

SIGAR



Testimony
Before the Subcommittee on National Security,
Homeland Defense, and Foreign Operations,
Committee on Oversight and Government Reform,
House of Representatives

Direct Assistance to the Afghan Government Presents Risks

Statement of John F. Sopko,

Special Inspector General
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Mr. Chairman, Ranking Member Tierney, and Members of the Subcommittee,

I am pleased to be here today to provide an update on SIGAR's work regarding the U.S. government's plans to transfer responsibility to the Afghan government for management of the petroleum, oil, and lubricants (POL) provided to the Afghan National Army (ANA) and to discuss the broader challenges raised by this audit especially as it relates to forms of direct assistance to the government of Afghanistan.

As you know, the U.S. government, along with other international donors, has committed to channel at least 50 percent of its development assistance through the Afghan national budget, rather than through contractors and nongovernmental organizations operating on behalf of the U.S. government. It has made this commitment because, within two years, it will be largely up to the Afghan government to sustain the reconstruction effort in which the U.S. has invested almost \$100 billion. The importance of giving the Afghan government the responsibility to allocate, manage, and track funds should not be underestimated.

However, we know from our work and the work of others in the oversight community that direct assistance brings with it a number of risks. That is why I am grateful to the Chairman and this committee for raising this issue, in what is the first hearing of the 113th Congress on the Afghanistan reconstruction effort.

Weaknesses in Afghan National Army Fuel Purchases

Let me first provide an update on our work regarding the purchase of ANA fuel. As I testified in September 2012,¹ Congress has appropriated almost \$50 billion to the Afghan Security Forces Fund to train, equip, and sustain the Afghan National Security Forces since 2005. The NATO Training Mission-Afghanistan/Combined Security Transition Command – Afghanistan (NTM—A/CSTC-A) has primary responsibility for purchasing ANA's POL. As part of the transition of U.S. forces out of Afghanistan by the end of 2014, CSTC-A, in coordination with the Afghan government, is seeking to develop the ANA's POL and other logistics capability to the point that

¹ Statements by John F. Sopko, Special Inspector General for Afghanistan Reconstruction, before the Subcommittee on National Security, Homeland Defense, and Foreign Operations, Committee on Oversight and Government Reform, House of Representatives, September 13, 2012 and September 20, 2012.

it can assume responsibility for all national logistics and maintenance requirements.

In our final audit report, issued just last month,² we found that there are weaknesses in CSTC-A's process for ordering, accepting deliveries, and paying for POL for ANA vehicles, generators, and power plants. This lack of accountability increases the risk that U.S. funds and fuel will be stolen. Specifically, we reported that:

- CSTC-A records related to fuel purchases paid for between March 2010 and February 2011 were missing;
- CSTC-A's data on fuel purchases covering the period March 2011 to March 2012 were inaccurate and incomplete; and
- CSTC-A could not account for fuel that was spilled or lost.

In addition, CSTC-A's processes for price approval, ordering, receipt, delivery, and payment of fuel were beset by major vulnerabilities. For example:

- CSTC-A approved payments for fuel without verifying vendors' statements that they had made deliveries in full and of acceptable quality;
- CSTC-A fuel orders were not based on required consumption data and, for power plants, the fuel orders did not follow the authorized process; and
- although NTM-A has blanket purchase agreements with 10 vendors for POL, it has only used two—one for aviation fuel and one for ground fuel—creating de facto monopolies and significantly raising the possibility that the best price for either type of fuel will not be received.

Our report included six recommendations to CSTC-A to address the problems we identified. I am pleased to report that CSTC-A concurred with all of these recommendations, including one of the most important: to revise its strategy for providing direct contributions to the Afghan government for future fuel purchases so that further direct assistance is contingent upon the Afghan Ministry of Defense demonstrating transparency and accountability without coalition assistance.

² 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.

We suggested that CSTC-A could begin with a small amount of direct contributions to purchase fuel for specific units and/or power plants and then adjust upwards based upon assessment of Ministry of Defense (MoD) capacity and accountability of fuel ordered, delivered, and consumed. In response to our recommendation, CSTC-A stated that it has decided to disburse POL funds incrementally. The first disbursement will cover an initial 90-day period with the intent to allow the MoD to have sufficient funding to establish contracts. Each successive 30-day disbursement will be contingent upon the results of MoD finance audits, which will be conducted by NTM-A on a monthly basis to ensure that the MoD can account for funding. This is a positive development, and we will be closely watching how this arrangement is implemented.

The safeguards that CSTC-A has agreed to build into its ANA POL program are critical, because, as I will discuss in the remainder of my testimony, direct assistance is inherently risky—especially in light of our experience in Afghanistan to date.

Direct Assistance to the Afghan Government Raises Concerns

Direct (or “on budget”) assistance is funding provided directly to another government’s national budget to be used by that government. Unlike reconstruction assistance provided through contractors and nongovernmental organizations operating on behalf of U.S. implementing agencies (also known as “off-budget assistance”), direct assistance is designed to allow the Afghans more freedom to manage their own budget and to build their capacity for doing so. As of February 2012, the United States was disbursing more than 40 percent of its aid funds to the Afghan government in the form of direct assistance. The U.S. Agency for International Development (USAID) and the Department of Defense (DOD) provide direct assistance to Afghanistan using bilateral agreements and multilateral trust funds that provide funds through the Afghan national budget.

Some of USAID’s bilateral agreements finance Afghan government procurement of goods and services, while others fund a range of other government expenses and activities, including operating costs, salaries, agricultural development programs, and infrastructure projects. USAID also provides direct assistance via the World Bank-administered Afghanistan Reconstruction Trust Fund (ARTF), which provides funds through the Afghan national budget to finance the

government's recurrent operating costs (e.g., wages for civil servants, operations and maintenance costs) and national development programs.

DOD provides direct assistance bilaterally to Afghanistan's MoD and Ministry of Interior (MoI) through contributions of funds overseen by CSTC-A. According to DOD guidance, these contributions are used to procure food, salaries, goods, services, and minor construction in direct support of the ANA and the Afghan National Police (ANP). CSTC-A also contributes funds to the multilateral United Nations Development Programme-administered Law and Order Trust Fund for Afghanistan (LOTFA), which mostly funds salaries of the ANP.

Some data indicate that on-budget expenditures by the Afghan government may have a greater impact on Afghanistan's economy compared to aid programs administered by U.S. and international donors. The World Bank, for example, has reported that only about 10-25 percent of off-budget aid is actually spent in Afghanistan, compared to 55-95 percent of the aid administered through the Afghan government.³

However, while there is a need to provide funds directly through the Afghan national budget, direct assistance also raises a number of concerns. Chief among these concerns are the following:

- The Afghan government does not appear to have the capacity to manage the amount of funding envisioned in the international community's pledges of direct assistance.
- Funds provided through direct assistance are typically subject to less U.S. and international donor community oversight than funds provided through projects implemented by U.S. and international donor community government agencies, leaving them particularly vulnerable to fraud, waste, and abuse. This is especially risky, given the pervasiveness of corruption in Afghanistan.

Afghan Government Capacity to Manage Reconstruction Programs and Funds Is Limited

Our audit and inspection work has consistently identified weaknesses in the Afghan government's ability to manage the programs and facilities created using reconstruction funds.

³ *Afghanistan in Transition: Looking Beyond 201; Volume 2: Main Report*, The World Bank, May 2012, p. 30.

For example, in October 2012, we reported that the Afghan government will likely be incapable of fully sustaining Afghan National Security Forces facilities after the transition in 2014.⁴ We found that the Afghan National Security Forces lack personnel with the technical skills necessary to operate and maintain critical facilities and that the Afghan government had filled less than 40 percent of its authorized operation and maintenance positions. Likewise, in a 2010 audit of reconstruction in Nangarhar, Afghanistan, we found that the Afghan government was severely limited in its ability to operate and maintain U.S.-completed development projects in that province.⁵ As a result, we found infrastructure projects that were dilapidated or in disrepair. Just recently, we issued two inspection reports on ANP facilities in Kunduz province.⁶ For both of these facilities, there were no plans for operation and maintenance contracts or to train the Afghans to manage the facilities.

SIGAR has conducted two reviews of major direct assistance programs that further illuminate concerns regarding Afghan government capacity. In April 2011, SIGAR identified problems with LOTFA, through which ANP salaries are paid.⁷ SIGAR found that the Afghan MoI's payroll system provided little assurance that only those ANP personnel who are actually working are paid and that LOTFA funds are only used to reimburse eligible ANP payroll and other costs. Furthermore, SIGAR's auditors found that the United Nations Development Programme, which administers LOTFA, could not confirm that LOTFA funds reimbursed only eligible ANP costs. SIGAR concluded that the MoI will continue to face challenges gathering personnel and payroll data, centralizing the data within a system, and integrating this information into other systems until long-standing issues with security, infrastructure, and coordination are addressed.

In a July 2011 assessment of the ARTF, SIGAR found that, although Afghan ministries had generally increased their ability to manage and account for government finances, including ARTF funds, the Afghan government faces challenges developing and maintaining the service

⁴ SIGAR Audit 13-1, *Afghan National Security Forces Facilities: Concerns with Funding, Oversight, and Sustainability for Operation and Maintenance*, October 30, 2012.

⁵ SIGAR Audit 11-02, *Weakness in Reporting and Coordination of Development Assistance and Lack of Provincial Capacity Pose Risks to U.S. Strategy in Nangarhar Province*, October 26, 2010.

⁶ SIGAR Inspection 13-04, *Kunduz Afghan National Police Provincial Headquarters: After Construction Delays and Cost Increases, Concerns Remain about the Facility's Usability and Sustainability*, January 24, 2013. SIGAR Inspection 13-04, *Imam Sahib Border Police Company Headquarters in Kunduz Province: \$7.3 Million Facility Sits Largely Unused*, January 29, 2013.

⁷ SIGAR Audit 11-10, *Despite Improvements in MOI's Personnel Systems, Additional Actions Are Needed to Completely Verify ANP Payroll Costs and Workforce Strength*, April 25, 2011.

expertise needed to manage and account for ARTF funds.⁸

Other agencies have also identified weaknesses in the Afghan government's capacity to administer funds responsibly and transparently. In April 2012, for example, the DOD reported that there were serious shortcomings in the Afghan government's capability to manage on-budget operation and maintenance funds. DOD's report stated that, "The ministries responsible for critical assets possess limited ability to adequately execute an operations and maintenance plan on the scale required in Afghanistan....The limitations in internal technical capacity, as well as contracting and procurement...inhibit the effectiveness of any increase in operations and maintenance budget disbursed through the Afghan government. Currently, the systems and internal controls needed to both determine appropriate operations and maintenance spending levels and ensure that the amounts budgeted for operations and maintenance are deployed and disbursed for the appropriate activities, are uniformly deficient throughout the ministries."

The Afghan government's ability to spend funds provided through direct assistance has also been limited. Between 2006 and 2011, the Afghanistan's development or capital budget⁹ has consistently been more than \$2 billion—75 percent of which has been financed by international donors, including the United States, through direct assistance. However, since 2006 the Afghan government has only successfully spent between 39 and 60 percent of this budget. The World Bank has cited a combination of structural and capacity issues for the low level of budget execution. These include unrealistic budgets, capacity limitations for implementing projects, poor predictability of donor funding, and a lack of security.¹⁰

Because of our concerns about the Afghan government's capacity to manage direct assistance funds, we recently initiated a review of assessments funded by USAID of key Afghan ministries.

Limited Oversight of Direct Assistance Programs Is Inherently Risky

⁸ SIGAR Audit 11-13, *The World Bank and the Afghan Government Have Established Mechanisms to Monitor and Account for Funds Contributed to the Afghanistan Reconstruction Trust Fund, but Some Limitations and Challenges Should Be Addressed*, July 22, 2011.

⁹ The Afghan government's development budget pays for the construction of physical assets, such as schools, clinics, roads, bridges, etc. These projects are mainly donor funded but implemented by Afghan government agencies. A development budget is sometimes referred to as a capital budget in other countries.

¹⁰ World Bank, *Afghanistan in Transition: Looking Beyond 2014, Vol 2*: May 2012.

Off-budget assistance has multiple layers of oversight built in to the process that if properly used, should help maximize the chance that funds will be spent wisely and safeguarded from fraud, waste, and abuse. Contracting officers and their technical representatives serve as the first line of defense, responsible for disbursing funds in strict compliance with the terms of the contract. Many programs also have separate quality assurance contractors, whose role is to closely monitor the quality of work and report to the contracting officer. Oversight agencies, including SIGAR, represent the last line of defense, taking an aggressive and independent look at how the U.S. government and its contractors have performed. As a whole, these measures represent the “gold standard” of oversight.

Unfortunately, direct assistance programs, as designed, may fall short of this gold standard. This is particularly problematic, given the pervasiveness of corruption in Afghanistan. Afghanistan’s reputation for corruption is deep-rooted and widespread. A 2012 survey found that 60 percent of Afghans believe that corruption is a major problem in their local government, and even more believe that it is a major problem in their provincial and national government.

Despite stated commitments from the Afghan government to address this problem, we continue to see reluctance on the part of Afghan officials to take serious action. For example, according to the Afghan Coalition of Transparency and Accountability, the budget submitted by the Ministry of Finance this quarter contained no allocations for combating corruption despite the international community’s demand that the ministry make governmental integrity a priority. As has been carefully examined by this committee, widespread corruption at the Dawood National Military Hospital in Kabul led to the siphoning off of U.S. funds as well as theft of medical supplies intended to support hospital operations. In addition, patients often did not receive care because they or their families could not bribe hospital staff. And, as was most recently recounted in full detail by the Monitoring and Evaluation Committee,¹¹ companies and individuals connected to Kabul Bank committed massive fraud, leading to the near collapse of Afghanistan’s most important financial institution.

¹¹ The Independent Joint Anti-Corruption Monitoring and Evaluation Committee was created in 2010 and has three Afghan members and three members from the international community. Its primary mission is to research and study areas prone to corruption and to identify areas for improvement.

Problems like this make the prospect of giving more direct assistance to the Afghans worrisome. If the President's request for FY2013 is approved, there will be about \$30 billion left to be obligated or expended, and much of this money is slated to be spent on direct assistance programs. SIGAR is committed to assessing these programs as rigorously as possible, especially given the risks I have outlined above. For example, we currently have an audit assessing the capacity of the Ministry of Public Health to manage direct assistance, and one evaluating the plans to provide direct assistance to the ANP to purchase POL. Later this year, we will initiate an audit of U.S. efforts to build the financial management capacity at the MoI. And, as I mentioned earlier, we are currently in the process of carefully reviewing the ministerial assessments funded by USAID.

As SIGAR assesses these and other direct assistance programs, we will be asking a number of questions about the level of oversight built into these programs. For example:

- What level of access will U.S. government officials have to documents, personnel, and locations funded through direct assistance?
- Will funding be given incrementally, as will be done in the ANA POL program, or provided in one-time lump sum amounts?
- What commitments, if any, will the U.S. require of the Afghan government to manage and safeguard the funds?
- How will the U.S. assess the capacity of Afghan ministries to assume responsibility for direct assistance funds?

We will also be assessing the extent to which U.S. government agencies comply with the oversight procedures they build into their direct assistance programs. As we know from the Government Accountability Office, USAID has not always complied with the financial and other controls it has included in its bilateral direct assistance agreements with the Afghan government.¹² For example, its agreement with the Ministry of Finance did not specify, as required, that the ministry had a monitoring and evaluation plan in place, would comply with a

¹² GAO-11-710, *Afghanistan: Actions Needed to Improve Accountability of U.S. Assistance to Afghanistan Government*, Washington, D.C., July 20, 2011.

periodic reporting requirement, and would maintain accounting books and records subject to audit.

As with all of our audits and inspections, we will also ask the following seven questions, detailed in our most recent quarterly report to Congress:

- Does the project or program make a clear and identifiable contribution to our national interests or strategic objectives?
- Do the Afghans want it and need it?
- Has it been coordinated with other U.S. implementing agencies, with the Afghan government, and with other international donors?
- Do security conditions permit effective implementation and oversight?
- Does it have adequate safeguards to detect, deter, and mitigate corruption?
Do the Afghans have the financial resources, technical capacity, and political will to sustain it?
- Have implementing agencies established meaningful, measurable metrics for determining successful project outcomes?

Security Restrictions Are Impacting Oversight Activities

SIGAR will continue to do all it can to get out in the field to inspect and examine programs in person—to “kick the tires,” so to speak. The need for this type of monitoring and evaluation will not go away with the move toward direct assistance. If anything, it will become greater. However, SIGAR’s ability (as well as the ability of implementing agencies) to conduct on-site inspections, audits, and investigations may be hindered in the very near future by security restrictions. The U.S. combat role is scheduled to end by December 2014, or sooner, and the withdrawal of U.S. troops is well underway. U.S. and coalition forces have already pulled out of a number of locations in Afghanistan, leaving some of those places too dangerous for SIGAR or other agencies to visit.

As you may know, it is the policy of the U.S. forces in Afghanistan to provide military security only in areas within an hour of a facility that can provide emergency medical care. This means

that the safe zone or “bubble” around these medical facilities extends about as far as a twenty minute helicopter ride. As troops continue to withdraw, the amount of territory in Afghanistan that falls outside these security “bubbles” will increase. Accordingly, the number of U.S.-funded projects and programs that can be monitored and overseen by U.S. personnel will decrease.

SIGAR has already seen the effect of security limitations on its operations. Just recently, a SIGAR inspection team was told that a location in Northern Afghanistan was beyond the security “bubble” and therefore deemed too unsafe to visit. As a result, SIGAR was unable to inspect 38 buildings worth approximately \$72 million.

Even in Kabul, the Embassy’s regional security officer has informed us that because of limited resources, it is already becoming increasingly difficult to support all the requests for movements by U.S. employees to conduct their business in and around the city.

Nevertheless, we are developing alternative ways to conduct oversight in Afghanistan’s evolving security environment. For example, we have local nationals on our staff, who are not subject to the same security restrictions that our American employees are. In some cases, we may have to rely on them to do some of our fieldwork. We are also exploring the use of geospatial imaging to assist our oversight work. Finally, we will continue to share information, data, and resources with our colleagues in the I.G. community to maximize oversight coverage and develop “best practices” for oversight.

These tools are helpful, but they are not perfect. And they certainly are not substitutes for the type of aggressive oversight we intend to conduct. That is why I am grateful to Ambassador Cunningham and General Allen, who recently left his post as commander of the U.S. Forces in Afghanistan, for their expressions of support for our work. Both promised me during my latest visit that they would ensure that our people will be able to access the same locations that their people can access.

Ultimately, however, the question will be how far and where U.S. personnel can safely travel. As the area in which we are unable to conduct oversight grows, many of our programs may be exposed to increased risk of fraud, waste, and abuse—especially if we increase direct assistance to the Afghan government without first imposing strict pre-conditions on the Afghan government to

permit effective oversight of these funds by U.S. personnel. It is my firm belief that provisions for effective, independent oversight must be built into any direct assistance program to the Afghan government to ensure effective program implementation and to protect the American taxpayer.

Thank you for the opportunity to testify today. I am pleased to take any questions you may have.

John F. Sopko Special Inspector General for Afghanistan Reconstruction

John F. Sopko was sworn in as Special Inspector General for Afghanistan Reconstruction on July 2, 2012. Mr. Sopko, appointed to the post by President Obama, has more than 30 years of experience in oversight and investigations as a prosecutor, congressional counsel and senior federal government advisor.

Mr. Sopko came to SIGAR from Akin Gump Strauss Hauer & Feld LLP, an international law firm headquartered in Washington, D.C., where he had been a partner since 2009.

Mr. Sopko's government experience includes over 20 years on Capitol Hill, where he held key positions in both the Senate and House of Representatives. He served on the staffs of the House Committee on Energy and Commerce, the Select Committee on Homeland Security and the Senate Permanent Subcommittee on Investigations.



In his most recent congressional post, Mr. Sopko was Chief Counsel for Oversight and Investigations for the House Committee on Energy and Commerce, chaired by Rep. John D. Dingell (D-Mich.), during the 110th Congress. There, he supervised several investigations focused on matters regulated by the Food and Drug Administration, Department of Energy, Department of Commerce, Federal Communications Commission, Federal Energy Regulatory Commission, U.S. Commodity Futures Trading Commission and Consumer Product Safety Commission.

Mr. Sopko also served as General Counsel and Chief Oversight Counsel for the House Select Committee on Homeland Security, where he focused on homeland security and counter-terrorism investigations and issues.

At the Senate Subcommittee on Investigations, chaired by then-Sen. Sam Nunn (D-Ga.), Mr. Sopko conducted investigations on a broad range of issues, from healthcare insurance to complex weapons systems. From 1982 to 1997, Mr. Sopko led investigations for the chairman and subcommittee members that included a multi-year investigation related to health insurance; union infiltration by organized crime; protection of critical infrastructure; the potential spread of weapons of mass destruction in the former Soviet Union and elsewhere; enforcement of the Foreign Corrupt Practices Act; cybersecurity; international drug interdiction programs; counter-terrorism policies and procedures; government procurement fraud and the illegal export of dual-use technologies.

After his work in the Senate, Mr. Sopko was recruited by the Commerce Secretary to manage to department's response to multiple congressional, grand jury and press inquiries. While at the Commerce Department, Mr. Sopko was named Deputy Assistant Secretary for Enforcement for the Bureau of Export Administration, and Deputy Assistant Secretary for the National Telecommunications and Information Administration.

Mr. Sopko previously served as a state and federal prosecutor. As a trial attorney with the U.S. Department of Justice Organized Crime and Racketeering Section, he conducted numerous long-term grand jury investigations and prosecutions against organized crime groups. He was the lead attorney in the first successful federal RICO prosecution of the entire leadership structure of an American La Cosa Nostra crime family. In 1982 he received the Justice Department's Special Commendation Award for Outstanding Service to the Criminal Division, and in 1980 he received the department's Special Achievement Award for Sustained Superior Performance.

Mr. Sopko began his professional career as a state prosecutor in Dayton, Ohio, with the Montgomery County prosecutor's office. He served as an adjunct professor at American University's School of Justice, where he received the Outstanding Adjunct Faculty Teaching Award in 1984 and the Professor of the Year Award in 1986. He received his bachelor's degree from the University of Pennsylvania in 1974, and his law degree from Case Western University School of Law in 1977. He is a member of the bars of Ohio and the District of Columbia.