



SIGAR

Office of the Special Inspector General
for Afghanistan Reconstruction

John F. Sopko
Special Inspector General

November 8, 2013

The Honorable Chuck T. Hagel
Secretary of Defense
1000 Defense Pentagon
Washington, DC 20301

Dear Secretary Hagel:

I write to inform you of an important safety matter in Afghanistan that warrants your immediate attention. Evidence obtained by SIGAR indicates that a contractor identified by the CENTCOM Commander as supporting the insurgency in Afghanistan gained access to a Coalition-controlled facility. This security lapse seems to have been caused by gaps in how contractor information is shared by U.S. government agencies supporting the reconstruction effort. Unless immediate action is taken to correct this matter, this contractor and other supporters of the insurgency could continue to gain access to U.S.- and Coalition-controlled facilities in Afghanistan.

SIGAR uncovered this matter while investigating construction defects at the Parwan Justice Center complex, a project funded jointly by the Departments of State and Defense. In June 2011, the Defense Department's Bagram Regional Contracting Center awarded CLC Construction Company (CLC) a contract to build a courthouse at the complex. SIGAR began its inspection of the courthouse in May 2013, after learning that U.S. government officials found various problems with the contractor's work. Inspections conducted by SIGAR and officials from the Departments of State and Defense found that the courthouse had serious structural deficiencies.¹

During the course of SIGAR's investigation, we also learned that CLC hired the Zurmat Material Testing Laboratory (ZMTL), a subsidiary of the Zurmat Group, to conduct various construction safety tests. Evidence obtained by SIGAR indicates that for two days in November 2012, employees of ZMTL were given access to the Parwan Justice Center complex.² However, these individuals should not have had access to a Coalition-controlled facility, because the U.S. government determined as early as April 2012, that the Zurmat Group poses a threat to U.S. and Coalition forces.

¹ SIGAR Report 14-7-IR, *Justice Center in Parwan Courthouse: Poor Oversight Contributed to Failed Project*, October 25, 2013.

² These individuals allegedly gathered samples of rebar, performed concrete density tests and attempted to conduct a soil compaction test.

Specifically, on April 27, 2012, the Department of Commerce added the Zurmat Group and ZMTL to its Entity List³ because of their involvement in “networks that provide components used to make improvised explosive devices (IEDs) used against U.S. and coalition troops in Afghanistan.”⁴ On September 17, 2012, pursuant to the authority granted by Section 841 of the National Defense Authorization Act for Fiscal Year 2012, the CENTCOM Commander identified the Zurmat Group and its subsidiaries as actively supporting an insurgency. This designation restricts the Zurmat Group and its subsidiaries from receiving Department of Defense contracts within the CENTCOM theater of operations.⁵

This lapse in security highlights the immediate need for a simple process to ensure that individuals and companies identified as supporters of the insurgency are prevented from accessing U.S.- and Coalition-controlled facilities. To that end, I urge you to ensure that all relevant Section 841, Entity List, and similar determinations are distributed to officials who control access to U.S.- and Coalition-controlled facilities.

Additionally, there is no indication that prime contractor CLC was notified of the Zurmat Group’s addition to the Entity List and designation under Section 841. The apparent failure of these measures to provide actionable information to a prime contractor highlights the need for responsible U.S. government agencies to actively pursue the debarment of companies identified as supporters of the insurgency. If the Zurmat Group and its subsidiaries had been debarred in September 2012, as SIGAR recommended, it is less likely that ZMTL would have gained access to a Coalition-controlled facility just two months later. This is because debarment would have given CLC clear notice of ZMTL’s exclusion from receiving U.S. government contracts.

This incident highlights the potential consequences of the Army’s failure to act on SIGAR’s prior request to debar Zurmat and other supporters of the insurgency. Since September 2012, SIGAR has sought the debarment of 43 foreign individuals and companies identified as providing support to insurgents in Afghanistan. To date, the U.S. Army has rejected all of these requests, including our September 4, 2012, request that the Zurmat Group be debarred. The Army office responsible for suspension and debarment rejected SIGAR’s requests because it is concerned that suspending or debarring these individuals and companies would violate their due process rights under the U.S. Constitution. Based on the evidence available in these cases, the Army’s position is legally dubious, contrary to good public policy and contrary to our security goals in Afghanistan. I urge you to address this flawed approach to protecting U.S. taxpayer

³ The purpose of the Entity List is to inform the public of export restrictions against entities engaged in “activities contrary to the national security or foreign policy interests of the United States.” 15 C.F.R. 744.1.

⁴ Addition of Certain Persons to the Entity List, 77 Fed. Reg. 25,055 (April 27, 2012) (codified at 15 C.F.R. Part 744, Supplement No. 4).

⁵ National Defense Authorization Act for Fiscal Year 2012, Pub. L. No. 112-81, § 841, 125 Stat. 1298, 1510-13 (2011).

interests and work with SIGAR to bring common sense to the Army's suspension and debarment program.

Given the safety issues raised by this incident, I have directed my staff to resubmit the Zurmat Group and its subsidiaries to the Army for debarment. Acting on this referral would help ensure that the Zurmat Group is excluded from future opportunities to receive U.S. taxpayer funds and help address a serious threat to the safety of our troops. However, I must reiterate that, until action is taken on all 43 insurgency-related cases SIGAR has referred to the Army for debarment, the safety of our troops could still be at risk and U.S. government funds could be diverted to supporters of the insurgency.

Should you or your staff have any questions or need additional information, please contact SIGAR's Chief of Staff, Timothy Nelson, at 703-545-5973 or timothy.m.nelson32.civ@mail.mil. Thank you in advance for your cooperation.

Sincerely,



John F. Sopko
Special Inspector General
for Afghanistan Reconstruction

cc:

The Honorable John F. Kerry
U.S. Secretary of State

Ambassador James B. Cunningham
U.S. Ambassador to Afghanistan

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

General Joseph F. Dunford, Jr.
Commander, U.S. Forces-Afghanistan, and
Commander, International Security Assistance Force