



SIGAR

Office of the Special Inspector General
for Afghanistan Reconstruction

November 7, 2014

Mr. Dan Grant
Acting Assistant to the Administrator in the
Office of Afghanistan and Pakistan Affairs

Dear Mr. Grant:

Thank you for your response to our October 7, 2014, letter seeking clarity on the U.S. Agency for International Development's (USAID) process for reversing decisions to recover questioned costs stemming from several of our audits, among other things (see Enclosure II).

Your response letter (see Enclosure I) states that it is USAID's goal to "seek an accurate accounting of taxpayer funds." We share that goal, but we also believe that USAID should take all actions necessary to fully recover questioned costs. The purpose of our letter was to make you aware of the trend—by highlighting several examples—of revised decisions where the amount of questioned costs was reduced and ultimately recovered. We agree that decisions to recover questioned costs rests with USAID and appreciate your recognition of the value and role our agency plays in that process.

In terms of your statement that USAID can determine "a revised management decision will have been made" if SIGAR fails to acknowledge that decision within 30 calendar days, we disagree. Your reference to USAID's policy ADS 595.3.1.4 applies to USAID's Office of the Inspector General and not SIGAR. Regardless, we hope that open and ongoing communication with USAID on future audits will make unnecessary the policy's application.

We look forward to working with you on ensuring the effective and efficient use of taxpayer funds.

Sincerely,

Tinh Nguyen
Acting Assistant Inspector General
for Audits and Inspections

Enclosures:

- I – U.S. Agency for International Development's Response to SIGAR 15-05-SP, dated October 29, 2014
- II – SIGAR 15-05-SP Inquiry Letter: U.S. Agency for International Development's Questioned Costs, dated October 7, 2014

ENCLOSURE I: U.S. AGENCY FOR INTERNATIONAL DEVELOPMENT'S RESPONSE
TO SIGAR 15-05-SP, DATED OCTOBER 29, 2014



October 29, 2014

UNCLASSIFIED
MEMORANDUM

TO: Mr. John F. Sopko,
Special Inspector General for Afghanistan Reconstruction (SIGAR)

FROM: Dan Grant, Acting Assistant to the Administrator in the
Office of Afghanistan and Pakistan Affairs (OAPA) 

SUBJECT: USAID Response to SIGAR-15-05-SP Inquiry Letter: USAID's
Questioned Costs

I appreciate Special Inspector General for Afghanistan Reconstruction (SIGAR) report 15-05-SP bringing to our attention your concerns about USAID's relationship with our contractors and how we follow up on findings of questioned costs in financial audits. The letter raises concerns about USAID's response to five audits: Tetra Tech - Associates in Rural Development (SIGAR Report 13-09); Counterpart International (SIGAR Report 14-15); Central Asia Development Group (SIGAR Report 14-20); Development Alternatives Inc. (SIGAR Report 13-10); and Chemonics: (SIGAR Report 13-1). We address each audit below and believe the decisions in each case are justified.

Questioned costs are those costs charged to a project by an implementing partner (IP) which were reviewed by an independent auditor analyzing sample charges and deemed to be insufficiently supported by the evidence provided or which appear not to be within the agreed project budget. No amount of waste, fraud or abuse is acceptable to USAID and we are committed to recovering all appropriate taxpayer funds from our implementing partners.

USAID works in conflict zones all over the world, where normal operations are extremely challenging. It is our practice to audit our implementers and to seek an accurate accounting of taxpayer funds. To receive an accurate accounting, USAID may allow the partner additional time to respond to requests for documentation regarding questioned costs due to the considerable administrative and managerial challenges faced by an entity operating in a war zone or an unpredictable environment such as Afghanistan. Our objective is to review the accounting as thoroughly as possible to ensure we get it right.

As SIGAR's letter questions the process by which cost allowability decisions were reached in five cases, we would like to describe the cost allowability process that USAID follows. In the event questioned costs are identified, USAID reviews the costs identified by the auditors and evaluates these costs using the Federal Acquisition Regulations (FAR), specifically FAR 31.201-2, Determining Allowability; FAR 31.202, Direct Costs; and FAR 31.203, Indirect Costs. For grants to non-profit organizations, USAID evaluates claimed costs in accordance with OMB A-122, Cost Principles for Non-Profit Organizations.

The criteria used by Contracting and Agreement Officers to grant extensions for providing supporting documentation of questioned costs is whether a valid reason exists for additional time. If additional time is needed to consider all appropriate facts, our practice is to grant additional time, within reason. USAID recognizes the difficulties that implementing partners face when operating in conflict zones like Afghanistan in support of U.S. Government objectives, often in remote locations with limited access to transportation and a lack of reliable communications; regardless, accurate accounting for all questioned costs is required.

USAID has a responsibility to respond to audit recommendations made by SIGAR. As part of this process, SIGAR makes, and USAID welcomes, recommendations to determine the allowability of costs, and USAID seeks recovery as appropriate. Generally, the responsibility to make decisions to recover questioned costs rests with USAID's Contracting and Agreement Officers (COs and AOs). If SIGAR disagrees with a final management decision regarding questioned costs, Agency rules provide that the Assistant Administrator for Management (AA/M) serves as USAID's Audit Follow-Up Official, in accordance with OMB Circular A-50 (see Automated Directives System (ADS) 595.2(d)). As the designated follow-up official, the AA/M is responsible for resolving disagreements between Agency management and SIGAR. SIGAR does not serve in the capacity of follow-up official, contrary to the position advanced in the letter.

We welcome SIGAR review of final decisions on allowability and stand ready to provide to SIGAR for review any documentation relied upon in reaching an allowability decision. However, in the cases of the TetraTech and Counterpart International agreements cited in SIGAR's letter, USAID informed SIGAR of its allowability decisions, and, upon receiving the revised recommendations, SIGAR provided written confirmation that it agreed each of the audits was closed.

Specific to SIGAR's letter on recent questioned costs of our implementing partners, USAID's justifications for the allowed costs cited in the SIGAR report are detailed below:

Tetra Tech - Associates in Rural Development: (SIGAR Report 13-09)

USAID received further information from TetraTech, including written and oral responses regarding indirect costs. This additional supporting documentation included budget realignments with justification, vouchers supporting disbursed costs, work plan documentation, and community mobilization plans. An additional review by USAID determined the auditor only considered fringe benefits and material handling, and had not accounted for other indirect costs approved under the contract, including overhead and general & administrative costs. When these items were added, the total indirect costs were within the total estimated cost and were therefore allowed.

Counterpart International (CI): (SIGAR Report 14-15)

USAID received written and oral responses from the CI including 31 attachments to the appeal letter and four sworn affidavits from former staff members attesting to the payment of various invoices, the veracity of other expenditure and the integrity of Counterpart's systems.

The Agreement Officer (AO) in making his determination relied upon this information as well as a Mission Office of Financial Management's (OFM) analysis of the financial documentation supplied. The AO considered the fact that the questioned costs were rigorously audited and accepted each year as part of the A-133 audits.

Central Asia Development Group (CADG) : (SIGAR Report 14-20)

USAID determined that \$5,624,554 out of total questioned costs of \$7,863,091 was allowable.

USAID received written submissions and voluminous documentation from the CADG, the size of which prohibited electronic transmission. The need to send this documentation by mail and hand-delivery resulted in delays in resolving the questioned costs recommendations. The documentation received included numerous timesheets, payment records, vouchers and invoices, inspection reports, price analysis and competition forms, price quotations and management approvals. OFM undertook a thorough examination of this documentation and provided the AO with a detailed analysis.

CADG was given a total of 184 days (approximately six months) to provide responses and supporting documentation. At all relevant junctures the extensions were deemed to be reasonable and necessary to reach the best informed decision on allowing or disallowing costs; moreover, the extensions could be accommodated within the target dates set by SIGAR.

Development Alternatives Inc. (DAI): (SIGAR Report 13-10)

USAID reviewed documentation provided by the DAI which was sufficiently voluminous and complex that USAID commissioned a second review audit. This second, independent audit found over \$23 million (out of \$25 million) in questioned costs was justified. In addition, DAI provided documentation with respect to \$1,447,419 in questioned costs incurred by its subcontractor, Bearing Point. Delays were encountered due to difficulties in securing information regarding subcontractor costs, as Bearing Point was dissolved in 2009.

Chemonics: (SIGAR Report 13-1)

USAID determined \$13,555,895 out of total questioned costs of \$13,555,998 was allowable after commissioning a second, independent audit.

Chemonics provided USAID with written submissions and voluminous documentation (contained in two separate CDs provided at different junctures and in respect of different aspects of the questioned costs). The documentation includes numerous timesheets, payment records, vouchers and invoices, inspection reports, price analysis and competition forms, price quotations and management approvals. OFM undertook a thorough examination of this documentation and provided the CO with a detailed analysis. The CO also considered an independent review audit relating to \$5,935,170 of the questioned costs. The amount of documentation submitted required substantial review time to ensure a proper analysis.

This independent review formally commenced at the beginning of August 2014, and the report was received on September 10, 2014. Thereafter, USAID sent a Revised Management Decision to SIGAR on September 20, 2014. In total, Chemonics was provided with 49 days to respond and to supply additional documentation to support the \$13,555,998 in questioned costs.

Opportunity to Review

SIGAR's letter raises concerns about the opportunity to review management decisions. USAID is required to respond to recommendations made by SIGAR. As stated in ADS 595.3.1.4, "If the recommendation is from a financial audit of a contractor or grantee, the action office will be notified within 30 calendar days that the OIG acknowledges a revised management decision. If the OIG office fails to take action on the request within 30 calendar days, a revised management decision will have been made."

In the case of both Tetra Tech and Counterpart, SIGAR was advised of the revised management decisions and in both cases agreed in writing with the decisions.

For Tetra Tech, USAID sent a letter to SIGAR in May 2014. Unfortunately, it was sent to an email address unbeknownst to USAID that was no longer in use at SIGAR. The letter was resent to SIGAR in July 2014. SIGAR agreed to close out the recommendation July 14, 2014, and did not ask any additional questions.

For Counterpart, SIGAR was informed in July 2014 about the revised decision and SIGAR agreed to close the recommendation on July 16, 2014.

In summary, SIGAR had an opportunity as provided by the ADS to raise concerns on whether USAID's actions would adequately address the audit recommendations; however, in both cases SIGAR agreed to close the recommendation.

ENCLOSURE II: SIGAR 15-05-SP INQUIRY LETTER: U.S. AGENCY FOR INTERNATIONAL DEVELOPMENT'S QUESTIONED COSTS, DATED OCTOBER 7, 2014



SIGAR

Office of the Special Inspector General
for Afghanistan Reconstruction

October 7, 2014

The Honorable Dr. Rajiv Shah
Administrator
U.S. Agency for International Development

Mr. William Hammink
Mission Director for Afghanistan
U.S. Agency for International Development

Mr. Aman S. Djahanbani
Senior Procurement Executive
U.S. Agency for International Development

Dear Administrator Shah, Mission Director Hammink, and Mr. Djahanbani

I am writing to express my concerns regarding USAID/Afghanistan's recent decisions not to collect from implementing partners all of the costs questioned in SIGAR's financial audits. These questioned costs represent taxpayer dollars that, if not used to support the reconstruction of Afghanistan as intended, should be returned to the U.S. government. While we acknowledge USAID's authority to determine the allowability and recovery of questioned costs, recent trends in decisions raise some concerns. Specifically, we found in several instances that the contracting and agreement officer was providing implementing partners what seems to be an inordinate amount of time and preference in justifying costs that we had questioned. In two specific instances, the amount of funds that could have been recovered was actually reduced.

Background

As part of our mission, we conduct audits of the costs incurred by implementing partners under contracts, grants, and cooperative agreements for reconstruction projects and activities in Afghanistan that are paid with appropriated funds. These financial audits are performed by independent public accounting firms under our direction. When the audits are completed, we send the results, along with recommendations, to USAID and the Departments of State and Defense. The Office of Management and Budget Circular A-50 requires agencies to ensure the prompt and proper resolution and implementation of monetary and non-monetary audit findings and recommendations.¹

¹ OMB Circular A-50, Audit Followup, dated September 29, 1982.

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With regard to USAID/Afghanistan's process for resolving recommendations to recover questioned costs, contracting and agreement officers usually reach out to the contractors and implementing partners for input to our recommendations. If the contracting and agreement officer agrees that the questioned costs are not allowable, allocable, or reasonable, according to the terms of the contracts, cooperative agreements, or grants, the officer can request the contractors and implementing partners to reimburse the government for those questioned costs.

Since 2013, SIGAR has issued 26 financial audits questioning \$74,555,813 in incurred costs and another \$182,978 in unremitted interest and other amounts charged to the U.S. government by implementing partners working in Afghanistan on behalf of USAID. As of September 2014, USAID/Afghanistan has provided sufficient evidence allowing us to close the recommendations made in 12 financial audits; these recommendations call for USAID/Afghanistan to determine the allowability and, if appropriate, the recovery of \$7,362,458 in questioned costs and \$122,814 in unremitted interest. Of this amount, contracting and agreement officers determined that only \$2,658,331 (or 34.3 percent) of the total amount of questioned amounts in the 12 audits were unallowable and, therefore, should be returned to the government.

USAID Gave Undue Consideration to its Implementing Partners and SIGAR Was Not Informed About USAID's Revised Decisions to Recover Questioned Costs Until After They Were Made

In July 2014, we learned that the contracting and agreement officer revised two decisions to recover questioned costs expended under the contract with Tetra Tech ARD Inc. and a cooperative agreement with Counterpart International, Inc. (Counterpart). In both cases, the revised decisions were based on additional supporting documentation that Tetra Tech and Counterpart provided, of which we were not made aware. The decisions lowered the amount of unallowable costs by \$1,348,711.

Tetra Tech ARD Inc.

The contracting and agreement officer determined in November 2013 that \$2,639,207 out of \$3,041,819 in questioned costs was unallowable and that Tetra Tech ARD Inc. should return those funds to the government.² However, in April 2014, he reversed his decision and determined that only \$1,878,588 was unallowable and this amount should be returned.³ According to the documentation SIGAR received three months later, the contracting and agreement officer based his revised decision on additional supporting documentation that Tetra Tech provided.

² See SIGAR Financial Audit 13-09, *USAID's Alternative Development Project South/West: Audit of Costs Incurred by Tetra Tech ARD*, July 18, 2013. The audit covered \$75,133,550 in expenditures charged under the contract from March 2008 to March 2011.

³ Tetra Tech returned this amount to USAID on June 5, 2014.

In this instance, we believe that allowing five more months to provide additional supporting documentation seems inappropriate given that the company was informed of the audit in October 2012. In our view, Tetra Tech ARD Inc. had more than adequate time to provide us and USAID/Afghanistan the necessary supporting documentation.

We are also concerned that the contracting and agreements officer did not inform us of Tetra Tech's appeal, nor did he tell us about the reversed decision until *after* it was made. As part of the audit follow-up process, auditors should be afforded the opportunity to review any new documentation that could affect the audit's findings and conclusions.⁴

Counterpart International, Inc.

Similarly, the contracting and agreement officer determined in February 2014 that Counterpart should return to the government \$588,092 out of \$815,317 in questioned costs.⁵ In March 2014, he sent a bill for collection. In April, Counterpart appealed the decision, stating that in an event beyond its control, a third party permanently lost the source records, including those central to the costs first questioned in the SIGAR audit and the lesser amount subsequently demanded by USAID.⁶ The contracting and agreement officer subsequently reversed his decision and determined that all \$588,092 was allowable and that Counterpart did not have to reimburse the government. In making his decision, the contracting and agreement officer stated that, among other things, the cooperative agreement "is by essence a support of Counterpart itself" and given the fact that the records were lost, the previously unallowable amount was supported by affidavits from individuals directly involved in the cooperative agreement.

We believe the contracting and agreement officer's argument that "the cooperative agreement is by essence a support of [Counterpart] itself" is inaccurate. The objective of the cooperative agreement was to assist in the "expansion of a vibrant Afghan civil society" through capacity building and technical assistance, implementation of an enabling non-governmental organization law, and the award and administration of small grants to civil society organizations. It was not meant to support Counterpart, the organization. Moreover, whether the instrument involved is a cooperative agreement or a contract, USAID should require the recipient to fully and accurately account for all of the funds. The use of the cooperative agreement should not relieve USAID/Afghanistan of its stewardship of appropriated funds. We recognize that the loss of records may not have been Counterpart's fault, but we believe that affidavits from former staff about costs incurred under the cooperative agreement are weak substitutes for actual documentation because it is not reasonable to expect former employees to provide an accurate accounting of \$588,092 in questioned costs out of more than \$27 million in expenditures charged over the period of five years.

⁴ OMB Circular A-50 states that audit findings and recommendations are resolved when the audit organization and the agency management agree on action to be taken. In the event of disagreement, the Circular states that audit findings and recommendations are resolved when the audit followup official (in this case, SIGAR), determines the matter to be resolved.

⁵ See SIGAR Financial Audit 14-15, *USAID's Initiative to Promote Afghan Civil Society Project: Audit of Costs Incurred by Counterpart International, Inc.* January 3, 2014. The audit covered \$27,179,524 in expenditures charged under the agreement from January 2005 to September 2010.

⁶ According to Counterpart, it had archived its records offsite with Recall Total Information Management, Inc., a document storage and retrieval company. Counterpart states that in June 2012, the storage company's warehouse collapsed, resulting in the death of one employee and archived materials.

Most disturbing to us, however, is that Counterpart's loss of records was known when the contracting and agreement officer was making his initial decision to recover questioned costs. It is unclear how the contracting and agreement officer revised his decision based on the same set of circumstances. As with the Tetra Tech example, we should have been afforded the opportunity to review Counterpart's justification for appeal, as we consider those to be part of the audit.

Other Examples of Undue Consideration

In addition to the two examples with Tetra Tech and Counterpart, we also found other examples where USAID/Afghanistan, we believe, provided the implementing partners undue consideration.

- By granting repeated extensions, USAID has allowed the Central Asia Development Group, Inc. (CADG) more than 8 months (and counting) to provide additional supporting documentation for costs we questioned in a January 9, 2014, audit.⁷ In response to the audit, the contracting and agreement officer requested that CADG provide a response to SIGAR's recommendation to determine the allowability and recovery (if appropriate) of \$7,853,478 in questioned costs and \$9,613 in interest. The agreement officer gave CADG a January 31, 2014, deadline to respond. The next day, CADG requested a 45-day extension to respond, which USAID approved the following day. On April 8 (67 days after the originally extended due date), CADG submitted documentation supporting the questioned costs, but according to the agreement officer, the documents received were insufficient to make a decision on the allowability of the questioned costs. Subsequently he requested additional documentation. CADG then asked for an extension to June 8. On the due date, it asked for an extension to July 31. The agreement officer declined the request, but instead gave CADG until July 15 to provide supporting documentation. On July 15, CADG provided additional information, but according to the agreement officer, the documentation was not in a useable format. At the time of writing this letter, the allowability, and potential recovery, of the questioned costs has not been determined.
- USAID/Afghanistan took about 14 months to determine that just \$216,000 of the \$25,149,243 in questioned costs incurred during Development Alternative, Inc.'s implementation of USAID's Alternative Livelihoods Program—Eastern Region were allowable.⁸ Similarly, USAID/Afghanistan has not yet fully addressed recommendations made in the audit of costs incurred under the contract with Chemonics International, Inc, even though the report was issued in June 2013.⁹

⁷ See SIGAR Financial Audit 14-20, *USAID's Community Development Program: Audit of Costs Incurred by Central Asia Development Group, Inc.*, January 9, 2014. USAID/Afghanistan and CADG entered into a cooperative agreement to support the Community Development Program in Afghanistan.

⁸ See SIGAR Financial Audit 13-10, *USAID's Alternative Livelihoods Program—Eastern Region: Audit of Costs Incurred by Development Alternatives, Inc.*, June 18, 2013. In his response, the contracting and agreements officer determined that Development Alternatives, Inc. provided additional supporting documentation that substantiated \$25,149,243 in incurred costs. Because the response was received on September 10, 2014, we have not had time to review the documentation to determine if they are sufficient to close our recommendations.

⁹ See SIGAR Financial Audit 13-1, *Audit of Costs Incurred by Chemonics International, Inc. in Support of USAID's Alternative Livelihoods Program—Southern Region*, June 6, 2013. In a July 2014 response, the contracting and agreements officer stated that he is still reviewing some of the questioned costs.

By accepting millions of dollars to implement projects and programs on behalf of the U.S. government, implementing partners should be able to provide documentation to support an audit contemporaneously. Allowing implementing partners inordinate amount of time to substantiate the costs incurred increases the risks that documentation may be falsified. Because the examples we noted reduced the amount of funds that the government could have recovered, I am requesting answers to the following questions:

1. In general, what criteria does USAID use to reverse decisions to recover questioned costs?
2. What criteria do contracting and agreements officers use to grant extensions of time for implementing partners to provide documentation supporting costs incurred?
3. In instances where decisions to recover questioned costs are reversed, why is SIGAR not provided an opportunity to review the new supporting documentation?

Please provide your response no later than October 21, 2014. I am submitting this request pursuant to my authority under Public Law No. 110-181, as amended, and the Inspector General Act of 1978, as amended. Please provide the requested information to Mr. Ryan T. Coles, Assistant Inspector General for Audits and Inspections at [REDACTED]

Thank you for your cooperation. I look forward to your response and working with you in support of our nation's critical mission in Afghanistan.

Sincerely,



John F. Sopko
Special Inspector General
for Afghanistan Reconstruction