains by the Afghan government, the reality since the 2001 U.S.-led intervention can be summed up in a recent assessment by the Norwegian Agency for Development Cooperation. That agency found attempts to set up and maintain agencies within multiple departments suffered from “the shortage of management and implementation capacity within the Afghan government, particularly at the provincial level.”<sup>11</sup> Meanwhile, the Norwegian report adds, “High levels of aid, together with limited absorptive capacity and a poorly functioning public administration, meant that the international presence in Afghanistan itself became a driver of corruption.”<sup>12</sup> That last observation echoed a finding of SIGAR’s Lessons Learned Program in its September 2016 report, *Corruption in*

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*Conflict: Lessons from the U.S. Experience in Afghanistan.* For years after the 2001 intervention in Afghanistan, SIGAR noted, “The U.S. government . . . failed to recognize that billions of dollars injected into a small, under-developed country, with limited oversight and strong pressures to spend, contributed to the growth of corruption. . . . The influx of money from aid and military contracts was not always accompanied by strong oversight. Controls were sometimes insufficient to prevent embezzlement, bribery, fraud, and other forms of corruption—by both Afghan and international actors—that drained resources from the reconstruction effort.”<sup>13</sup>

These and like concerns have been noted by other oversight bodies:

- A 2008 report by the Public Procurement Unit of the Afghan Ministry of Finance noted that ongoing reforms were then attempting to address issues including “limited procurement capacity at all levels in the government,” lack of adequate training, inadequate regulations, non-uniform procurement structures among agencies, and “no incentives for improvement and ownership.”<sup>14</sup> The Commission on Wartime Contracting in Iraq and Afghanistan estimated in its 2011 final report that “At least \$30 billion, and possibly as much as \$60 billion, has been lost to contract waste and fraud” in the contingency operations in the two countries.<sup>15</sup> U.S. aid has continued to both countries, especially to Afghanistan, where more than \$8.4 billion of the \$117 billion already appropriated has yet to be disbursed, and the United States has committed to spend billions more for years to come.
- In November 2016, the independent organization Integrity Watch Afghanistan (IWA) declared that “In the last 14 years, the Afghan government has failed in the fight against corruption. . . . Lack of political will and inappropriate institutional arrangements were amongst the key factors behind the total failure.” The IWA did, however, see some progress in the establishment of external oversight of the procurement process through the National Procurement Commission and the National Procurement Authority.<sup>16</sup> Working with civil-society experts, international representatives, and Afghan officials, Transparency International found last year that only two of 22 Afghan anticorruption commitments since 2014 deemed “most crucial to tackling corruption in Afghanistan” have been fully implemented.<sup>17</sup>

## **SIGAR ASSISTANCE TO AFGHAN PROCUREMENT**

In addition to SIGAR’s work in the MOD fuel-contract case, another SIGAR investigation revealed weakness in Afghan ministerial procurement capability and helped avoid the award of an Afghan ministry of a \$99 million road-building contract to a suspect and weakly credentialed consortium.

In 2015, the Afghan Ministry of Public Works (MOPW) began a sole-source selection process for a planned contract for building two sections of the Qaisar

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**U.S.-funded procurements** include goods like this shipment of cold-weather gear for the 205th Corps of the Afghan National Army. (U.S. Air Force photo by MSgt Paul Hughes)

to Laman Ring Road.<sup>18</sup> The sole-source process identified ASM JV, a joint venture among three companies, as the intended recipient of the planned \$99 million award. The funds were provided by the Asian Development Bank (ADB), to which the United States and Japan are the leading contributors of capital.

In May 2016, SIGAR began a criminal investigation based on allegations that ASM JV was paying bribes and secretly enlisting officials' help at both the ADB and MOPW to secure the contract award, that ASM JV lacked the technical and financial capacity to competently perform this major project, and that it had failed a December 2015 pre-qualification evaluation conducted by consulting engineers. Persons at ADB and MOPW nonetheless continued advocating for ASM JV to receive the contract. In July 2016, a request for proposal (RFP) for the contract was given to ASM JV, while no RFP was given to two companies with higher pre-qualification scores.

In August 2016, after an extensive investigation involving numerous interviews and reviews of emails and official records, SIGAR notified Afghan President Ashraf Ghani by official letter of its investigative findings, including evidence of corruption in the selection process. Officials of the National Procurement Authority (NPA) and presidential advisors voiced appreciation for SIGAR's investigative work; advisors to President Ghani said SIGAR's investigation confirmed their suspicions about the contract process.

MOPW officials stated that the award process could not move forward as planned, and that ASM JV appeared to have an inappropriate relationship with individuals representing ADB. In October 2016, SIGAR was notified that the presidential palace had terminated the sole-source selection process and would proceed to an "open tender" in which any company could bid and compete in a transparent and honest process.

Because the United States is one of the ADB's main capital subscribers, SIGAR's investigation and subsequent close coordination with officials of the NPA and the palace thus avoided millions of dollars of improper costs being drawn from U.S.-supplied funds at the ADB.

## CREATING AN APPARATUS FOR REFORM

The initial investigation by SIGAR of the MOD fuel price-fixing scandal highlighted some of the deficiencies of the Afghan procurement system, but others also demanded mitigation. CSTC-A's Procurement Reform Branch has worked with the Ghani administration to identify shortfalls that contribute to the system's inefficiency and ineffectiveness, and foster a culture of corruption.

According to the director of CSTC-A's Contracting Enabler Cell in Kabul, the shortcomings include "antiquated procurement law, a purely paper-based, lengthy bureaucratic process, untimely planning, lack of adequately trained professionals, lack of systemic accountability and a lack of contract management and oversight."<sup>19</sup> The Afghan government has acknowledged

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that although its early-2000s procurement law “was one of the better laws in the region, it still had vagueness and impreciseness.”<sup>20</sup>

Procurement reform is not simply a matter of designing structures and cleaning up practices. “Aspirations to de-politicize public procurement face major hurdles,” a trio of procurement researchers warns. Reform can involve “financial hardships and job losses for various regional or sectional constituencies;” tensions among political, regulatory, and administrative objectives; and conflicts among government agencies.<sup>21</sup>

Afghanistan has nonetheless taken several positive steps toward reform and correction of procurement processes.

Since early 2015, Afghan public-procurement contracts whose values exceed \$300,000 for operations and maintenance, or \$1.5 million for construction, undergo review by the National Procurement Commission (NPC), whose members are President Ghani, Chief Executive Abdullah, the second vice president, and the ministers of finance, economy, and justice. President Ghani personally presides at the NPC’s weekly meetings. A September 2016 report by Transparency International estimates the total savings from the NPC’s oversight as “at least \$350 million.”<sup>22</sup>

For one example of the NPC’s work, consider the session of December 31, 2016. The NPC approved 20 contracts with a total value of 12.5 billion afghanis (about \$187 million). The projects involved included electric substations and transmission lines, road and dam construction, information-technology gear for the presidential office, and dishware and foodstuffs for the Ministry of Defense. The NPC turned back contracts for technical studies of reservoir dams for further review, and told three ministries to look into technical, social, financial, and capacity issues with various projects under their control.<sup>23</sup>

Afghan laws have also changed. On October 7, 2015, President Ghani ratified Legislative Decree No. 75, revising existing procurement law with the stated aims of increasing transparency, controlling expenditure, improving value received, and offering equal tendering opportunities for eligible bidders. The law’s 67 articles apply to “all procurement proceedings by all budgetary units.”<sup>24</sup>

Procurement oversight also benefits from the operations of the National Procurement Authority (NPA). Transparency International has called the NPA “one bright spot” in Afghanistan’s procurement operations, saying it has “saved more than US\$200 million that might have been lost to corruption.”<sup>25</sup>

The National Unity Government established the NPA in late 2014 to increase transparency and otherwise improve the country’s public procurement system. The NPA assimilated three ministerial procurement entities: the Procurement Policy Unit of the Ministry of Finance, the Ministry of Economy’s Afghanistan Reconstruction and Development Services, and the Contract Management Office of the Ministry of Finance. The NPA’s mission is to reform procurement for all 64 ministries and procurement

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**Many millions of dollars** flow into road-building contracts in Afghanistan. (USAID photo)

entities across Afghanistan with the aim of producing an effective, efficient, transparent procurement system. The NPA also serves as secretariat organization to the NPC. Since October 2014, the NPA has operated under the direction of Yama Yari, who holds degrees in engineering and management, and has worked in engineering and construction as well as in government positions.<sup>26</sup>

The NPA reviews proposed contracts, and recommends approval, disapproval, or other action to the NPC. In its first 18 months of operation, the NPA says it assessed 2,000 contracts, of which 1,800 were approved. The NPA's reviews also led to blacklisting 83 companies from contracting for two to five years for falsifying documents or other procurement violations, and had referred cases to the Afghan attorney general's office.<sup>27</sup> The NPA has also trained 1,600 Afghan government personnel in procurement law and practice, and has instituted a tracking system to monitor NPC-approved contracts for cost, scope, schedule, and quality data.<sup>28</sup>

In September 2016, the NPA signed a memorandum of understanding with the Open Contracting Partnership, a nongovernmental organization based in Washington, DC, and with Integrity Watch Afghanistan. The memorandum calls for assessing current levels of transparency and accountability in the Afghan public procurement system, building capacity for public participation and feedback, cooperating on contract-implementation monitoring for a major infrastructure project, and documenting and publishing project results.<sup>29</sup>

Both CSTC-A and SIGAR work with the NPA to improve the Afghan procurement system. In September 2015, CSTC-A established the Procurement Reform Branch within its Contracting Enabler Cell to train, advise, and assist the NPA. As CSTC-A has observed, "One of the underlying challenges facing the National Procurement Authority is how to bring reform to a

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system fraught with corruption for decades, and still keep a functioning procurement system during a time of war.”<sup>30</sup> CSTC-A aims to transition the use of congressionally appropriated Afghan Security Forces Fund money to the Afghan government over the course of several years for “cradle-to-grave execution and management” of requirements procurement.<sup>31</sup>

In response to the additional responsibility the NPA will shoulder as the Afghan government handles more procurement funds itself, SIGAR has prepared fraud-awareness briefings to help NPA specialists recognize fraud indicators and select appropriate responses. SIGAR staff have also met with NPA personnel to discuss new Afghan regulations on debarment under the country’s public-procurement law, the need for reviewing the responsibility of owners and affiliates of contractors accused of fraud and poor performance, the use of online databases to provide publicly available information about debarment decisions, and to review the way SIGAR’s suspension and debarment program operates.

Imposing a reform-oriented entity in a problematic environment has been a challenge. “From the very beginning,” says Murtaza Noori, former NPA director of procurement policy, “the reform process faced protests from government officials and members of parliament. Criminal patronage networks extended into the government itself, and were trying to manipulate and sabotage procurement reforms.”<sup>32</sup>

Using suspension and debarment procedures is one way Afghanistan can clamp down on the networks of corruption and patronage that plague its procurement operations. In the United States, suspension and debarment are long-established administrative tools to ensure that the U.S. government contracts or otherwise transacts business only with responsible persons, as statute mandates.<sup>33</sup> Suspension is an immediate but temporary bar on doing business with the government; debarment is not immediate, but after a noticed proceeding, can be long-term.<sup>34</sup>

By cooperating with Afghan procurement authorities, SIGAR aims to foster sharper oversight and more effective accountability for vendors doing business with the Afghan government—and to a large extent being paid with U.S. taxpayers’ dollars. As of December 30, 2016, the NPA reports that 137 Afghan companies have been debarred from doing business with the Kabul government. Reasons for the debarments include providing phony bank statements, false documents about other contracts, and fake bid-security documents.<sup>35</sup>

One reflection of the influence SIGAR and CSTC-A have had on the course of procurement reform in Afghanistan is that SIGAR Investigations Directorate staff and CSTC-A representatives are invited observers—and typically the only non-Afghans attending—at the weekly sessions of President Ghani’s National Procurement Commission. SIGAR has found this access to be valuable as a means of gaining insight into Afghan government operations and to offer recommendations on matters that come before the NPC.

## PROGRESS AND CAVEATS

Afghanistan's recent steps toward procurement reform are encouraging. But concerns and reservations remain.

One recent indicator appears in *Benchmarking Public Procurement 2016*, a research report on 77 countries prepared by the International Bank for Reconstruction and Development within the World Bank Group. With procurement accounting for about half of developing countries' budgets, the report says, "it provides numerous opportunities for all involved to divert public funds for private gain."<sup>36</sup> The report team collected data and compared use of good procurement practices among 77 countries ranging from Afghanistan and Haiti, to Sweden and the United States. Each country was then assigned to a comparative quintile—quintile 1 being lowest, quintile 5 being highest—in three stages of procurement and two types of complaint and report mechanisms.

Generally, Afghanistan scored well. On the 1–5 quintile scale, Afghanistan was graded at 3 in preparing bids, 5 in submitting and evaluating bids, 5 in awarding and executing contracts, 4 in availability of complaint and reporting mechanisms, and 2 in first-tier review (initial processing of complaints).<sup>37</sup> The varying grades indicate areas for improvement, but also suggest that recent years' legal and administrative reforms have helped.

The Bank's new 2017 benchmarking report is not directly comparable to the 2016 edition: the coverage expanded to 180 countries, and the topics measured and scoring methodology changed. Afghanistan has some low marks, but also a few passable grades. On a 1–100 scale, Afghanistan earns a 56 for needs assessment, call for tender, and bid preparation score; 83 for bid submission; 43 for bid opening, evaluation, and award; 73 for content and management of procurement contract; 74 for performance guarantee rules and practices; and 33 for payment of suppliers.<sup>38</sup>

Overall, as Transparency International said in a September 2016 report, "There is evidence of success and savings made by the National Procurement Commission in holding public procurement processes and contracts to account. . . . Moreover, the National Procurement Authority has successfully implemented a number of key reforms, including recent legislative approval of the National Law on Procurement."<sup>39</sup> The same report added, however, that the "high-level political intervention and oversight" required to carry out the reforms "threatens to undermine the sustainability of stable public procurement procedures and institutions throughout state bodies," and cites reports of parliamentary obstruction of implementing measures affecting the NPA.

The inspector general of the U.S. Department of Defense (DOD IG) recently noted the creation of the NPA and the NPC, as well as CSTC-A's new process for developing requirements and imposing conditions in financial-commitment letters with Afghan ministries, as steps that "improved [the Afghan government's] capacity to reduce corruption and independently

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identify and develop requirements.”<sup>40</sup> The DOD IG also observed, however, that Afghan provincial leaders without authority to obligate government funds were entering into informal agreements with contractors for goods and services, and that CSTC-A was inconsistently applying penalties for ministry failures to meet commitments.

The DOD IG said allowing provincial leaders to enter into unofficial procurement arrangements invites corruption and favoritism. Further, “Until CSTC-A is able to help [the Afghan government] address its contracting deficiencies,” the DOD IG warned, “future U.S. direct assistance funding continues to be vulnerable to fraud, waste, and abuse.”<sup>41</sup> In general, the DOD IG reported, “CSTC-A officials believe the NPC involvement has enforced contracting standards and decreased corruption in the contracting process.” However, “CSTC-A has not identified any metrics to determine the NPC’s effectiveness.”<sup>42</sup> CSTC-A had, however, earlier commented that the new NPC process produced the Afghan fiscal year “1394 procurement crisis” that left many MOD contracts incompletely executed or not awarded by the end of the fiscal year.<sup>43</sup>

Delays in the reformed procurement process may in part reflect leadership’s and procurement officers’ backgrounds, generally in policy rather than practice, according to former NPA official Noori: “They have little experience with the procurement process. . . . During my time at NPA, I heard many complaints from the infrastructure sector that approval of contracts or even small contract extension or alterations would take months at NPA and NPC to be approved.”<sup>44</sup>

Integrity Watch Afghanistan likewise saw “some progress” in President Ghani’s transparency commitments, the creation of the NPA and NPC, and reshuffling of justice-sector staff, but “in terms of having a clear and comprehensive strategy and the institutionalized approach to fight corruption, as well as in terms of the prosecution of corruption cases, the [National Unity Government] has not been particularly successful.”<sup>45</sup> That is a concern for procurement reform, because visibly effective anticorruption measures help keep vendors and procurement officials honest, or at least deterred from dishonesty.

Afghanistan is, of course, not alone in struggling to improve public procurement. The Asian Development Bank (ADB), of which Afghanistan is a member, has a technical-assistance project under way to improve procurement in several developing member countries; the initial focus was on Bangladesh, Indonesia, Pakistan, and Vietnam.<sup>46</sup> The ADB notes that developing countries’ reform efforts “have primarily focused on first-generation reforms at the national level,” such as changes in legal and regulatory frameworks, but adds, “a huge task remains to translate these into actual changes in procurement practices and outcomes.” The aim of ADB’s technical assistance is to strengthen the capacity of ministries, local governments, and other procuring entities.<sup>47</sup>

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**Most procurements** are for small items, such as vehicle parts at this depot in Afghanistan. (SIGAR Audits Directorate photo)

Afghanistan's recent efforts appear to continue a top-down approach that a review of post-2001 reform efforts found to be a consistent flaw in the Afghan state. Professor Jennifer Murtazashvili of the Graduate School of Public and International Affairs at the University of Pittsburgh writes that “the structures existing at the dawn of the state building effort basically reflected the old Soviet model of governance,” with heavy emphasis on centralized bureaucracy and “little tolerance for local autonomy.” Experience might suggest that reforms would favor more cooperative relations between the capital and provinces or districts, but “Reform has thus far reinforced centralization and the previous bureaucratic system.”<sup>48</sup>

This last caveat illustrates the tension between exerting effective oversight and control over direct-assistance funds, and the need to change and disseminate attitudes and practices among all levels of Afghan governance. Concentrating power and money at the center may invite and reward evasion and subversion at the periphery. For example, the DOD IG noted that provincial officials have obligated public funds outside of the central system. Another potential issue is that bidders or corrupt procurement officials might divide work into a number of small contracts to stay under value thresholds that would trigger a high-level review.

Centralized systems with high monetary thresholds for review also face the problem that in most countries, public-sector transactions are typically small transactions of relatively low value.<sup>49</sup> Therefore, without consistent application of standard procedures, training requirements, safeguards, and accountability measures at all levels of government procurement and at all steps in the process—requirements definition, solicitation, review, award, monitoring, termination or closeout, and appeal processing—carelessness and dishonesty can multiply around weak spots in the system.

Meanwhile, the reformed procurement structure itself is still a work in progress. According to former NPA official Noori, mechanisms for monitoring contracts and settling disputes are incomplete, and the strategy for creating an e-procurement system is not developed. Nonetheless, he adds, the NPA “has made relatively good progress in a short time, mostly due to personal political support from [President] Ghani.” But after the end of Ghani's term in office, Noori fears, “The NPA will be unable resist pressure and interruption from corrupt forces.”<sup>50</sup>

Too-limited reform can allow large numbers of poor-quality and corrupt lower-cost procurements to occur, undermining governance objectives and sustaining public suspicions about the integrity and effectiveness of the central government. As SIGAR has long reported, this is a particular point of concern for Afghanistan and for its international donors.

## THE STAKES REMAIN HIGH

SIGAR encourages the continuing work of the international Resolute Support train-advise-assist mission, CSTC-A, and of the Ghani administration, to improve the oversight and effective use of foreign on-budget assistance in Afghanistan. The Resolute Support mission, for example, has set up a contract-fraud unit—as recommended in SIGAR’s lessons-learned report on corruption in Afghanistan—and might also usefully offer to undertake joint vetting of contractors with Afghan entities.

But clearly there is much more work to be done by both Afghanistan and the United States to protect on-budget aid funds from waste, fraud, and abuse as greater proportions of aid flow directly onto the Afghan budget and under Afghan ministerial control. As any systems engineer can attest, the success of any new and improved system requires continued monitoring and oversight—something that SIGAR, CSTC-A, and the Afghan law-enforcement community will hopefully continue to perform.

The risks affect both Afghan and U.S. interests. “Misprocurement,” the NPA observes, “would result in a waste of public money, ineffective service delivery, and public disenfranchisement” for Afghans.<sup>51</sup> From the standpoint of U.S. objectives, aid flowing through poor procurement processes risks inadequately funding security forces, strengthening corrupt networks, enriching insurgent sympathizers, and alienating U.S. public support for foreign-policy objectives.

SIGAR’s responsibilities include working to find new ways to prevent and detect waste, fraud, and abuse in Afghanistan reconstruction. That is why, in addition to its support for the reforms embodied in the NPA and NPC, SIGAR maintains close contact with U.S. military and civilian implementing and oversight personnel, and with allied nations who also provide aid to Afghanistan, as well as with the National Unity Government and its new attorney general. SIGAR remains the largest U.S. oversight entity still operating in Afghanistan, with a unique institutional memory supported by its long-term staff presence.

The success of the reconstruction effort in Afghanistan is closely related to the extent to which the Afghan government can effectively manage and protect the funds provided by the United States and other donors for procuring needed goods and services. As Colonel Charles Worshim III, director of CSTC-A’s Contracting Enabler Cell in Kabul, put it:

The government of the Islamic Republic of Afghanistan must realize a transparent procurement system if there is any chance of legitimacy taking hold in the country. In the absence of a transparent system, Afghanistan will always struggle to break free of its designation as one of the most corrupt countries in the world.<sup>52</sup>

“Unfortunately in the nearly five years I’ve been traveling to Afghanistan, I first witnessed the United States put in way too much, way too fast. More recently, I’ve watched the U.S. remove way too much, way too fast. Policy makers both in Congress and the new Trump Administration should take note of this.”

—*Inspector General John Sopko*