

Statement by
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Before the Commission on Wartime Contracting in Iraq and Afghanistan
“How Good is our System for Curbing Contract Waste, Fraud, and Abuse?”
May 24, 2010

Chairman Thibault, Chairman Shays, and members of the Commission:

Thank you for inviting me to discuss SIGAR’s mission regarding the investigation of waste, fraud, and abuse involving reconstruction funds in Afghanistan.

To provide the broad oversight required by its legislation,¹ SIGAR conducts audits and investigations of U.S.-funded reconstruction programs and operations. SIGAR identifies program weaknesses, makes recommendations for decision makers, and aggressively pursues wrong doing. This results in appropriate corrective actions, improved oversight, and more effective use of U.S. reconstruction funds.

The Investigations Directorate plays a critical role in SIGAR’s mandate. The Directorate conducts criminal and civil investigations targeting waste, fraud, and abuse relating to programs and operations supported with U.S. funds appropriated or otherwise made available for the reconstruction of Afghanistan. SIGAR has full federal law enforcement authority through its enabling legislation.

Growth Process

The Commission has asked if we have adequate resources, personnel, and budget to fulfill our mission. I believe we do. We have significantly increased our staffing and our budget is adequate to support our planned growth.

However, SIGAR did not exist for the first six and a half years of the reconstruction effort in Afghanistan. Upon its creation, it did not have immediate access to adequate funding and it wasn’t until July of 2009, that the organization was fully funded for that fiscal year. As a result

¹ See National Defense Authorization Act for Fiscal Year 2008 (Public Law No. 110-181, Section 1229(f), January 28, 2008).

of our late start, we are behind the curve in establishing the investigative capacity necessary to address the current level of activity in Afghanistan. However, our current funding will enable us to recruit and hire aggressively up to our projected strength.

We have employed senior investigators with an average of 28 years of federal law enforcement experience. Their expertise spans a broad spectrum of complex white collar crimes including contract fraud, procurement fraud, money laundering, and public corruption. We currently have 15 personnel on board, including 13 special agents, one trial attorney, and one investigative analyst, as well as six additional agents and support staff selected and in the hiring process.

In addition to these 21, we are in the process of recruiting and evaluating agents, analysts, and support candidates to bring the total number of Directorate personnel to 32 by the end of this fiscal year. To put that in perspective, at the beginning of this fiscal year, SIGAR had an investigations staff of six. We are now on target to increase that number by more than 500 percent by the end of September. We project a total staff of 49 personnel by the end of fiscal year 2011, of which 41 will be special agent positions.

In the past 90 days, we have deployed two special agents to Bagram and one to Kandahar, bringing the total investigators in country to seven, compared with only two at the beginning of the fiscal year. SIGAR investigators are currently deployed in four locations throughout Afghanistan: the U.S. Embassy and Camp Eggers in Kabul; Bagram Air Field in Parwan; and Kandahar Air Field. We are deploying special agents throughout the regional commands where the highest value and largest volume of reconstruction contracts are under way. As we grow, we plan to have an investigative presence in Helmand, Herat, Balkh, Nangarhar, Paktya, and Khowst. We are currently seeking support for the operational and life-support needs for these additional personnel and plan to have them deployed in the near future.

Caseload and Trends

SIGAR is aggressively investigating criminal allegations involving reconstruction funds. Special agents investigate crimes involving federal procurement fraud, contract fraud, theft, corruption, and a variety of civil matters relating to waste and abuse of U.S. taxpayer dollars. SIGAR agents uncover evidence of potential criminal activity and generate investigative leads through direct contact with public and private participants in the reconstruction effort. These participants include U.S. government and military officials, contractors, and Afghanistan nationals. Successful investigations result in criminal prosecutions, civil actions, forfeitures, and monetary recoveries.

SIGAR currently has 42 pending investigative matters, 57 percent of which are focused primarily on contract and procurement fraud, 31 percent on corruption, and the remainder on theft of government property. As reported in our April 2010 Quarterly Report, SIGAR opened 19 criminal cases and conducted joint investigations resulting in the recovery of more than \$2 million. By comparison, one year ago, we had initiated only four preliminary inquiries into allegations of criminal activity.

Recently, SIGAR played an active role in a joint investigation involving Afghan-American contractors who offered more than \$1 million in bribes to a U.S. Army contracting official in connection with the award of a multimillion dollar road construction contract in Logar Province. Investigators were able to apprehend the contractors, who are now serving sentences in federal prison. This case demonstrates the enormous sums of money contractors are willing to pay to obtain lucrative reconstruction contracts.

In another SIGAR investigation involving corruption and contract fraud, a U.S. contracting officer based in Afghanistan admitted accepting a large cash gratuity from an Afghanistan company. The contracting officer allegedly manipulated the award of a multimillion dollar contract in exchange for the payment. He also authorized an excessive percentage in acceleration payments to the company knowing the company had not performed sufficiently.

In a similar, unrelated investigation, a company receiving more than \$30 million in acceleration payments failed to pay more than a dozen subcontractors. These investigations illustrate how the lack of oversight concerning contract acceleration payments dramatically increases the risk of fraud and abuse.

Another contract fraud investigation involves companies engaged in contract specification requirement violations relating to sub-standard work performance and construction material substitution.

SIGAR is also investigating matters involving the hiring of unqualified security personnel and other contract related nonperformance issues.

Other weaknesses revealed by SIGAR indicate that the U.S. reliance on Afghan subcontractors to provide security for supply routes and construction sites is problematic. The U.S. does not have the ability to monitor Afghanistan security contractors or determine the nature of their affiliation or allegiance.

Similarly, the U.S. government has difficulty identifying and monitoring second and third tier subcontractors that are Afghanistan or third country owned businesses. Multi-tiered subcontracting is problematic and results in weak oversight control and accountability.

Hotline and Complaint Management Program

SIGAR's international Hotline and Complaint Management Program is a valuable tool in the U.S. law enforcement effort in Afghanistan. The hotline facilitates the reporting of waste, fraud, and abuse in all programs associated with Afghanistan reconstruction funded by the U.S. taxpayer. SIGAR shares this information with its colleagues on the International Contract Corruption Task Force and refers matters outside of SIGAR's mandate to appropriate authorities. This quarter, SIGAR initiated investigations relating to 17 of the 35 hotline complaints received. An aggressive public outreach initiative is underway to raise hotline awareness utilizing billboard advertising, television commercials, and public service announcements.

Forensic Tools

SIGAR is utilizing new forensic tools and data mining techniques to identify wartime contracting fraud. We have initiated a forensic review of the Afghanistan Security Forces Fund and are examining appropriations and disbursements for fiscal years 2005 through 2009. We plan to develop a risk-based assessment and rating system to flag irregular transactions and anomalies indicative of potential waste, fraud, and abuse. Our initial efforts will be based on data mined from the \$10.6 billion Afghanistan Security Forces Fund currently under review.

Coordination

Overseas contingency operations present unique challenges in coordinating investigations and prosecutions. Distance, danger, and working conditions strain traditional investigator and attorney working relationships. Additionally, investigations involving foreign-based witnesses and documentary evidence spread across several continents can be addressed only through close coordination with the U.S. and international law enforcement community. SIGAR works closely with the International Contract Corruption Task Force, the principal organization coordinating contract fraud and corruption cases involving U.S. government spending in Southwest Asia. SIGAR is the only member of the task force that has cross-agency jurisdiction with sole focus on the expenditure of U.S. reconstruction funds.

SIGAR agents collaborate with task force members to share information and investigative intelligence acquired through its hotline. We are leveraging resources and conducting joint investigations to increase the efficiency of the U.S. federal law enforcement effort in Afghanistan.

A recent investigation conducted jointly with the Defense Criminal Investigative Service and U.S. Army Criminal Investigation Command led to a substantial monetary recovery. As a result of the investigation, two Afghanistan and Korean owned companies were required to repay the

U.S. \$1.9 million. The investigation revealed the filing of false claims and the theft of U.S. government property from a construction site. As no U.S. subjects were identified, the Department of Justice appropriately declined further pursuit of this matter. However, SIGAR is coordinating further investigation with appropriate Afghanistan and international authorities to facilitate potential criminal prosecution.

Another recent investigation led to the discovery of procurement irregularities and the recovery of \$240,000. This investigation, conducted jointly with the Department of State Office of Inspector General, revealed improprieties involving a kickback and embezzlement scheme facilitated through inflated contract billing and fictitious credits.

SIGAR aggressively pursues the prosecution of criminal wrongdoing through the National Procurement Fraud Task Force of the Department of Justice. SIGAR also pursues Uniform Code of Military Justice violations through Judge Advocates and executes civil recovery actions through appropriate federal and military judicial procedures.

Challenges

A number of unique challenges are inherent in conducting investigations in Afghanistan. One is the difficulty that security concerns place on investigative travel. Travel in Afghanistan is highly restricted, requires planning far in advance, careful coordination with military and civilian agencies, and is very time-consuming. Travel requiring weeks to organize may be cancelled at the last minute due to insurgent activity, tactical changes, or inclement weather. Investigative activity accomplished in a day or two in the United States may take weeks in Afghanistan.

Another challenge is weak Afghan law enforcement and judicial system capacity. SIGAR investigations include Afghan citizens suspected of corruption in connection with U.S. reconstruction funds. The Afghanistan judicial system, which is not fully developed, is the only forum for prosecuting Afghan citizens. It is difficult to get Afghan investigators and prosecutors to cooperate in moving cases into the Afghan court. SIGAR is coordinating with the FBI and Department of Justice to facilitate the investigative and prosecutorial assistance of appropriate Afghan authorities, including the Afghan National Police, High Office of Oversight, Ministry of Interior, and Attorney General's Office. However, these entities need continued assistance to build an effective Afghan investigative and judicial capacity.

Also challenging is the lack of a biometric data collection requirement or similar, reliable identification database for Afghanistan contractors participating in U.S. reconstruction activity. Without performing any subcontract work, Afghan-owned companies have absconded with initial startup fees only to re-emerge under new identities to repeat the fraudulent scheme.

Photographs, finger prints, or retina scans would provide a reliable identification mechanism and prevent corrupt Afghans from securing repeat reconstruction business.

Conclusion

The Investigations Directorate plays a key role in SIGAR's mission to provide independent and objective oversight of U.S. reconstruction funds in Afghanistan. We are directing an aggressive and effective hotline, utilizing forensic tools to detect fraud, sharing investigative intelligence, and coordinating our investigations with U.S. law enforcement and Afghan partners. We have identified investigative and prosecutorial challenges in Afghanistan and work closely with our civilian and military colleagues to overcome them. In the past six months, we have substantially increased our personnel, enhanced our investigative presence in Afghanistan, and established a significant role relevant to Afghanistan reconstruction oversight in the U.S. law enforcement and inspector general communities.