



**SIGAR**

Office of the Special Inspector General  
for Afghanistan Reconstruction

December 13, 2012

Lieutenant General Thomas P. Bostick  
Commanding General and Chief of Engineers  
U.S. Army Corps of Engineers

Dear General Bostick:

I am writing to inform you that we have opened an investigation into the U.S. Army Corps of Engineers settlement with DynCorp International LLC (DynCorp) involving a \$73 million construction project in Afghanistan, and to request your cooperation as our investigation proceeds.

This investigation follows an inspection report we issued to you on October 25, 2012, in which we detailed major problems at the Afghan National Army garrison (Camp Pamir) in Kunduz Province.<sup>1</sup> In that report, we found that USACE had failed to mitigate collapsible soil conditions at Camp Pamir. We also found major structural failures, improper grading, and sink holes at the site. Most alarming was our discovery that despite the unsatisfactory performance by DynCorp—USACE's prime contractor at the site—USACE had released DynCorp from all contractual liabilities and warranty obligations and paid the company nearly \$73 million for its work at Camp Pamir.

USACE documents indicate that the USACE contracting officer determined the settlement with DynCorp to be a "fair, reasonable, and equitable adjustment to the contract." However, these documents did not provide an explanation of how USACE reached that conclusion. As a result, we recommended that USACE submit the DynCorp settlement to an appropriate audit agency for review and, most importantly, explain in writing why the settlement was determined to be fair and reasonable.

On December 4, 2012, we received a memorandum from James B. Balocki, USACE Chief of the Transatlantic Division Regional Integration Team (see attached). According to Mr. Balocki, "**USACE does not have sufficient information to determine whether the settlement was fair and reasonable.**" Moreover, Mr. Balocki acknowledges that "**the nature of the settlement raises a number of concerns**" (emphasis added).

Mr. Balocki's memorandum alone confirms the need for further investigation of the DynCorp settlement. However, we have also become aware of questionable actions on the part of personnel involved in the DynCorp settlement negotiations, which have prompted us to open an investigation.

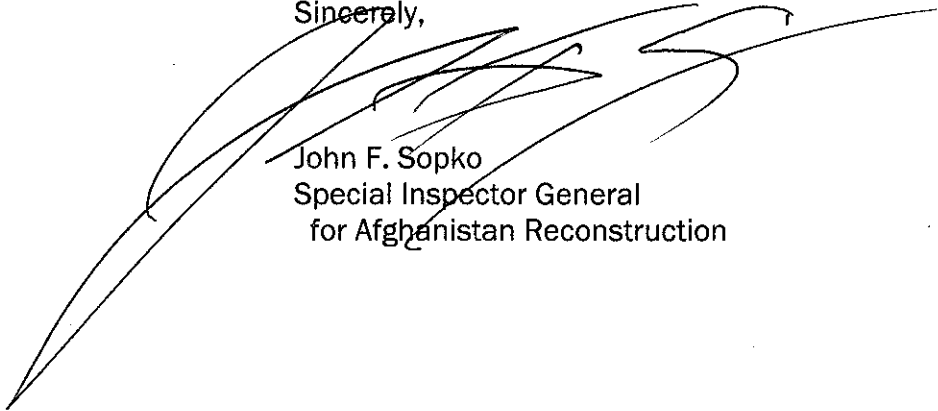
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<sup>1</sup> SIGAR Inspection 13-1, *Kunduz ANA Garrison: Army Corps of Engineers Released DynCorp of All Contractual Obligations Despite Poor Performance and Structural Failures*, October 25, 2012.

We understand that USACE plans to conduct its own inquiry into this matter. I ask that you instruct your staff to provide any relevant information uncovered during the course of your inquiry to my Investigations Directorate as it becomes available. In addition, all records relating to the DynCorp settlement should be preserved, including all communications to and from DynCorp, and the personnel files and travel records of all personnel connected with the DynCorp settlement negotiations. Should you have any questions or concerns, please do not hesitate to contact me or Sharon Woods, Acting Assistant Inspector General for Investigations.

I very much appreciate your continued assistance regarding this matter.

Sincerely,



John F. Sopko  
Special Inspector General  
for Afghanistan Reconstruction

Attachment: USACE Memorandum dated 04 December 2012



**DEPARTMENT OF THE ARMY**  
U.S. Army Corps of Engineers  
441 G Street, NW  
Washington DC 20314-1000

REPLY TO  
ATTENTION OF:

DEC 04 2012

CEMP-TAD

MEMORANDUM FOR Special Inspector General for Afghanistan Reconstruction  
(SIGAR), 2530 Crystal Drive, Arlington, VA 22202-3940

SUBJECT: Kunduz ANA Garrison: Army Corps of Engineers Released DynCorp of All Contractual Obligations Despite Poor Performance and Structural Failures

1. The purpose of this correspondence is to provide an update on USACE actions in relation to Recommendations 2 and 3 of SIGAR Inspection Report 13-1.
2. In response to Recommendation 2, USACE requested that the Defense Contract Audit Agency (DCAA) conduct a review of the settlement in accordance with FAR 49.107(a). DCAA concluded that it was not able to audit the settlement based on the FAR 49.107(a) criteria. A copy of the DCAA response is enclosed.
3. Recommendation 3 requested that USACE "Explain in writing, either in response to this draft report or in separate correspondence, why the settlement was determined to be fair and reasonable." As noted in our response to the report we said we would conduct a review and we initiated a review immediately. The review experienced certain challenges because of the time that has elapsed since the contract actions occurred and because a number of key personnel who participated in those actions are not immediately available or are no longer working for USACE. In addition, access to the contracting officer who signed the modification was also limited. As a result, our findings to date are incomplete; however, we continue to examine the facts in this case.
4. Our review found that Afghanistan Engineering District – North (TAN) documented the settlement negotiations in a Pre-negotiation Objective Memorandum (POM), Price Negotiation Memorandum (PNM), and Memorandum for Record (MFR) of the meeting during which the negotiations occurred. The Contracting Officer made his determination based on the documentation provided by TAN. Based on our review undertaken to date, USACE does not have sufficient information to determine whether the settlement was fair and reasonable. However, we acknowledge the nature of the settlement raises a number of concerns, which involve highly technical factors pertaining to site conditions and related geotechnical issues, as well as the requirements of the contract. Accordingly, USACE believes that a more thorough investigation is warranted that includes a multidisciplinary team with the appropriate technical knowledge. USACE is assembling an independent team consisting of functional experts to perform the investigation and we will provide additional information when completed.

5. Our staff point of contact for this action is Mr. John Daley, (202) 761-5844.



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James B. Balocki, P.E., SES  
Chief, Transatlantic Division Regional  
Integration Team,  
Directorate of Military Programs