SIGAR

Special Inspector General for Afghanistan Reconstruction

SIGAR 15-51 Inspection Report

Afghan National Army Slaughterhouse: Stalled Construction Project Was Terminated After \$1.25 Million Spent



APRIL 2015

April 20, 2015

The Honorable Ashton B. Carter Secretary of Defense

General Lloyd J. Austin III
Commander, U.S. Central Command

General John F. Campbell
Commander, U.S. Forces–Afghanistan and
Commander, Resolute Support

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

This report discusses the results of SIGAR's inspection of the Afghan National Army (ANA) slaughterhouse construction project in Pol-i-Charkhi, Kabul province. We found that the project was terminated for convenience in October 2013, 9 months after construction began and the contractor was paid \$1.25 million for incurred costs. Prior to termination, in September 2013, the U.S. Army Corps of Engineers (USACE) suspended the contract because of the contractor's unsatisfactory performance. At the time of the suspension, construction was stalled, and the contractor had only constructed a water well and partially constructed a security perimeter wall around the building site. At the same time USACE suspended the contract, the International Security Assistance Force (ISAF) was terminating or de-scoping some construction projects, in order to reduce the Afghan National Security Forces' infrastructure inventory and increase the likelihood that the Afghans would be able to sustain some of the facilities following the ISAF withdrawal. The slaughterhouse was terminated as part of this process, with ISAF citing the potential for saving the U.S. government \$10.5 million in additional construction costs. However, the contractor has submitted a claim for \$4.2 million as payment for work already performed on the contract and for charges arising out of the government's termination for convenience. USACE is currently reviewing that request and expects to complete a negotiated settlement by December 2015. We are not making any recommendations in this report.

USACE and U.S. Forces–Afghanistan (USFOR-A) provided written comments on a draft of this report. In its comments, USACE noted that in addition to the \$1.25 million that already had been paid to AREEB-REC Joint Venture at the time of termination, another \$295,029 was paid to the contractor after termination for "value earned as payment for work done...." As a result, the amount paid to the contractor, excluding any additional payments from a final termination settlement, totaled \$1.54 million. USFOR-A's comments, which included comments from the Combined Security Transition Command–Afghanistan (CSTC-A), noted that it concurred with CSTC-A's response to the draft report. In its comments, CSTC-A noted that it conducted a review of the draft report and did not identify any technical issues with the report. USACE's and USFOR-A's comments, which includes CSTC-A's comments, are reproduced in appendices II and III, respectively.



SIGAR conducted this inspection under the authority of Public Law No. 110-181, as amended, and the Inspector General Act of 1978, as amended; and in accordance with the *Quality Standards for Inspection and Evaluation*, published by the Council of the Inspectors General on Integrity and Efficiency.

John F. Sopko

Special Inspector General

for Afghanistan Reconstruction

In February 2012, the Combined Security Transition Command–Afghanistan (CSTC-A) requested that the U.S. Army Corps of Engineers (USACE) solicit bids for and manage construction of an Afghan National Army (ANA) slaughterhouse and supporting facilities in Pol-i-Charkhi, Kabul province. CSTC-A's request stated that the new slaughterhouse was a high-priority project for the ANA, and there was a "high probability that the requirement would not be cancelled." In August 2012, USACE awarded a firm-fixed-price contract for \$12 million to AREEB-REC Joint Venture, an Afghan company.

According to CSTC-A officials, the new slaughterhouse was intended to supplement an existing ANA slaughterhouse in Kabul, which had the capacity to produce 600,000 pounds of meat per month. CSTC-A stated that, in 2010, ANA troop levels in the Kabul area had been projected to expand by 55,000 personnel. This would require 1.3 million pounds of meat per month, or more than double the existing slaughterhouse's capacity. CSTC-A noted that a new slaughterhouse would not only satisfy the need for increased meat production, but it would also provide improved safety and sanitation conditions compared to the existing facility.

CSTC-A's plan for the new facility included construction of a slaughterhouse building, administrative building, scale house building, wastewater treatment plant, a guard house and two guard shacks, two personnel bunkers, diesel power plant, water well, fuel access point, three parking lots, and a perimeter wall. (Photo 1 shows the ANA slaughterhouse construction site.) The contract period of performance started on January 14, 2013, and extended through November 5, 2014, for a total of 660 days.

For this inspection, we assessed whether the (1) work was completed in accordance with contract requirements and applicable construction standards, and (2) facility was being used as intended.

We conducted our work in Kabul and Pol-i-Charkhi, Afghanistan, from March 2014 through April 2015, in accordance with the

Photo 1 - ANA Slaughterhouse Construction Site in Pol-i-Charkhi in Kabul Province



Source: SIGAR, April 17, 2014

Quality Standards for Inspection and Evaluation, published by the Council of the Inspectors General for Integrity and Efficiency. The engineering assessment was conducted by a professional engineer in accordance with the National Society of Professional Engineers' Code of Ethics for Engineers. Appendix I contains a more detailed discussion of our scope and methodology.

¹ CSTC-A Engineers Memorandum, February 19, 2012.

² The contract number is W5J9JE-12-C-0131.

THE CONTRACTOR DID NOT MEET CONTRACT REQUIREMENTS AND ONLY BUILT PART OF THE SECURITY PERIMETER WALL AND A WATER WELL

We visited the ANA slaughterhouse construction site on April 17, 2014, and found a largely open field with work limited to a partially completed security perimeter wall and wall foundation, one column to support a guard tower, and a water well. The fact that such little work had been done limited the extent of the inspection that we would normally perform had the project been farther along or completed.

Nonetheless, during our inspection, we found that about a quarter of one of the four perimeter walls was complete. In addition, the concrete foundation and reinforcing steel for the unfinished portion of the wall had been set. The concrete and reinforcing steel work was adequately done with no visible cracks or air bubbles, which could weaken the wall. (See photos 2 and 3 of perimeter wall construction.)

We inspected the site's water well and found that it had not been properly capped to prevent someone from placing contaminants, poisons, or other material in the well that could affect ground water that supplies other wells in the surrounding community.³ On October 2, 2014, we sent a letter notifying responsible Department of Defense organizations that the contractor had not properly abandoned the water well.⁴ In response, USACE officials informed us that action had been taken and that the well was properly capped on October 27, 2014.

In September 2013, approximately 8 months after construction began, a USACE engineer drafted an information paper detailing insufficient progress in construction and suggesting some courses of action that might avert what he described as "the coming train wreck." At that point, USACE had only approved construction to the 10 percent design level. The engineer's paper noted that the contractor's 35 percent design submittal, which was not yet approved, received a significant number of critical comments. For example, the engineer stated that there were 64 comments that focused on the content

Photo 2 - Perimeter Wall Foundation and Reinforcing Steel



Source: USACE, November 2, 2013

Photo 3 - Perimeter Wall and Column for Guard Tower



Source: SIGAR, April 17, 2014

of the design drawings and analysis for the site's drainage, water, and sewer system. The engineer also stated

³ Capping the well was required due to the decision to terminate the project.

⁴ SIGAR 15-03-SP, Inquiry Letter to U.S. Central Command, U.S. Forces-Afghanistan, and USACE, October 2, 2014.

⁵ AREEB-REC Joint Venture was required to obtain design approval for its 35 percent construction plan prior to beginning work beyond its previously approved 10 percent design.

that the contractor needed to bring in qualified design personnel and that the contractor needed to provide complete, versus piecemeal, design submittals. The number of critical comments eventually grew to 106.

During the first 9 months of construction, USACE issued 12 Serial Letters to AREEB-REC Joint Venture, some of which addressed contractor performance issues.⁶ For example, on September 18, 2013, USACE issued Serial Letter C-0010—Construction without Clearance, which notified the contractor that it had started additional construction that had not been approved. In addition, Serial Letter C-0011—Non-Compliance with the Quality Control Plan stated that the contractor was not in compliance with quality control requirements, in that work was being performed without the supervision of an approved quality control manager.

On September 25, 2013, USACE issued Serial Letter C-0012 as a warning of a potential interim unsatisfactory rating under the Construction Contractor Appraisal Support System. The Serial Letter noted that it had taken the contractor seven submittals to get the Geotechnical Report approved and three submittals to get the 10 percent design approved. It also noted that the 35 percent design submittal was in a second round of review. The Serial Letter further stated that if the contractor failed to provide submittals in a timely fashion, or repetitively provided submittals that were incomplete or did not strictly conform to contract documents, that no part of the time the contractor lost due to such actions could be used as a claim for extension of time or for excess costs or damages.

SLAUGHTERHOUSE PROJECT WAS TERMINATED BEFORE THE FACILITY COULD BE USED AS INTENDED

The ANA slaughterhouse project was never completed, and therefore, it was not available to be used as intended. On September 15, 2013, USACE suspended the contract for the slaughterhouse project because of the contractor's unsatisfactory performance. At the same time, the International Security Assistance Force (ISAF) began a review of all ongoing construction that eventually would be transferred to the Afghan National Security Forces (ANSF). ISAF stated that the review's purpose was to reduce the size of the ANSF's infrastructure inventory by terminating, de-scoping, or offsetting ANSF construction projects.⁸ By doing so, the expectation was that the Afghan government would have a better chance of sustaining the remaining facilities.

On October 1, 2013, based on the ISAF review, CSTC-A officials recommended terminating the ANA slaughterhouse project. CSTC-A's decision paper stated the following reasons for termination:

Cancelling the construction of the slaughterhouse potentially saves the Coalition Forces approximately \$10.5 million in new construction costs and potentially saves GIRoA [Afghan government] approximately \$264,000 per year in sustainment costs. There is currently an existing ANA slaughterhouse in Kabul which has a capacity of 600,000 pounds of meat a month. Its refrigeration capability is not functioning and the meat is transported daily from the facility to its final destination in Kabul. It was estimated in 2010 that ANA in KCLZ [Kabul] would require 1.3 million pounds of meat per month. The new construction would handle this capacity and include refrigerated storage so the meat could be saved and transported frozen. The Afghans do not typically refrigerate meat, instead preferring fresh meat. Further to this they have demonstrated an inability to successfully maintain refrigerating equipment in the long term. When the slaughterhouse was first put out for bid it called for modern equipment that would not be considered Halel and would not be used. [9] This equipment already had to be de-scoped from the

⁶ Serial letters are numbered and tracked correspondence between contracting officials and contractors.

⁷ An interim contractor performance evaluation must be initiated when a contractor's performance is unsatisfactory on one or more elements for a period of three months or longer, and could result in an interim unsatisfactory performance rating.

⁸ ISAF Fragmentary Order 215-2013, November 2013.

⁹ Halel or Halal is the Arabic word for lawful or permitted. It is a broad term covering what is allowed in the context of Islamic law but is often used in conjunction with the issue of how meat is prepared.

project. If the new slaughterhouse is built it is anticipated that the state of the equipment and the cleanliness would quickly degrade below Western standards and will be viewed by taxpayers as a "waste" of funds, especially since the ANA have managed to continue to feed their soldiers adequately over the last 3 years. Currently there is no indication that the Afghans have a requirement for this facility. USACE currently has the contract under suspension and is recommending termination for convenience. The contractor has been unable to provide adequate designs or geotechnical study to this point and may potentially T4D (termination for default) in 60-90 days.

On October 26, 2013, CSTC-A stated that the existing ANA slaughterhouse had sufficient capacity to support ANA requirements and directed USACE to terminate the contract for the convenience of the U.S. government. ¹⁰ USACE officials stated that they recommended termination for convenience, instead of a termination for default, because not all of the site problems were the contractor's fault, and the contractor was still working with USACE to gain approval for the 35 percent design and successfully complete the project. As a result of a termination for convenience, the contractor has the right to request a settlement that would compensate it for work performed, preparations for future work, and a reasonable allowance for profit. ¹¹ At the time of the termination for convenience, AREEB-REC Joint Venture had been paid \$1.25 million. In commenting on a draft of this report, USACE noted that after termination, it paid the contractor "an additional \$295,029 for earned value as payment for work done between the previous progress payment and the termination." ¹² As a result, the amount paid to the contractor, prior to a final termination settlement agreement, totals \$1.54 million. On December 12, 2014, AREEB-REC Joint Venture requested \$4.23 million in additional payments, as a final termination for convenience settlement. USACE's Transatlantic Middle East District is currently reviewing the request and the Defense Contract Audit Agency is conducting a financial audit. USACE officials stated that they expect to complete a negotiated settlement by December 2015.

CONCLUSION

The ANA slaughterhouse project was terminated for convenience 9 months after construction began, and the contractor was paid \$1.25 million in incurred costs, even though the project was no more than 10 percent complete. Multiple serial letters were sent to the contractor in attempt to improve performance, and one of those letters was issued as a potential interim unsatisfactory rating. Although consideration was given to termination for default, USACE believed that the contractor was making an effort to meet contract requirements and to successfully complete the project.

¹⁰ CSTC-A, Letter of Direction, Notice of Termination for Convenience–Contract W5J9JE-12-C-0131, Afghanistan National Army (ANA) Slaughterhouse, October 26, 2013.

¹¹ Termination for convenience gives the U.S. government the right to terminate a contract without cause. Federal Acquisition Regulation (FAR) 49.103 provides that settlement of fixed-price contracts terminated for convenience may be effected by negotiated agreement, determination by the termination contracting officer, or a combination of these methods. However, FAR 49.201 states that the "primary objective is to negotiate a settlement by agreement." FAR 49.201 also provides that a "settlement should compensate the contractor fairly for the work done and the preparations made for the terminated portions of the contract, including a reasonable allowance for profit." By comparison, FAR 49.401 states that "Termination for default is general the exercise of the U.S. government's contractual right to completely or partially terminate a contract because of the contractor's actual or anticipated failure to perform its contractual obligations." FAR 49.402-2 states that under a termination for default, "the Government is not liable for a contractor's costs on undelivered work and is entitled to repayment of advance and progress payments" Termination for default also exposes construction contractors to potential liability for the consequences of its breach, including any excess costs incurred by the government "in acquiring supplies or services similar to those terminated for default, and for any other damages" FAR 49.402-2(e).

¹² See appendix II.

Questions surround the decision to build the slaughterhouse in the first place. This project was presented as a high priority of CSTC-A, with a low probability of being cancelled. However, 15 months after the project started, CSTC-A determined that the existing facility would meet the need.

Although the decision to build the slaughterhouse proved to be based on erroneous assumptions, ISAF's decision to review the entire inventory of infrastructure to be turned over to the ANSF was forward-thinking. The aim was to reduce the inventory to give the ANSF a better chance to sustain facilities by terminating unnecessary construction projects, such as this slaughterhouse. While the decision to terminate the slaughterhouse was intended to save the U.S. government \$10.5 million in additional construction costs, a consequence of the termination is a claim by the contractor for an additional \$4.23 million as payment for work already performed on the contract and for charges arising out of the government's termination for convenience. The price of poor planning for this construction project is high. The United States has already paid \$1.54 million and is facing potential liability for another \$4.23 million for a slaughterhouse that was never built. Consequently, the cost to terminate the slaughterhouse project could rise to as much as \$5.77 million.

AGENCY COMMENTS

We received written comments on a draft of this report from USACE and U.S. Forces–Afghanistan (USFOR-A); USACE also provided technical comments, which we incorporated into the report, as appropriate. In its comments, USACE noted that in addition to the \$1.25 million that already had been paid to AREEB-REC Joint Venture at the time of termination, another \$295,029 was paid to the contractor after termination for "value earned as payment for work done...." As a result, the amount paid to the contractor, excluding any additional payments from a final termination settlement, totals \$1.54 million. USFOR-A's comments, which included comments from CSTC-A, noted that it concurred with CSTC-A's response to the draft report. In its comments, CSTC-A noted that it conducted a review of the draft report and did not identify any technical issues with the report. USACE's and USFOR-A's comments, which includes CSTC-A's comments, are reproduced in appendices II and III, respectively.

APPENDIX I - SCOPE AND METHODOLOGY

This report provides the results of SIGAR's inspection of the Afghan National Army slaughterhouse construction project in Pol-i-Charkhi, Kabul province. For this inspection, we assessed whether the (1) work was completed in accordance with contract requirements and applicable construction standards, and (2) facility was being used as intended. We conducted an inspection at the ANA slaughterhouse site on April 17, 2014.

To assess the basis for the determination that sufficient capacity existed at the slaughterhouse facility in Kabul at the time of contract termination and the project's status at the time of termination, we:

- interviewed U.S. officials regarding the justification for the project's commencement and termination;
- reviewed contract documents, design submittals, and geotechnical reports to understand project requirements and contract specifications; and
- conducted a physical inspection and photographed the project site to observe the current status and quality of construction.

We did not rely on computer-processed data in conducting this inspection. However, we considered the impact of compliance with laws and fraud risk. The results of our assessment are included in the body of the report.

SIGAR conducted its fieldwork in Pol-i-Charkhi and Kabul, Afghanistan, from March 2014 through April 2015. We performed our work in accordance with the *Quality Standards for Inspection and Evaluation*, published by the Council of the Inspectors General on Integrity and Efficiency. The engineering assessment was conducted by a professional engineer in accordance with the National Society of Professional Engineers' *Code of Ethics for Engineers*. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our inspection objectives. SIGAR conducted this inspection under the authority of Public Law No. 110-181, as amended; and the Inspector General Act of 1978, as amended.



DEPARTMENT OF THE ARMY

UNITED STATES ARMY CORPS OF ENGINEERS
TRANSATLANTIC DIVISION
201 PRINCE FREDERICK DRIVE
WINCHESTER, VIRGINIA 22602-4373

09 APR 2015

Ms. Gabriele A. Tonsil Deputy Assistant Inspector General for Audits and Inspections 1550 Crystal Drive, Suite 900 Arlington, VA 22202

Dear Ms. Tonsil:

This letter provides the U.S. Army Corps of Engineers (USACE) Transatlantic Division's (TAD) comments to the Special Inspector General for Afghanistan Reconstruction's (SIGAR) draft audit report, "Afghan National Army Slaughterhouse: Stalled Construction Project Was Terminated After \$1.25 Million Spent" (SIGAR audit code I-017).

USACE acknowledges there are no recommendations contained in the report; however, the following comments are provided:

Contract No. WJ9JE-12-C-0131 was terminated for the convenience of the Government on November 11, 2013. As of the date of termination, Areeb received \$1,252,439.25 in progress payments. The contract value as of the date of termination was \$12,101,822.00.

On March 24, 2014 the Contractor's Settlement Proposal, dated February 28, 2014 was received with a requested settlement payment of \$4,245,614.47. This proposal was revised and resubmitted on July 3, 2014, in the amount of \$4,396,796.39. In accordance with FAR 49.107, USACE requested an audit of the proposal by the Defense Contract Audit Agency (DCAA) on August 29, 2014. In addition to the audit, USACE technical representatives evaluated the proposal and additional supporting information submitted by the contractor on September 12, 2014.

On September 20, 2014, the contractor was paid an additional \$295,029.50 for earned value as payment for work done between the previous progress payment and the termination. No termination costs were included in this payment.

On November 25, 2014 an entrance interview was held by DCAA with the contractor as part of the audit of the settlement proposal. During the discussion, Areeb's proposal was found to be inadequate and they requested permission to withdraw it and resubmit to better comply with the submission requirements. This request was granted.

On December 12, 2014, Areeb submitted another revised settlement proposal, in the amount of \$4,232,830.63. USACE discussions with DCAA indicate an entrance interview with the contractor may be scheduled in April 2015. Review of the proposal by USACE is ongoing concurrent with the DCAA audit.

My point of contact for this response is Mr. Mike Hatchett, TAD Internal Review Auditor. He may be reached by e-mail at telephone at

Sincerely,

Richard J. E. Heitkamp Colonel, U.S. Army Corps of Engineers

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HEADQUARTERS UNITED STATES FORCES-AFGHANISTAN BAGRAM, AFGHANISTAN APO AE 09354

USFOR-A DCDR-S

11 April 2015

MEMORANDUM FOR United States Central Command Inspector General (CCIG), MacDill Air Force Base, FL 33621

SUBJECT: USFOR-A's Response to SIGAR Draft Report I-017 "Afghan National Army Slaughterhouse: Stalled Construction Project Was Terminated After \$1.25 Million Spent"

- 1. I concur with CSTC-A's response to the above subject matter. USFOR-A recognizes the need to continually ensure that construction projects meet well-established requirements and are executed IAW contract terms and conditions. We will continue our efforts in this area, to include terminating projects when the requirement ceases to exist and/or the contractor is not performing as directed.
- 2. I welcome any further recommendations. The point of contact is Col Patrick Davis:

Encl CSTC-A's Response, 2 Apr 15 JOHN M. MURRAY
Major General, U.S. Army
Deputy Commander, Support
United States Forces-Afghanistan

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DEPUTY CHIEF OF STAFF SECURITY ASSISTANCE COMBINED SECURITY TRANSITION COMMAND-AFGHANISTAN KABUL, AFGHANISTAN APO AE 09356

DCOS SA/CSTC-A

2 April 2015

MEMORANDUM THRU

United States Forces - Afghanistan (CJIG), APO AE 09356 United States Central Command (CCIG), MacDill AFB, FL 33621

FOR: Special Inspector General for Afghanistan Reconstruction, 2530 Crystal Drive, Arlington, VA 22202-3940

SUBJECT: CSTC-A Response to SIGAR I-017 "Afghan National Army Slaughterhouse: Stalled Construction Project Was Terminated After \$1.25 Million Spent"

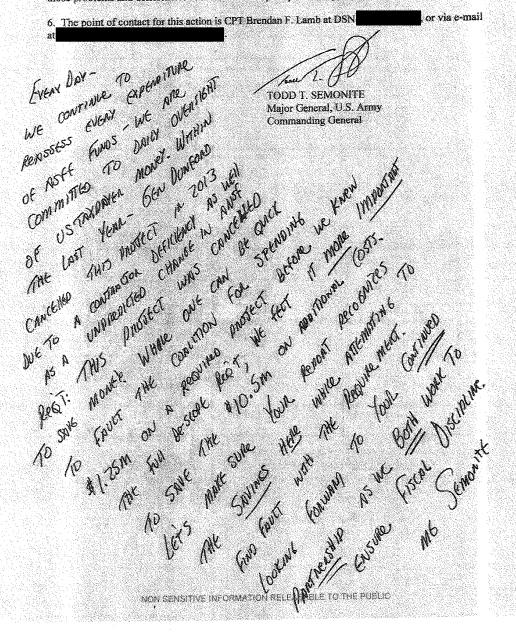
- 1. Reference: SIGAR I-017 Draft Report, dated April 2015; Special Inspector General for Afghanistan Reconstruction (SIGAR).
- The purpose of this memorandum is to provide a Technical Review to SIGAR I-017 "Afghan National Army Slaughterhouse: Stalled Construction Project Was Terminated After \$1.25 Million Spent."
- Combined Security Transition Command-Afghanistan (CSTC-A) appreciates SIGAR's continual
 oversight of Afghanistan reconstruction projects, providing necessary feedback and insight. CSTC-A
 does not find any technical errors within SIGAR I-017 "Afghan National Army Slaughterhouse:
 Stalled Construction Project Was Terminated After \$1.25 Million Spent."
- 4. The Pol-i-Charkhi Slaughterhouse met a valid requirement at the time the project contract was awarded in April 2012. As stated in my memorandum dated 3 October 2014, the project in 2013 was significantly behind schedule, over budget, and in the process of being terminated for not achieving required design objectives. In 2013, HQ ISAF directed a revalidation of all projects that met certain requirements. As part of that revalidation, the conditions behind the decision to construct the slaughterhouse had changed. It was determined to no longer be a valid requirement and coupled with the poor performance, the decision was made to terminate the project to potentially save \$10.5M in costs. The wartime conditions, challenges of construction performance, and the complexity of the \$8.9B Afghan National Defense Security Forces (ANDSF) construction and infrastructure program require net re-assessments and decisions to avoid further cost overruns and schedule delays.
- 5. With our changed resourcing strategy of "improve, ready, sustain," we have imposed conditions of compliance and greater fiscal discipline in the use of our assistance funds while remaining steadfastly committed to fiscal stewardship and protection of US taxpayer funds. We continue to

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DCOS SA/CSTC-A

SUBJECT: CSTC-A Response to SIGAR I-017 "Afghan National Army Slaughterhouse: Stalled Construction Project Was Terminated After \$1.25 Million Spent"

identify problems and deficiencies across our ANDSF support programs and will continue to fix those problems and deficiencies as well as to hold poor performing contractors accountable.



APPENDIX IV - ACKNOWLEDGMENTS

Brian Flynn, Senior Inspection Manager Angelina Johnston, Inspector-in-Charge Ronald Snyder, Professional Engineer This inspection was conducted under project code SIGAR-I-017.

SIGAR's Mission

The mission of the Special Inspector General for Afghanistan Reconstruction (SIGAR) is to enhance oversight of programs for the reconstruction of Afghanistan by conducting independent and objective audits, inspections, and investigations on the use of taxpayer dollars and related funds. SIGAR works to provide accurate and balanced information, evaluations, analysis, and recommendations to help the U.S. Congress, U.S. agencies, and other decision-makers to make informed oversight, policy, and funding decisions to:

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- improve management and accountability over funds administered by U.S. and Afghan agencies and their contractors;
- improve contracting and contract management processes;
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- advance U.S. interests in reconstructing Afghanistan.

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