

SIGAR

**Special Inspector General for
Afghanistan Reconstruction**

OFFICE OF SPECIAL PROJECTS

**AFGHAN NATIONAL DEFENSE AND
SECURITY FORCES FACILITIES: ACTION
NEEDED TO ADDRESS CONFISCATION OF
CONTRACTOR-OWNED PROPERTY AND
CONTRACTOR MISTREATMENT**



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Office of the Special Inspector General
for Afghanistan Reconstruction

March 8, 2019

The Honorable Jim Mattis
Secretary of Defense

Lieutenant General Todd T. Semonite
Commanding General and Chief of Engineers
U.S. Army Corps of Engineers

General Austin Scott Miller
Commander, U.S. Forces–Afghanistan and
Commander, Resolute Support

This report is a follow up to a previously issued SIGAR report entitled *Allegations Related to USACE Operations and Maintenance Contract for Afghan Security Forces' Facilities* (SIGAR 18-12-SP). During the course of that review, we were made aware of concerns by the U.S. Army Corps of Engineers' (USACE) staff overseeing three operations and maintenance (O&M) contracts serving Afghan National Defense Security Forces (ANDSF) facilities in Afghanistan regarding the theft of contractor-owned property and abuses to contract staff. Two contracts ended in 2015 and one O&M contract is currently on-going and set to end in March 2019. This report addresses those concerns. The objectives of this review were to determine the extent to which: (1) contractor-owned property and equipment was confiscated by ANDSF personnel; (2) ANDSF personnel mistreated and threatened contractor personnel at O&M work sites; and (3) USACE and CSTC-A took action to address property confiscation and contractor mistreatment.

Over the course of our review, we found that ANDSF personnel confiscated contractor owned property under all three USACE O&M contracts. Our review of USACE data found that ANDSF personnel had confiscated more than \$780,000 in property and equipment intended to support O&M at ANDSF facilities since the start of the O&M contracts. USACE told us that it has been able to help the contractor reclaim stolen property in the majority of instances in which theft occurred, and USACE has paid over \$325,000 to compensate the contractor of the two completed contracts for confiscated property that it could not recover at six sites. USACE reported that it is in the process of reviewing documentation to support payment to the current O&M contractor for 17 sites in which USACE was unable to reclaim the contractor's property in the amount of \$454,900. According to USACE, ANDSF personnel confiscated this equipment despite approximately \$1,302,800 in excess spare parts and equipment provided to the ANDSF to support its O&M efforts for the two completed contracts.

We also found that the ANDSF mistreated or abused contractor staff, and had reportedly detained staff against their will and threatened or intimidated them into completing work that was outside the scope of the O&M contract requirements. Between August 2011 and November 2013, USACE identified 296 serious incident reports (SIRs) reported across approximately 500 supported ANDSF sites that the O&M contractor filed with USACE. Of this total, 71 regarded abuses, threats, intimidation, and confiscated property. According to USACE officials we spoke with, USACE takes steps to address these SIRs and prevent contractor mistreatment and theft, however, USACE reported that it does not have an official system in place to record actions it has taken to resolve incidents reported by contractor staff.

According to USACE personnel they routinely work with the Combined Security Transition Command-Afghanistan (CSTC-A) to address these issues. CSTC-A has several mechanisms for holding the ANDSF accountable, including engaging on-site advisors for assistance and using financial penalties to ensure that the Afghan government understands the terms and conditions for proper utilization of CSTC-A funds (including purpose, time, and amount) and the possible consequences of improper use of funds. However, CSTC-A has not assessed any financial penalties against the ANDSF for confiscated property or the mistreatment of contractor personnel.



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We are making one recommendation. We recommend that the USACE Commanding General develop a process to track actions taken to resolve SIRs, and coordinate with CSTC-A to ensure that all resolutions to SIRs are captured.

We provided a draft of this report to USACE and CSTC-A on February 13, 2019. USACE provided comments on February 28, 2019. CSTC-A did not provide a formal response to the draft, but provided informal comments which we incorporated as appropriate into the draft. In its comments, USACE stated that it concurred with SIGAR's recommendation for USACE to develop a process to track actions taken to resolve SIRs, and coordinate with CSTC-A to ensure that all resolutions to SIRs are captured. USACE stated that USACE's implementation of SIGAR's recommendation will provide for better tracking of actions taken to resolve contractor submitted SIRs and will provide better support for decision makers regarding how SIRs should be resolved. USACE also provided SIGAR with technical comments which we incorporated into the draft as appropriate. USACE's comments are reproduced in appendix I.

We conducted this review in Washington, D.C., from July 2017 through January 2019 in accordance with the Council of the Inspectors General on Integrity and Efficiency (CIGIE) *Quality Standards for Inspection and Evaluation*. SIGAR performed this work under the authority of Public Law No. 110-181 and the Inspector General Act of 1978, as amended. Should you or your staff have any questions about this project, please contact Mr. Benjamin Piccolo, Director of Special Projects, at (703) 545-2192 or benjamin.j.piccolo.civ@mail.mil.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Sopko".

John F. Sopko
Special Inspector General
for Afghanistan Reconstruction

BACKGROUND

A key U.S. government objective in Afghanistan is to build the country's capacity to provide for its own security.¹ To achieve that objective, as of June 30, 2018, the U.S. Congress had appropriated more than \$78.2 billion to support the ANDSF, and the Department of Defense (DOD) had disbursed approximately \$9 billion to construct or rehabilitate ANDSF infrastructure.² The Combined Security Transition Command-Afghanistan (CSTC-A) is the primary liaison between the United States and the ANDSF for military infrastructure. CSTC-A sets the requirements for both constructing ANDSF infrastructure and providing operation and maintenance (O&M) support to ANDSF facilities. CSTC-A also authorizes and provides funds to designated organizations to award, administer, and oversee contracts to support CSTC-A's objectives for ANDSF infrastructure projects. The U.S. Army Corps of Engineers' (USACE) Middle East District is one of four organizations responsible for executing CSTC-A's infrastructure requirements for the ANDSF.³

In July 2010, USACE awarded two firm-fixed-price indefinite delivery/indefinite quantity service contracts to ITT/Exelis Systems Corporation (Exelis)⁴ to provide O&M services for ANDSF facilities throughout Afghanistan. The contracts provided an agreed-upon allowable cost for services that is fixed and not subject to any adjustment of the contractor's actual costs. One contract covered ANDSF facilities in designated northern provinces, and the other contract covered ANDSF facilities in the southern part of the country.⁵ The contract covering facilities in Afghanistan's northern and eastern provinces was valued at \$498 million and the contract covering Afghanistan's southern and western provinces was valued at \$350 million. The contracts, covering up to 800 facilities, expired in June 2015. See figure 1 for a map of the locations under the northern and southern contracts.

¹ The primary components of the ANDSF are the Afghan National Army within the Ministry of Defense (MOD) and the Afghan National Police within the Ministry of Interior (MOI).

² Construction of ANDSF facilities is primarily funded through the Afghanistan Security Forces Fund (ASFF). As of December 31, 2018, the U.S. government had obligated and disbursed \$5.9 billion of ASFF for ANA infrastructure projects and disbursed \$3.1 billion for ANP infrastructure projects. See SIGAR, *Quarterly Report to Congress*, January 30, 2019.

³ USACE, NATO Support Procurement Agency (NSPA), Logistics Civil Augmentation Program (LOGCAP), and the U.S. Army's Regional Contracting Command (RCC) are the current organizations CSTC-A works with to design and support infrastructure projects. According to CSTC-A, the estimated U.S.-funded annual facilities sustainment costs for all ANA facility and electrical generator requirements will reach \$110.8 million, a roughly \$43 million increase from the \$68 million reported for the last quarter of fiscal year 2018. CSTC-A reported that for fiscal year 2019 annual facilities costs for all ANP facility and electrical generator requirements will be \$78.8 million, a roughly \$7 million increase from the \$71.7 million reported for the last quarter of fiscal year 2018.

⁴ USACE awarded the O&M contracts to ITT Systems Corporation. In late 2011, the company changed its name to ITT Exelis Systems Corporation. USACE modified the contracts to reflect this name change.

⁵ Prior to July 2010, USACE provided O&M services at ANDSF facilities under six separate contracts. On July 26, 2010, USACE awarded contract number W912ER-10-D-0002 to cover ANDSF facilities located in the capital region and in northern and eastern Afghanistan. Provinces included under the northern contract included Badakhshan, Baghlan, Balkh, Bamiyan, Faryab, Ghazni, Jowzjan, Kabul, Kapisa, Khost, Kunar, Kunduz, Laghman, Logar, Nangahar, Nuristan, Paktika, Paktiya, Panjshir, Parwan, Samangan, Sar-e Paul, Takhar, and Wardak. USACE awarded contract number W912ER-10-D-0003 on July 27, 2010, to cover facilities in the southern and western parts of the country. Provinces included under the southern contract included Badghis, Daykundi, Farah, Ghor, Helmand, Herat, Kandahar, Nimroz, Uruzgan, and Zabul.

Figure 1 - Location of Exelis' Northern and Southern O&M Operations



Source: USACE contract numbers W912ER-10-D-0002 and W912ER-10-D-0003. Totals include all task orders and modifications.

In January 2015, USACE awarded a third contract, with a maximum value of \$245 million (national maintenance contract) to IDS International Government Services, LLC (IDS) for the continuing provision of O&M support and training assistance for up to 42 ANDSF critical infrastructure facilities throughout Afghanistan. Over time, the requirements have gradually changed, and, as of May 2018, IDS was providing support for 33 of the 42 critical infrastructure sites, which, according to USACE, is approximately five percent of all ANDSF sites.⁶ According to USACE officials, CSCT-A added an additional 11 sites onto the IDS contract to help support the ANDSF in other locations. To meet these requirements, USACE awarded a new contract worth \$21.3 million to IDS in May 2018 to extend the date of service for O&M support to November 11, 2018.⁷ USACE awarded an additional \$11.5 million sole source bridge contract to IDS on November 9, 2018 to prevent any gap in O&M service through March 2019.⁸ At this time, USACE plans to award an additional 12-month contract for O&M support while it prepares to compete a follow-on award to provide for increased O&M capacity. USACE reported that the follow-on O&M contract is expected to be awarded in fiscal year 2020.⁹ See figure 2 for a map of the ANDSF locations under the national maintenance contract.

⁶ USACE requirements for having contractors perform O&M services at ANDSF bases decrease as the ANDSF becomes capable of performing its own maintenance. USACE can add or remove sites under the contract as it deems necessary.

⁷ USACE contract number W912ER15D0001-0014.

⁸ USACE contract number W912ER19C0003.

⁹ According to USACE, there have been delays in awarding the follow-on O&M contract which are the result of corrective actions to a contract protest.

Figure 2 - Location of USACE O&M Operations under the National Maintenance Contract



Source: SIGAR analysis of USACE O&M locations under the national maintenance contract.

In November 2017, we issued a report in response to a hotline complaint we received related to USACE's oversight of the O&M contracts that supported ANDSF facilities throughout southern Afghanistan.¹⁰ During the course of that review, we were made aware of concerns by USACE staff overseeing the contracts regarding the theft of contractor-owned property and abuses to contract staff on USACE's O&M contracts. This report addresses those concerns.

The objectives of this review were to determine the extent to which: (1) contractor-owned property and equipment was confiscated by the ANDSF personnel; (2) ANDSF personnel mistreated and threatened contractor personnel at O&M work sites; and (3) USACE and CSTC-A took action to address property confiscation and contractor mistreatment. To conduct our review, we reviewed contract documentation related to the contractor-owned property, including requirements for government-furnished material and contractor-acquired property. We obtained and analyzed documents, emails, and lists of confiscated contractor-owned property under the northern and southern O&M contracts and the national maintenance contract. We interviewed officials from CSTC-A and USACE. We requested information from both O&M contractors, Exelis and IDS, pertaining to their experience working at ANDSF facilities under the O&M contracts and incorporated their responses into this draft as appropriate.

¹⁰ SIGAR, *Allegations Related to USACE Operations and Maintenance Contract for Afghan Security Forces' Facilities*, SIGAR 18-12-SP, November 16, 2017.

THE ANDSF HAS CONFISCATED OVER \$780,000 WORTH OF CONTRACTOR-OWNED EQUIPMENT

Over the course of our review, we found that ANDSF personnel confiscated contractor owned property under all three USACE O&M contracts. Our review of USACE data found that ANDSF personnel had confiscated more than \$780,000 in property and equipment intended to support O&M at ANDSF facilities since the start of the northern and southern O&M contracts. While USACE told us that it has been able to help the contractor reclaim stolen property in the majority of instances in which theft occurred, USACE has paid over \$325,000 to compensate the contractor for confiscated property that it could not recover at six sites under the northern and southern contracts. USACE reported that it is in the process of reviewing documentation to support payment to the current O&M contractor, IDS, for 17 sites in which USACE was unable to reclaim the contractor's property in the amount of \$454,900. At time of this report, USACE has not settled the contractor's request to compensate the contractor for property lost at these 17 sites. According to USACE, ANDSF personnel confiscated this equipment despite the provision of approximately \$1,302,800 in excess spare parts and equipment provided to the ANDSF to support its O&M efforts for the two completed Exelis contracts.¹¹ When asked why the ANDSF was confiscating contractor-owned material, USACE officials stated that they were unsure of the cause, but stated that taking equipment is a way to obtain the tools and machinery needed to repair equipment without relying on the contractor. USACE officials also told us that the ANDSF officials apparently believed they had the right to confiscate the equipment since it was located on an ANDSF base.

Northern and Southern O&M Contracts

Over the course of the northern and southern contracts, USACE reported that the ANDSF confiscated O&M equipment from a total of 24 sites maintained by the O&M contractor, Exelis. However, USACE reported that it was able to get the ANDSF to return contractor-owned equipment at the majority, or 18 of the 24 sites. According to USACE, the equipment confiscated was contractor-owned material purchased to support O&M at the sites, as required by the two firm-fixed price contracts. Inventory lists we reviewed showed that the types of inventory confiscated at these sites included tools, such as drills, oxygen regulators, welding machines, saws, as well as office supplies including computers, a printer, an air conditioner, and refrigerators, among other things.

For the six locations where USACE was unable to convince the ANDSF to return contractor-owned equipment, Exelis submitted a request for equitable adjustment (REA) to USACE to recoup funds for the stolen equipment. REAs are a remedy used by the contractor to receive payment from the government under unforeseen or unintended circumstances that cause an increase in contract performance costs, and according to USACE, USACE's contracting officer approves REAs when they are deemed to have merit.¹² USACE's contracting officer assessed the merit of Exelis' REA and approved a \$325,485 payment to Exelis for property that was stolen.¹³

¹¹ Exelis provided approximately \$1,302,800 in excess spare parts and equipment to the ANDSF to support its O&M efforts. USACE documentation shows that, of this total, Exelis provided approximately \$125,800 to the ANDSF in the form of bench stock in November 2014, and directly handed over 21 conex containers of excess spare parts worth \$877,000 to the ANDSF at the end of its contract. In addition, Exelis left repair parts at ANDSF facility sites that it could no longer use when it departed a site. USACE estimated that Exelis left approximately \$300,000 worth of spare parts at its O&M sites. According to USACE officials we spoke with, the containers and spare parts consisted of items that were no longer needed for contractor-supported O&M and could be used by the ANDSF to provide their own O&M. Despite this provision of parts, the ANDSF continued to confiscate contractor-owned property under USACE's O&M contracts.

¹² See *Reflectone, Inc. v. Dalton*, 60 F.3d 1572 (Fed. Cir. 1995).

¹³ USACE's contracting officer works with the contractor to validate and verify all REAs before it settles on a suggested reimbursement amount. According to USACE, its local national quality assurance agents verify contractor inventory on site

USACE's contracting officer issued contract modification P00008 under task order W912ER-15-P-0005, in order to reimburse Exelis for its property losses. The modification was signed January 19, 2017. USACE provided CSTC-A notification of this contract modification. See table 1 for the locations and amount of confiscated equipment at the six sites.

Table 1 - O&M Sites Where Contractor-Owned Equipment was Confiscated and Associated Costs under the Northern and Southern O&M Contracts

	Confiscated Equipment Sites	Total Cost of Confiscated Equipment
1	Khair Khot Garrison (Paktika)	\$159,526.43
2	Thunder – Gardez (Paktia)	\$37,214.30
3	PEK - Pol-e-Khomari (Baghlan)	\$77,273.04
4	Camp Commando (Kabul)	\$4,005.55
5	Central Workshop (Kabul)	\$6,018.88
6	National Police Training Center (Wardak)	\$41,446.62
	Total	\$325,484.83

Source: SIGAR analysis of USACE data.

National Maintenance Contract

According to USACE officials, as of January 2019 there are 17 O&M sites from which the ANDSF has confiscated contractor equipment under the national maintenance contract.¹⁴ The types of inventory confiscated by the ANDSF at those sites included a variety of items, such as batteries; exhaust fans; oil, air and fuel filters; window air conditioners; washers, gaskets, seals, and lighting fixtures; conex containers; and, other items. To date, IDS has submitted 16 REAs to USACE for review and approval in the amount of \$454,900.80 for the confiscated equipment.¹⁵ According to USACE it has not yet reviewed the REAs for merit or determined whether payment to the contractor for the stolen equipment should be made. Since the national maintenance contract is ongoing, it is possible that additional equipment may have been confiscated, resulting in further costs to the U.S. government.

USACE DOES NOT HAVE AN OFFICAL RECORD OF ACTIONS TAKEN TO ADDRESS INCIDENTS OF CONTRACTOR MISTREATMENT

According to USACE, O&M contractors submitted multiple serious incident reports (SIRs) to USACE to report complaints of staff mistreatment that occurred within the scope of the three O&M contracts. While USACE has told us that it has taken steps to address these SIRs and prevent contractor mistreatment and theft of

to help USACE determine if the contractor's claim is accurate. Although in some instances, the government is not able to validate inventory and must rely on monthly reports from the contractor.

¹⁴ From the start of the contract in January 2015 through January 2019.

¹⁵ According to a USACE contract official, in September 2018, IDS reported that IDS was unable to remove its equipment and other items out of two conex containers from an O&M site in which O&M services were discontinued. According to USACE, IDS reported that the ANDSF contractor has taken over the conexes and is using them. As of January 28, 2019, neither USACE nor IDS has been able to get the ANDSF to return the containers. USACE expects that IDS will request reimbursement from the government for these containers, however, an official REA has not yet been submitted to USACE for review.

property, USACE does not have an official process in place to record actions it has taken to resolve incidents reported by contractor staff.

O&M Contractors Reported Frequent Mistreatment and Abuse of Staff and Theft of Contractor-Owned Property by the ANDSF

According to USACE officials we spoke with, contractor staff of all three O&M contracts were often detained to force the O&M contractors to surrender property or complete O&M work that was outside the scope of the O&M contract and the ANDSF did not have the capability to repair. We spoke with USACE officials who oversaw the O&M contracts regarding the abuses reportedly suffered by Exelis and IDS staff. We also obtained information from Exelis and IDS pertaining to their personnel's experience working at ANDSF facilities under USACE's O&M contracts to determine the extent to which abuses were suffered by contractor staff.

A representative from Exelis told us that Exelis staff, all of whom were local Afghans, have at times been held against their will at gunpoint and locked in containers for extended hours when attempting to remove contractor-owned equipment from O&M sites. The representative told us that over the course of the northern and southern contracts, staff found it extremely difficult to safely remove contractor-owned property from ANDSF O&M sites, and in most cases, significant company property was not permitted to leave the site.

A representative from Exelis told us that Exelis submitted over 400 SIRs from across 800 facilities to USACE from July 2010 through the end of 2013 to request assistance regarding these issues. USACE told us that contract program management officials were unable to locate SIRs reported from July 2010 until July 2011. However, USACE reported that it was able to identify all SIRs—296—reported by Exelis between August 2011 and November 2013. According to USACE contract program management officials, prior to this time, all program management for the O&M contracts was done in Afghanistan and some SIR documentation from this time period was lost or not maintained because there was no requirement to maintain SIR documentation. A USACE official reported that in August 2011 program management for the O&M contracts was consolidated at USACE's Middle East District headquarters in Winchester, Virginia, and the Middle East District has an accurate count of all SIRs submitted by Exelis and IDS from this date forward.

According to USACE documentation, of the total 296 SIRs it identified, only 71 involved assaults, threats, intimidation, contractor detainment, and the confiscation of contractor-owned property across approximately 500 ANDSF supported sites. USACE reported that the incidents included four minor attacks, such as contractor staff being slapped or punched, and 17 instances of contractor staff being detained for a "few hours or less." USACE told us that contractor staff were often detained by the ANDSF as a way to force them to repair equipment that was outside the scope of contract requirements, with their release dependent upon them fixing the equipment. For example, USACE officials told us they were made aware of instances in which the ANDSF shaved the heads of contractor staff at a waste treatment facility for not complying with ANDSF orders to repair equipment outside the scope of the contract. USACE officials also told us that they were aware of instances in which contractor staff were detained because they engaged in criminal activity such as theft of ANDSF property. According to a senior USACE official, USACE never received any SIRs related to contractor staff being held at gunpoint. The official told us that while these incidents may have happened, they were either not reported to USACE or reported for an incident outside of USACE's purview. They also stated that if such claims were made, USACE was unable to support them. Of the remaining 225 SIRs, USACE reported that 70 were related to facility damage and stolen or relocated equipment, and 72 were related to incoming fire or insurgent activities.¹⁶

We asked IDS whether any of its contract staff had been abused or harmed when attempting to reclaim contractor-owned property. The IDS representative told us that "[ANDSF] site leadership will sometimes verbally threaten or harass IDS employees when they attempt to recover IDS designated property or when IDS

¹⁶ See Appendix III for examples of the types of SIRs reported by Exelis.

employees are asked to perform work outside the scope of the contract.” They reported that to date, no employees have been harmed, “only verbally threatened or harassed and sometimes detained.” The representative from IDS also told us that IDS has primarily experienced challenges with property theft during the time the contractor is scheduled to depart the ANDSF base. The representative told us that IDS has had issues with consumables being confiscated, such as oil that is utilized to support power generation, and materials and equipment that belong to IDS are sometimes confiscated and are not returned when directed by the U.S. government. The representative told us that in some cases where property is confiscated and either not returned or not returned in a timely manner vendors are paid for services that are not performed, such as for providing trucks and cranes at the worksite, and in some cases it causes disruptions to IDS logistical support to the ANDSF program. They stated that “these costs are passed along to the U.S. government” through a request for equitable adjustment.

USACE Reported that It Has Addressed Complaints of Mistreatment and Equipment Theft, but Does Not Have an Official System of Record to Track Actions Taken to Resolve SIRs

USACE officials we spoke with told us that USACE was fully aware and greatly concerned about the abuse of contractor employees whenever it occurred during the period of the contract, and, action was taken to control and mitigate the abuse when it was reported, although that action was not always effective (i.e. the property could not always be reclaimed). While USACE reported that annotations made on many intermediate and final SIRs indicate that action was taken to address SIRs, a USACE official, told us that it does not have an official record of SIR resolution, and, as a result, we could not verify USACE’s actions to address SIRs.

According to USACE officials, when incidents of mistreatment, abuse, or property or equipment theft occur, the O&M contractor attempts to engage senior-level ANDSF officials or ANDSF base commanders to try to negotiate a successful resolution. USACE officials told us that many issues are resolved on the local level. However, according to USACE, if an O&M contractor is unable to negotiate a successful resolution, the contractor contacts USACE for assistance. When this occurs, USACE’s contracting officer refers the complaint to the contracting officer representative (COR) who attempts to coordinate the resolution of the issue. According to USACE officials if the COR cannot address the issue at the local level, with contractor personnel, then USACE requests CSTC-A assistance to help resolve the issue and allow contracted activities to continue. According to a senior level USACE official, when CSTC-A training, advising, and assisting mentors are present at ANDSF bases, the mentors can be helpful in resolving issues of theft or abuse that could not be resolved by contract staff. However, a USACE official told us that the majority of incidents are resolved at the local level either by the contractor or USACE.

Exelis

In response to a questionnaire we sent to Exelis, an Exelis representative reported that in cases where equipment was confiscated or staff was detained, Exelis management engaged senior-level ANDSF officials to try to negotiate the return of the equipment or the release of contractor personnel. According to a USACE official, Exelis had its own security staff and resources in place to coordinate the response to such issues.

According to an Exelis representative, during their time managing the Exelis contract, “no comprehensive mechanism for formal Coalition assistance evolved to address abuse and confiscation of property” and Exelis never received feedback on, or even acknowledgement of, the SIRs it submitted. According to this representative, the posting of “American military mentors at the [O&M] sites significantly mitigated the risk of assault on our employees,” not to mention waste, fraud, and abuse of resources by the ANDSF and was instrumental in keeping the sites under control. The Exelis representative reported that once the U.S. military drawdown began, and the presence of U.S. mentors dissipated, significant problems escalated at the O&M sites, including the stripping and destruction of newly-built ANDSF facilities. In response to Exelis’ statement, a senior level USACE official reported that while there were significant problems on the Exelis contract, they

believe that Exelis exaggerated the quantity and severity of incidents that may have occurred, and that Exelis received feedback from USACE during its weekly meeting with USACE and through email correspondence.

IDS

In response to a questionnaire we sent to IDS, an IDS representative reported that IDS submits serious incident reports to USACE informing them of the situation and requesting their assistance in recovering IDS property. The representative told us that in some cases IDS will submit formal memorandums to the site leadership requesting the return of IDS property, which they stated go through CTSC-A for support. They also told us that IDS also utilizes the senior IDS local national managers to meet with the site leadership to facilitate the return of IDS property. In cases where there is no resolution of confiscated property, IDS will submit a request for equitable adjustment to USACE to recoup the costs of the confiscated property.

Furthermore, an IDS representative reported that several actions by USACE and CSTC-A would be helpful in preventing the ANDSF from confiscating contractor-owned equipment in the future. First, the representative reported that it would be useful to establish a formal transition strategy where site leadership is notified in advance of what activities will be discontinued, or de-scoped, from the contract and what responsibilities will transfer to the ANDSF. Second, the representative suggested that ANDSF site leadership follow the contract de-scope schedule provided to them by IDS through CSTC-A. The representative told us that this schedule is included as part of the performance work statement, and requires that stakeholders meet to discuss de-scoping activities. Third, the representative reported that it would be useful to “ensure there is clear communication between Afghan leadership at the senior level and CSTC-A” in regards to O&M actions for services provided to sites under the ANDSF contract.”

USACE Coordination with CSTC-A to Address SIRs

USACE officials told us that over the past 2 to 3 years, CSTC-A has been copied on all SIRs submitted to USACE, and USACE addresses issues related to contractor abuse with CSTC-A on a weekly basis. For example, according to USACE officials, USACE copies the CSTC-A program manager on every serious incident report that it receives, and USACE discusses these reports at weekly meetings held every Wednesday with CSTC-A. USACE told us that CSTC-A has played an important role in tracking and resolving incident reports. In addition, a USACE official reported that the contractor, IDS, holds weekly in-country teleconferences with the USACE in-country branch chief and CSTC-A to discuss on-going concerns related to the contracts. According to a senior USACE official, SIRs are left on the meeting agendas until resolved. The official reported that IDS also provides email updates to USACE and CSTC-A regarding status of what SIRs have been resolved, when they were resolved, and how long they took to resolve.

However, a senior level USACE official told us that while USACE maintains all documents related to SIRs, these documents are not consolidated in one location and not easily pulled for audit purposes. A senior USACE official told us that USACE is required to report to CSTC-A on serious incidences that happen during the course of the contract. According to this official, these include disability violations, contractor kidnapping and fatalities, or events that impacts the corps, among other things. USACE officials also told us that USACE does not have a formal reporting tool to capture reports made to CSTC-A. USACE reported that in order to determine actions USACE has taken to address SIRs data must be compiled from different sources on a case-by-case basis. As a result, USACE does not have a system to easily determine which violations are still unresolved and which require action. USACE is also unable to effectively utilize SIR resolution data to determine if there are patterns in the data that may help USACE take more targeted action to address and prevent contractor abuse and property theft on future O&M contracts.

CTSC-A HAS TAKEN ACTION TO ADDRESS PROPERTY THEFT AND CONTRACTOR MISTREATMENT, BUT HAS NOT WITHHELD FUNDS FROM THE ANDSF TO ENSURE FUTURE ACCOUNTABILITY OVER CONTRACT FUNDS

According to a representative from CSTC-A, CSTC-A has training, advising, and assisting responsibilities at O&M sites and can assist USACE with resolving incidents once CSTC-A receives sufficient evidence of a problem from USACE or the contractor. According to the representative, when incidents are deemed credible, CSTC-A can engage its advisors at a site and usually remedy the issue. Another representative told us that CSTC-A has several mechanisms for holding the ANDSF accountable, including using financial penalties, such as withholding funds from the ANDSF construction budget or withholding fuel or ammunition. According to this official, CSTC-A also has the ability to engage senior level Afghan officials to try to correct behavior or ensure that property is returned and contractor staff are not mistreated. For example, CSTC-A has the ability to make recommendations to the Afghan Director of the Construction and Property Management Department, the department that oversees the budget for Ministry of Defense (MOD) facilities, to withhold funds from ANDSF sites, stop O&M work at a site, or remove a site from O&M support.

We reported in 2014 that CSTC-A adopted a “financial levers” strategy that is meant to use our financial contributions as an incentive to change Afghan government behavior at the ministry level. Since CTSC-A is the owner of the O&M contracts and provides funding for their operation, CSTC-A has the authority to withhold funds from the ANDSF for failing to meet the terms and conditions for proper utilization of CSTC-A funds (including purpose, time, and amount) or improperly use of U.S. funds. However, CSTC-A has not issued any financial penalties against the ANDSF for stolen property or contractor mistreatment. CSTC-A reported that it has not withheld funds from the ANDSF for the theft of contractor-owned property and contractor abuse because withholding funds “harms ANDSF forces more than it would tend to change behavior” of these bad actors and “CSTC-A’s withholding of funding is not an effective tool to change behavior as there is limited ability to tie withheld funds back to the bad actors.” In March 2018 CSTC-A told us that current counter-corruption efforts have begun showing results in identifying, targeting, and prosecuting bad actors across the ANDSF.¹⁷ We did not assess whether CSTC-A’s efforts have been successful in reducing issues of ANDSF non-compliance.

CSTC-A has, however, issued threats to withhold on-budget support from the ANDSF under the on-going O&M contract. In an August 2016 letter from the Deputy Commanding General of CSTC-A to the Minister of Defense, CSTC-A threatened to withhold on-budget support if contractor property was not returned to the contractor.¹⁸ According to CSTC-A, it has no record of a response from the MOD regarding the letter the Deputy Commanding General of CSTC-A issued to the Afghan Minister of Defense in August 2016. However, according to a CSTC-A representative, CSTC-A never followed up on these threats because USACE never sought additional assistance from CSTC-A, and CSTC-A deemed the matter to be resolved. According to a USACE official, USACE is still working on verifying what property was confiscated at the O&M sites listed in the CSTC-A letter, as well an additional 11 sites, under the current O&M contract and determining the total value of this property. At this time, USACE estimates the total value of the property taken at these sites to be approximately \$454,900, but the REAs have not yet been settled with IDS.

A CSTC-A official told us that CSTC-A cannot withhold funds from the ANDSF without reason, and needs documentation from USACE, as well as supporting evidence, to justify withholding funds. When USACE finalizes its review of IDS’s REA and issues a modification for payment, USACE will notify CSTC-A of the payment that

¹⁷ SIGAR reported in January 2018 that the MOD signed a counter-corruption policy in December 2017. We also reported that the MOI’s 10-year Vision document is expected to place priority on countering corruption during the first year. See SIGAR, *Quarterly Report to Congress*, January 30, 2018, pp. 95-96

¹⁸ See appendix II for a copy of the letter the Deputy Commanding General of CSTC-A issued to the Afghan Minister of Defense.

was made. At this time, CSTC-A will have the necessary supporting documentation to withhold funds from the ANDSF for contractor-owned property that was stolen.

CONCLUSION

Over the course of three USACE O&M contracts providing support to the ANDSF, O&M contractors departing ANDSF sites were subjected to harassment and abuse, and ANDSF personnel confiscated more than \$780,000 worth of contractor-owned equipment. The theft of contractor-owned property and verbal abuse and harassment of contractor staff by the ANDSF is still occurring despite actions taken by USACE and CSTC-A to address these issues.

According to USACE officials, USACE has addressed serious incident reports submitted by Exelis and IDS regarding contractor abuses and the theft of contractor-owned property and provided equitable adjustments to the Exelis contractor to compensate them for inventory losses due to ANDSF theft and is in the process of reviewing IDS's REA. However, USACE does not have an official record of SIR resolution for which it can identify trends in ANDSF behavior as well as actions taken by USACE to better address and prevent contractor abuse and property theft in the future, and, as a result, we could not fully verify USACE's actions to address SIRs.

USACE officials told us that it has taken steps to address the confiscation of contractor-owned equipment and abuse, and told us that USACE program managers and contracting officer representatives have often requested assistance from CSTC-A to address issues that could not be resolved. While CSTC-A has several mechanisms for holding the ANDSF accountable, including using financial penalties to withhold funds from the ANDSF, CSTC-A has not assessed any financial penalties against the ANDSF for the abuse of contractor staff and property theft to date. When USACE finalizes its review of IDS's REA and determines whether to issue a modification for payment for stolen property, CSTC-A should strongly consider withholding funds from the ANDSF to reclaim taxpayer dollars or develop other appropriate penalties to help deter this type behavior in the future.

RECOMMENDATIONS

We recommend that

1. The USACE Commanding General develop a process to track actions taken to resolve SIRs, and coordinate with CSTC-A to ensure that all resolutions to SIRs are captured.

AGENCY COMMENTS

We provided a draft of this report to USACE and CSTC-A on February 13, 2019. USACE provided comments on February 28, 2019. CSTC-A did not provide a formal response to the draft, but provided informal comments which we incorporated as appropriate into the draft. In its comments, USACE stated that it concurred with SIGAR's recommendation for USACE to develop a process to track actions taken to resolve SIRs, and coordinate with CSTC-A to ensure that all resolutions to SIRs are captured. USACE stated that USACE's implementation of SIGAR's recommendation will provide for better tracking of actions taken to resolve contractor submitted SIRs and will provide better support for decision makers regarding how SIRs should be resolved. USACE also provided SIGAR with technical comments which we incorporated into the draft as appropriate. USACE's comments are reproduced in appendix I

APPENDIX I – USACE COMMENTS ON DRAFT REPORT



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

February 28, 2019

SUBJECT: Response to Special Inspector General for Afghanistan Reconstruction (SIGAR) Draft Report (Project Code SIGAR-SP-175), Afghan National Defense and Security Forces Facilities: Action Needed to Address Confiscation of Contractor-Owned Property and Contractor Mistreatment

Mr. John F. Sopko
Special Inspector General for Afghanistan Reconstruction
1550 Crystal Drive, Suite 900
Arlington, VA 22202

Dear Mr. Sopko:

The U.S. Army Corps of Engineers (USACE) concurs with SIGAR's recommendation in subject report.

Recommendation 1: The USACE Commanding General develop a process to track actions taken to resolve serious incident reports (SIRs), and coordinate with the Combine Security Transition Command – Afghanistan (CSTC-A) to ensure that all resolutions to SIRs are captured.

USACE Response to Recommendation 1: Concur. USACE's Middle East District's Project Delivery Team has implemented a contractor SIR Tracker which includes actions taken to resolve issues raised in SIRs submitted by the contractor.

USACE is providing additional comments for clarification of the draft report in the enclosure. My point of contact for this response is Mr. George Sullivan, Transatlantic Division Internal Review Auditor. He may be reached by e-mail at George.a.sullivan@usace.army.mil or by telephone at 202-761-4573.

Sincerely,

A handwritten signature in black ink that reads "M.C. Quander".

MARK C. QUANDER
Colonel, EN
Commanding

Enclosure

APPENDIX II – CSTC-A LETTER TO OBTAIN CONTRACTOR-OWNED PROPERTY FROM THE MINISTRY OF DEFENSE UNDER NATIONAL MAINTENANCE CONTRACT



HEADQUARTERS
COMBINED SECURITY TRANSITION COMMAND – AFGHANISTAN
KABUL, AFGHANISTAN APO, AE 09356

August 23, 2016

SUBJECT: Transition of Operations and Maintenance Services at ANA Installations

H.E. General Abdullah Habibi
Minister of Defense
Ministry of Defense
Government of the Islamic Republic of Afghanistan
Kabul, Afghanistan

Respected Minister Habibi:

I wish you and your family good health and trust this letter finds you well. As you know, Combined Security Transition Command-Afghanistan (CSTC-A) is committed to assisting the Government of the Islamic Republic of Afghanistan build and sustain the Afghan National Army (ANA). In support of this, CSTC-A contracted IDS International to perform Operations and Maintenance (O&M) for generators and facilities at 22 ANA sites from May 2015 to May 2017.

With the award of the Ministry of Defense (MoD) Framework Generator O&M Contract on July 4, 2016, CSTC-A identified several ANA installations on both CSTC-A and MoD Framework Generator O&M contracts. CSTC-A, jointly with the Construction & Property Management Department (CPMD), signed a Memorandum of Agreement on August 16, 2016 to establish the transition of eight ANA sites from CSTC-A to the MoD contract. This Memorandum of Agreement also established the final transition date of the eight sites as August 20, 2016.

As of August 20, 2016, the MoD framework generator O&M contractor had not taken over services at any of the eight ANA sites. At two ANA sites - Camp Commando and Special Operations Forces Headquarters, Darulaman, the site commanders detained three IDS International power plant workers on Camp Commando from 20 to 21 August, and three IDS International power plant workers on Special Operations Forces Headquarters, Darulaman from 20 to 22 August. The site commanders' intent was to detain the IDS International employees until the MoD framework generator contractor arrived on site to take over generator O&M services. This illegal and unjustified detention of CSTC-A contractors is very disturbing and represents a grave challenge to the cooperation and trust between CSTC-A and the MoD.

Additionally since IDS International will no longer provide generator O&M services at the eight ANA sites, they are required by their contract with CSTC-A and the US Army Corps of Engineers to remove their tools, equipment, and spare parts from these installations. The MoD framework contract specifies the contractor will provide their own tools, equipment, and spare parts on ANA installations; therefore IDS international will retrieve all of their tools and equipment.

As of August 17, 2016, the MoD framework generator contractor and the site facility Engineer

denied IDS International base access from the following 5 ANA installations:

1. Camp Commando – 111th Capital Division Contractor: Mujtaba Ali Company
2. Kabul Military Training Center (KMTC) – 111th Capital Division On-Budget Contractor: Mujtaba Ali Company
3. Marshal Fahim National Defense University (MFNDU) – 111th Capital Division On-Budget Contractor: Mujtaba Ali Company
4. Special Operations Forces Headquarters, Darulaman – 111th Capital Division On-Budget Contractor: Mujtaba Ali Company
5. Khas Kunar – 201st Corps On-Budget Contractor: Abid Tawhid Construction Company

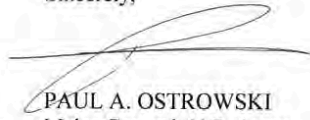
As a result of denying access to these contractors, IDS International has not been able to remove their tools, equipment and spare parts. Additionally, IDS International may require multiple days in order to remove their property. At some of the ANA installations IDS International provided Connex boxes as office space for their employees, and the removal of these Connex boxes may require multiple days to procure the logistical support to remove this property. CSTC-A and CPMD request your assistance in allowing IDS International the opportunity to remove their property from the remaining five ANA installations.

If IDS International is unable to recover their property in full from the five ANA installations, CSTC-A will deduct the value of this property from the 1396 CPMD budget.

I greatly appreciate your attention to these issues, as CSTC-A's intent is to provide a seamless transition between the CSTC-A and MoD generator O&M service contracts. IDS International has provided exceptional service to the ANA installations they have maintained for the last year, and will continue to do so with the remaining installations on their contract. CSTC-A will continue to partner with CPMD to ensure these framework O&M contracts are successful.

If you have any questions or concerns, please contact COL Richard Hansen at Richard.L.Hansen6.mil@mail.mil.

Sincerely,



PAUL A. OSTROWSKI
Major General, U.S. Army
Deputy Commanding General

cc:

General Abdul Khaliq, First Deputy Minister
Lieutenant General Ghulam Sakhi, Assistant Minister of Defense AT&L
Major General Sadaat Maluk, Chief CPMD

APPENDIX III – EXAMPLES OF SERIOUS INCIDENT REPORTS REPORTED BY EXELIS AND MAINTAINED BY USACE

Table 1 - Examples of Serious Incident Reports Reported to USACE by Exelis from July 2011 to January 2014

Incident Number	Date	Province	Incident Type	Summary
ITT Incident Spot Report	2/18/2012	Spin Boldak	Arrest/detention/possible assault	The Afghan base commander arrested seven contract employees for failing to repair a site generator. USACE secured their release the next day.
Serious Incident Report	4/15/2012	Laghman	Employees detained	O&M staff were prevented from leaving for a couple of hours due to an inoperable well.
ITT/Exelis Data Collection Incident Report	4/30/2012	Kabul	Criminal activity	The Security Police detained an Exelis employee for two hours for taking two batteries and an air conditioner.
2013051111100	5/11/2013	Paktiya	Detainment threat	The Afghan base commander threatened to detain O&M personnel if they didn't repair a water pump that is outside of O&M jurisdiction.
201205140830	5/14/2012	Kabul	Assault	Trainee tried to punch the on-the-job contract trainer after being told to wear his personal protective equipment.
201206050830	6/5/2012	Balkh	Intimidation	An Afghan National Police major threatened the O&M site supervisor when he stated he needed to go through the proper channels to complete a request. The major had to be restrained by other officers.
201206091110	6/9/2012	Kapisa	Vehicle accident	An O&M vehicle was struck by a third-party vehicle and injured all five personnel inside it. Three suffered minor injuries, while two had more serious ones.
201206181600	6/18/2012	Balkh	Employees detained	The Afghan zone commander detained eight O&M personnel due to a lack of equipment shipments.
201206191600	6/20/2012	Kabul	Intimidation	The Afghan base commander threatened to imprison two O&M employees if they didn't restart the power plant, despite lacking the required U.S. government approval.
ITT Incident Spot Report	7/10/2012 - 7/11/2012	Kandahar	Seizure of sub-contractor vehicles	The Afghan zone commander seized the contractor's vehicles because he was displeased with their work, telling them to repair a cable and conduit to get them back.
201210081000	10/8/2012	Paktika	Detained personnel	The Afghan base commander jailed several O&M personnel for two hours for failing to fix a generator.
201211172130	11/17/2012	Kabul	Threat and intimidation	The Afghan site commander and his soldiers threatened to beat O&M personnel unless they illegally restarted the Kabul power plant (shut down due to falling below 10% fuel capacity). They complied.
201210301130	11/23/2012	Paktika	Intimidation and assault	The Afghan garrison commander struck an O&M worker twice, accusing him of theft.
201302211100	2/21/2013	Kabul	Criminal activity	The assailant knocked the Exelis employee to the ground and stole her purse before being overtaken by an unknown Afghan male who returned the purse to her.
201305200900	5/20/2013	Kabul	Unauthorized use of fuel	The Afghan garrison commander authorized his personnel to siphon fuel for their vehicles from a generator fuel line. This resulted in a fuel leak that O&M inspectors have indicated is an environmental hazard as well as a major fire hazard since the leak is near an electric transformer.

201305211000	5/21/2013	Kabul	Detention	The O&M staff were detained due to a faulty generator, with the Afghan garrison commander telling them they could leave once the generators worked.
201305291600	5/29/2013	Kabul	Detained materials	The Afghan garrison commander did not allow the O&M team to reclaim their tools and excess materials.
201308191000	8/19/2013	Kabul	Detained equipment	The Afghan garrison commander refused to release contractor-owned equipment and materials to Exelis.
201401021030	1/2/2014	Kabul	Unauthorized removal of government furnished equipment	The Afghan garrison commander relocated the generator to another facility, and it is missing from current site.

Source: USACE serious incident report data

This project was conducted
under project code SP-175.