

SIGAR

**Special Inspector General for
Afghanistan Reconstruction**

SIGAR 14-91 Financial Audit

USAID's Local Governance and Community Development Project in Northern and Western Regions of Afghanistan: Audit of Costs Incurred by ARD, Inc.

**In accordance with legal requirements, SIGAR has redacted certain
information deemed proprietary or otherwise sensitive from this report.**



**AUGUST
2014**

SIGAR

Special Inspector General for Afghanistan Reconstruction

WHAT THE AUDIT REVIEWED

The U.S. Agency for International Development (USAID) entered into a contract task order with ARD, Inc. (ARD) to support the Local Governance and Community Development (LGCD) Project in the Northern and Western Regions of Afghanistan. The objective of ARD's LGCD task order was to help the Afghan government extend its reach into unstable areas and engage at-risk populations by building the capacity of provincial and local government officials to deliver services and address citizen needs, create an environment which encourages local communities to take an active role in their own development, and promote stability by addressing the underlying causes of violence and support for insurgency.

SIGAR's financial audit, performed by Crowe Horwath LLP (Crowe Horwath), covered the period October 9, 2006, through October 8, 2009, and expenditures of \$55,981,242 for LGCD. Crowe Horwath (1) identified and reported on significant deficiencies or material weaknesses in ARD's internal control related to the task order; (2) identified and reported on instances of material noncompliance with the terms of the award and applicable laws and regulations, including any potential fraud or abuse; (3) determined and reported on whether ARD had taken corrective action on prior findings and recommendations; and (4) rendered an opinion on the fair presentation of ARD's Special Purpose Financial Statement. See Crowe Horwath's report for the precise audit objectives.

In contracting with an independent audit firm and drawing from the results of a contracted audit, SIGAR is required by auditing standards to provide oversight of the work performed. Accordingly, SIGAR reviewed Crowe Horwath's audit results and found them to be in accordance with generally accepted government auditing standards.

August 2014

USAID's Local Governance and Community Development Project in Northern and Western Regions of Afghanistan: Audit of Costs Incurred by ARD, Inc.

SIGAR 14-91-FA

WHAT THE AUDIT FOUND

Crowe Horwath LLP (Crowe Horwath) identified three material weaknesses and five significant deficiencies with ARD, Inc.'s (ARD) internal control. It also found six instances of ARD's noncompliance with the terms of the award and applicable laws and regulations. For example, Crowe Horwath found instances in which ARD failed to follow procurement guidelines for justifying sole source procurements and determining reasonableness of costs for the Local Governance and Community Development (LGCD) Project. Specifically, ARD's sole source procurement justifications were insufficient or inadequately supported, and labor costs in its subcontracts exceeded market rates. In addition, ARD could not provide documentation showing that the U.S. Agency for International Development (USAID) approved the purchase of nonexpendable equipment and property which may have been available from other federally-funded projects. Lastly, Crowe Horwath found that ARD used incorrect rates when calculating indirect costs incurred on the project. Thus, USAID subsequently over-reimbursed the company for its work.

As a result of these findings, Crowe Horwath questioned \$463,957 in costs, which included \$337,677 in unsupported costs (costs not supported by sufficient documentation to allow Crowe Horwath to determine their accuracy and allowability), and \$126,280 in ineligible costs (costs prohibited by the contract, applicable laws, or regulations).

| Category | Questioned Costs Total | Ineligible | Unsupported |
|------------------------|------------------------|------------------|------------------|
| Sub-Grant Program | \$49,215 | \$0 | \$49,215 |
| Infrastructure Program | \$249,309 | \$0 | \$249,309 |
| Procurement | \$39,153 | \$0 | \$39,153 |
| G&A and MHO | \$126,280 | \$126,280 | \$0 |
| Totals | \$463,957 | \$126,280 | \$337,677 |

In addition, Crowe Horwath found that the U.S. government lost a calculated \$102 in interest income in advances provided to ARD.

Crowe Horwath requested prior audit reports or other assessments related to the LGCD project from ARD and USAID, but no pertinent reports were identified.

In Crowe Horwath's opinion, ARD's Special Purpose Financial Statement presented fairly in all material respects, revenues received, costs incurred, and the balance for the indicated periods in accordance with requirements established by SIGAR.

WHAT SIGAR RECOMMENDS

Based on the results of the audit, SIGAR recommends that the Mission Director of USAID/Afghanistan:

1. **Determine the allowability of and recover, as appropriate, \$463,957 in questioned costs identified in the report.**
2. **Recover \$102 in lost interest revenue from advances provided.**
3. **Advise ARD to address the report's eight internal control findings.**
4. **Advise ARD to address the report's six noncompliance findings.**



SIGAR

**Office of the Special Inspector General
for Afghanistan Reconstruction**

August 25, 2014

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

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

This letter transmits the results of our audit of costs incurred by ARD, Inc. (ARD) under a U.S. Agency for International Development (USAID) contract task order to support the Local Governance and Community Development (LGCD) Project in the Northern and Western Regions of Afghanistan.¹ The audit, performed by Crowe Horwath LLP, covered the period October 9, 2006, through October 8, 2009, and expenditures of \$55,981,242 for LGCD. Based on the results of the audit, SIGAR recommends that the Mission Director of USAID/Afghanistan:

1. **Determine the allowability of and recover, as appropriate, \$463,957 in questioned costs identified in the report.**
2. **Recover \$102 in lost interest revenue from advances provided.**
3. **Advise ARD to address the report's eight internal control findings.**
4. **Advise ARD to address the report's six noncompliance findings.**

We will be following up with your agency to obtain information on the corrective actions taken in response to our recommendations.

John F. Sopko
Special Inspector General
for Afghanistan Reconstruction

(F-037)

¹ USAID contract number DFD-I-00-05-00248-00, Task Order Number 2



ARD, Inc.

Special Purpose Financial Statement

**Local Governance and Community Development Project in Northern and Western Regions of
Afghanistan**

For the Period October 9, 2006, through October 8, 2009

(With Independent Auditor's Report Thereon)

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Transmittal Letter

June 30, 2014

To the President and Management of ARD, Inc.
159 Bank Street
Burlington, Vermont 05402

To the Office of the Special Inspector General for Afghanistan Reconstruction
2530 Crystal Drive
Arlington, Virginia 22202

We appreciate the opportunity to provide to you our report regarding the procedures that we have completed during the course of our audit of ARD, Inc.'s ("ARD") contract task order with the United States Agency for International Development ("USAID") funding the Local Governance and Community Development ("LGCD") Project in Northern and Western Regions of Afghanistan.

Within the pages that follow, we have provided a brief summary of the work performed. Following the summary, we have incorporated our report on the Special Purpose Financial Statement, report on internal control, and report on compliance. We do not express an opinion on the summary or any information preceding our reports.

When preparing our report, we considered comments, feedback, and interpretations of ARD, Inc., the Office of the Special Inspector General for Afghanistan Reconstruction, and USAID provided both in writing and orally throughout the audit planning and fieldwork phases. We have also incorporated management's final written responses into the report as an appendix.

Thank you for providing us the opportunity to work with you and to conduct the financial audit of ARD, Inc.'s LGCD project.

Sincerely,

A handwritten signature in black ink, appearing to read "Bert Nuehring", written over a horizontal line.

Bert Nuehring, CPA, Partner
Crowe Horwath LLP



www.crowehorwath.com

Summary

Background

ARD, Inc. ("ARD") entered into a cost reimbursement contract task order with the United States Agency for International Development ("USAID") to assist the Government of Afghanistan to extend its reach into unstable areas and engage at-risk populations, create an environment that encourages local communities to take an active role in their development, and to promote stability by addressing the underlying causes of violence and support for insurgency. The project, the Local Governance and Community Development ("LGCD") Project in Northern and Western Regions of Afghanistan, was funded by task order number 2 of contract DFD-I-00-05-00248-00, which incorporated an initial ceiling price of \$49,360,382. Ten modifications to the task order were subsequently issued and established a final ceiling amount of \$55,981,242. The eight modifications to the award established a final budget of \$80,529,535 – the full amount of which was not obligated by the Government. Over the course of the project, which spanned from October 9, 2006, through October 8, 2009, ARD incurred costs totaling \$55,981,242, inclusive of those costs included as a component of the settlement with USAID to close out the contract.

Throughout the project's period of performance ARD collaborated with numerous implementing partners, grantees, subcontractors, and USAID to execute upon the scope of work identified in the contract. As reported in ARD's final report on the LGCD project dated July 2009, results (unaudited by Crowe) included, but were not limited to:

- Providing services to 223,065 households benefiting from the project;
- Training 1,104 people in conflict mitigation and resolution;
- Training 4,121 government officials;
- Conducting 414 training courses;
- Serving 8,445 female beneficiaries through women's focused projects supported by LGCD; and
- Conducting 51 trainings and workshops in conflict resolution.

The project was terminated for the convenience of the Government upon execution of modification number 09 dated June 1, 2009, and formally closed upon execution of modification number 10 dated September 22, 2011.

Work Performed

Crowe Horwath LLP ("Crowe") was engaged by the Office of the Special Inspector General for Afghanistan Reconstruction ("SIGAR") to conduct a financial audit of ARD's LGCD project.

Objectives Defined by SIGAR

The following audit objectives were defined within the *Performance Work Statement for Financial Audits of Costs Incurred by Organizations Contracted by the U.S. Government for Reconstruction Activities in Afghanistan*:

Audit Objective 1 – Special Purpose Financial Statement

Express an opinion on whether the Special Purpose Financial Statement for the award presents fairly, in all material respects, revenues received, costs incurred, items directly procured by the U.S. Government and balance for the period audited in conformity with the terms of the award and accounting principles generally accepted in the United States of America or other comprehensive basis of accounting.

Audit Objective 2 – Internal Controls

Evaluate and obtain a sufficient understanding of ARD's internal control related to the award; assess control risk; and identify and report on significant deficiencies including material internal control weaknesses.

Audit Objective 3 – Compliance

Perform tests to determine whether ARD complied, in all material respects, with the award requirements and applicable laws and regulations; and identify and report on instances of material noncompliance with terms of the award and applicable laws and regulations, including potential fraud or abuse that may have occurred.

Audit Objective 4 – Corrective Action on Prior Findings and Recommendations

Determine and report on whether the audited entity has taken adequate corrective action to address findings and recommendations from previous engagements that could have a material effect on the special purpose financial statement.

Scope

The scope of the audit included the period October 9, 2006, through October 8, 2009, for the LGCD project. The audit was limited to those matters and procedures pertinent to the contract that have a direct and material effect on the Special Purpose Financial Statement ("SPFS") and evaluation of the presentation, content, and underlying records of the SPFS. The audit included reviewing the financial records that support the SPFS to determine if there were material misstatements and if the SPFS was presented in the format required by SIGAR. In addition, the following areas were determined to be direct and material and, as a result, were included within the audit program for detailed evaluation:

- Allowable Costs;
- Allowable Activities;
- Cash Management;
- Equipment and Property Management;
- Period of Availability of Federal Funds;
- Procurement;
- Reporting; and
- Grants Under Contract.

Methodology

To meet the aforementioned objectives, Crowe completed a series of tests and procedures to audit the SPFS, tested compliance and considered the auditee's internal controls over compliance and financial reporting, and determined if adequate corrective action was taken in response to prior audit, assessment, and findings and review comments, as applicable.

For purposes of meeting Audit Objective 1 pertaining to the SPFS, transactions were selected from the financial records underlying the SPFS and were tested to determine if the transactions were recorded in accordance with the basis of accounting identified by the auditee; were incurred within the period covered by the SPFS and in alignment with specified cutoff dates; were charged to the appropriate budgetary accounts; and were adequately supported.

With regard to Audit Objective 2 regarding internal control, Crowe requested and the auditee provided copies of policies and procedures and verbally communicated those procedures that do not exist in written format to provide Crowe with an understanding of the system of internal control established by ARD. The system of internal control is intended to provide reasonable assurance of achieving reliable financial and performance reporting and compliance with applicable laws and regulations. Crowe corroborated internal controls identified by the auditee and conducted testing of select key controls to understand if they were implemented as designed.

Audit Objective 3 requires that tests be performed to obtain an understanding of the auditee's compliance with requirements applicable to the contract. Crowe identified – through review and evaluation of the contract task order and the primary indefinite quantity contract executed by and between ARD and USAID, the Federal Acquisition Regulation ("FAR"), and the USAID Acquisition Regulation ("AIDAR") – the criteria against which to test the SPFS and supporting financial records and documentation. Using sampling techniques, Crowe selected expenditures, vouchers submitted to USAID for payment, procurements, property and equipment dispositions, grants issued under the contract and corresponding costs incurred, and project reports for audit. Supporting documentation was provided by the auditee and subsequently evaluated to assess ARD's compliance. Testing of indirect costs was limited to determining whether indirect costs were calculated and charged to the U.S. Government in accordance with the negotiated indirect cost rate agreements ("NICRA") and associated contract restrictions, and if adjustments were made, as required and applicable.

Regarding Audit Objective 4, Crowe inquired of both ARD and USAID regarding prior audits and reviews to obtain an understanding of the nature of audit reports and other assessments that were completed and the required corrective action. There were no prior audits, assessments, or reviews conducted over ARD's implementation of the LGCD project.

Due to the location and nature of the project work and certain vendors and individuals who supported the project still residing in Afghanistan, certain audit procedures were performed on-site in Afghanistan, as deemed necessary.

Summary of Results

Upon completion of Crowe's procedures, Crowe identified eight findings because they met one or more of the following criteria: (1) significant deficiencies in internal control, (2) material weaknesses in internal control, (3) noncompliance with rules, laws, regulations, or the terms and conditions of the contract; and/or (4) questioned costs resulted from identified instances of noncompliance. Other matters that did not meet the criteria were either reported within a management letter dated June 17, 2014, or were communicated verbally to ARD.

Crowe also reported on both ARD's compliance with the applicable laws, rules, regulations, and the terms and conditions of the contract and the internal controls over compliance. Three material weaknesses in internal control, five significant deficiencies in internal control, and six instances of material noncompliance were reported. Where internal control and compliance findings pertained to the same matter, they were consolidated within a single finding. A total of \$463,957 in costs was questioned as presented in **TABLE A** contained herein. Crowe also noted that, due to ARD's submitting costs for reimbursement prior to payment, in contravention to the terms of the contract, funds were advanced thus resulting in \$102 in calculated interest lost by the U.S. Government. The interest amount is recommended for payment.

Crowe also requested copies of prior audits, reviews, and evaluations pertinent to ARD's financial performance under the contract. Per communications with ARD and USAID, there were no such reviews or assessments conducted that pertained to ARD's implementation of the project and that are direct and material to the Special Purpose Financial Statement. Crowe, therefore, did not conduct follow-up on corrective action pertaining to any such reports.

Crowe issued an unmodified opinion on the SPFS.

This summary is intended to present an overview of the results of procedures completed for the purposes described herein and is not intended to be a representation of the audit's results in their entirety.

TABLE A: Summary of Findings and Questioned Costs

| Finding Number | Matter | Questioned Costs | Cumulative Questioned Costs |
|-------------------------------|---|------------------|-----------------------------|
| 2014-01 | Property Management: Contracting Officer Approvals and Inventory Management | \$39,153 | \$39,153 |
| 2014-02 | Procurement: Sole Source Procurements and Unreasonable Costs Incurred | \$249,309 | \$288,462 |
| 2014-03 | Allowable Costs: NICRA Adjustments After Contract Settlement | \$126,280 | \$414,742 |
| 2014-04 | Grants Under Contract: Monitoring Grantees | \$49,215 | \$463,957 |
| 2014-05 | Cash Management: Accrual-Based Invoicing | \$0 | \$463,957 |
| 2014-06 | Reporting: Late Submissions and Incomplete Reports | \$0 | \$463,957 |
| 2014-07 | Grants Under Contract: Grantee Communication and Records Retention | \$0 | \$463,957 |
| 2014-08 | Internal Controls: Employee and Contractor File Contents | \$0 | \$463,957 |
| Total Questioned Costs | | | \$463,957 |

Summary of Management Comments

ARD's management provided a statement indicating that the organization disagrees with the audit findings and conclusions concerning the documentation, allowability, and reasonableness of the costs incurred under the task order as management asserts that the contract is closed and, therefore, is not subject to audit.

References to Appendices

The auditor's reports are supplemented by three appendices. **Appendix A** presents a listing of all equipment items that were unsupported by Contracting Officer approvals as referenced in finding 2014-01. **Appendix B** provides a table demonstrating the cost share amounts for each of seventeen grants issued under the contract that sum to the questioned cost amount referenced in finding 2014-04. **Appendix C** includes the Views of Responsible Officials, which includes management's disagreement with all audit findings based on the premise that the contract is closed and, therefore, is not subject to audit.

INDEPENDENT AUDITOR'S REPORT ON THE SPECIAL PURPOSE FINANCIAL STATEMENT

To the President and Management of ARD, Inc.
159 Bank Street
Burlington, Vermont 05402

To the Office of the Special Inspector General for Afghanistan Reconstruction
2530 Crystal Drive
Arlington, Virginia 22202

Report on the Special Purpose Financial Statement

We have audited the Special Purpose Financial Statement ("the Statement") of ARD, Inc. ("ARD"), and related notes to the Statement, for the period October 9, 2006, through October 8, 2009, with respect to the Local Governance and Community Development Project in Northern and Western Regions of Afghanistan funded by contract number DFD-I-00-05-00248-00, Order Number 02.

Management's Responsibility for the Special Purpose Financial Statement

Management is responsible for the preparation and fair presentation of the Statement in accordance with the requirements specified by the Office of the Special Inspector General for Afghanistan Reconstruction ("SIGAR") in Appendix V of Solicitation ID05130083 ("the Contract"). Management is also responsible for the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of a Statement that is free from material misstatement, whether due to fraud or error.

Auditor's Responsibility

Our responsibility is to express an opinion on the Special Purpose Financial Statement based on our audit. We conducted our audit in accordance with auditing standards generally accepted in the United States of America and *Government Auditing Standards* issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the Statement is free of material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the Statement. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the Statement, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the Statement in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the Statement.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

(Continued)

Opinion

In our opinion, the Statement referred to above presents fairly, in all material respects, revenues received, costs incurred, and balance for the indicated period in accordance with the requirements established by the Office of the Special Inspector General for Afghanistan Reconstruction in Appendix V of the Contract and on the basis of accounting described in Note 1.

Basis of Presentation

We draw attention to Note 1 to the Statement, which describes the basis of presentation. The Statement was prepared by ARD in accordance with the requirements specified by the Office of the Special Inspector General for Afghanistan Reconstruction in Appendix V of the Contract and presents those expenditures as permitted under the terms of contract number DFD-I-00-05-00248-00, Order Number 02, which is a basis accounting other than accounting principles generally accepted in the United States of America, to comply with the financial reporting provisions of the Contract referred to above. Our opinion is not modified with respect to this matter.

Restriction on Use

This report is intended for the information of ARD, Inc., the United States Agency for International Development, and the Office of the Special Inspector General for Afghanistan Reconstruction. Financial information in this report may be privileged. The restrictions of 18 U.S.C. 1905 should be considered before any information is released to the public.

Report on Other Legal and Regulatory Requirements

In accordance with *Government Auditing Standards*, we have also issued reports dated June 17, 2014, on our consideration of ARD's internal controls over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts, and other matters. The purpose of those reports is to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on internal control over financial reporting or on compliance. Those reports are an integral part of an audit performed in accordance with *Government Auditing Standards* and should be considered in assessing the results of our audit.

A handwritten signature in dark ink that reads "Crowe Horwath LLP". The signature is written in a cursive, flowing style.

Crowe Horwath LLP

June 17, 2014
Washington, D.C.

ARD, Inc.
Special Purpose Financial Statement
DFD-I-00-05-00248-00, Task Order No. 02
For the Period October 9, 2006, through October 8, 2009

| | <u>Questioned Costs</u> | | | | |
|--|-------------------------|----------------------|-------------------|--------------------|--------------|
| | <u>Budget</u> | <u>Actual</u> | <u>Ineligible</u> | <u>Unsupported</u> | <u>Notes</u> |
| Revenues | | | | | |
| USAID - DFD-I-00-05-00248, 00, Task Order No. 02 | \$ 80,529,535 | \$ 55,981,242 | | | 4 |
| Total Revenue | \$ 80,529,535 | \$ 55,981,242 | | | |
| Costs Incurred | | | | | |
| Workdays Ordered | \$ 19,874,895 | \$ 14,631,981 | | | 5 |
| Sub-Grant Program | 7,754,560 | 5,104,389 | | \$ 49,215 | 8, 9, D |
| Commodities Program | 7,876,362 | 6,144,368 | | | |
| Infrastructure Program | 21,369,165 | 12,356,161 | | \$ 249,309 | B |
| Security Subcontract | 5,816,779 | 4,716,632 | | | |
| Life Support/Logistics Subcontract | 2,605,226 | 1,012,002 | | | |
| Other Direct Costs | | | | | |
| IQC Subcontractors | 48,192 | 33,373 | | | |
| Allowances | 4,211,415 | 2,714,095 | | | |
| Travel | 2,381,979 | 1,954,058 | | | |
| Other Direct Costs | 5,281,807 | 4,406,577 | | | |
| Procurement | 1,498,249 | 1,376,264 | | \$ 39,153 | A |
| G&A and MHO | 1,810,906 | 1,611,270 | \$ 126,280 | | C |
| Subtotal-Other Direct Costs | \$ 15,232,547 | \$ 12,095,636 | | | |
| Termination Settlement | | (79,927) | | | 10 |
| Total Costs Incurred | \$ 80,529,535 | \$ 55,981,242 | | | |
| Balance | \$ - | \$ - | \$ 126,280 | \$ 337,677 | 6 |

The accompanying notes to the Special Purpose Financial Statement are an integral part of this Statement.

ARD, Inc.
Notes to the Special Purpose Financial Statement
For the Period October 9, 2006, through October 8, 2009

Note 1. Basis of Presentation

The accompanying Special Purpose Financial Statement (the "Statement") includes costs incurred under Contract Number DFD-I-00-05-00248-00, Task Order Number 02 for the Local Governance and Community Development (LGCD) project in the Northern and Western Regions of Afghanistan for the period October 9, 2006 through October 8, 2009. Because the Statement presents only a selected portion of the operations of ARD, Inc., it is not intended to and does not present the financial position, changes in net assets, or cash flows of ARD, Inc. The information in this Statement is presented in accordance with the requirements specified by the Office of the Special Inspector General for Afghanistan Reconstruction ("SIGAR") and is specific to the aforementioned Federal contract task order. Therefore, some amounts presented in this Statement may differ from amounts presented in, or used in the preparation of, the basic financial statements.

Note 2. Basis of Accounting

Expenditures reported on the Statement are reported in accordance with accounting principles generally accepted in the United States of America ("GAAP") and, therefore, are reported on the accrual basis of accounting. Such expenditures are recognized following the cost principles contained in Title 48, Part 31 of the Code of Federal Regulations, *Contract Cost Principles and Procedures*, wherein certain types of expenditures are not allowable or are limited as to reimbursement.

Note 3. Foreign Currency Conversion Method

For purposes of preparing the Statement, conversions from local currency to United States dollars were required. ARD, Inc. utilized the weighted average conversion method throughout the period of performance for purposes of recording charges to the contract. Such charges were recorded in the financial records as costs were incurred. The referenced financial records were used in the preparation of the Statement.

Note 4. Revenues

Revenues on the Statement represent the amount of funds to which ARD, Inc. is entitled to receive from USAID for allowable, eligible costs incurred under the contract during the period of performance, inclusive of the Settlement referenced in Note 10.

Note 5. Costs Incurred by Budget Category

The budgeted costs contained in the Special Purpose Financial Statement reflect the budgetary contract values contained in Modification Number 10 to USAID-approved Contract DFD-I-00-05-00248-00, Task Order 2, issued on September 22, 2011.

Note 6. Balance

The balance presented on the Statement represents the difference between revenues earned and costs incurred such that an amount greater than \$0 would reflect that revenues have been earned that exceed the costs incurred or charged to the contract and an amount less than \$0 would indicate that costs have been incurred, but are pending additional evaluation before a final determination of allowability and amount of revenue earned may be made. The Statement's zero dollar balance indicates that no funds are due from or owed to the Government.

Note 7. Currency

All amounts presented are shown in United States dollars.

(Continued)

Note 8. Grants Under Contract

Grants were issued under the contract pursuant to the terms of the prime contract and in accordance with the incorporated grants manual.

Note 9. Utilization of Grantees and Subcontractors

ARD utilized both contracts and grants in the operation of the program. Grants were used when the principal purpose of the relationship was the transfer of money, property, services, or anything of value to the recipient in its accomplishment of a public purpose of support or stimulation authorized under the contract.

Subcontracts were used when the principal purpose of the instrument was the acquisition by purchase, lease, or barter of property or services for direct benefit or use of the services or items to fulfill the requirements of the contract.

Note 10. Contract Termination and Settlement

On September 22, 2011, ARD, Inc. and the United States Agency for International Development ("USAID") formally terminated the agreement through Modification Number 10 to the contract task order. A settlement amount of \$493,386 was authorized in the modification and is included within the amounts presented in the Statement. The \$79,927 amount shown on the Statement's Termination Settlement line item reflects the amount of the Settlement not otherwise assignable to and reflected within a specific budgetary account. The contract is closed.

Note 11. Subsequent Events

Management has performed an analysis of the activities and transactions subsequent to the October 9, 2006, through October 8, 2009, period of performance. Management has performed their analysis through June 17, 2014.

Notes to the Questioned Costs Presented on the Special Purpose Financial Statement¹

Note A. Contracting Officer Approvals and Inventory Management

Finding 2014-01 identified \$39,153 in questioned costs that resulted from ARD's not obtaining the Contracting Officer's approval to purchase certain equipment and property items.

Note B. Sole Source Procurements and Unreasonable Costs Incurred for Services

Finding 2014-02 identified \$249,309 in questioned costs as a result of ARD's providing inadequate documentation to support the reasonableness of costs incurred under five subcontracts.

Note C. NICRA Adjustments After Contract Settlement

Finding 2014-03 identified \$126,280 in questioned costs that resulted from ARD's not calculating the adjustment required following revision of the provisional rates used to obtain reimbursement for indirect and material handling costs in the negotiated indirect cost rate agreement (NICRA).

Note D. Grants Under Contract: Monitoring Grantees

Finding 2014-04 identified \$49,215 in questioned costs that resulted from ARD's not monitoring whether or not grantees met the cost share/matching requirements specified in the grant agreements and not retaining documentation adequate to demonstrate that costs incurred to meet the match were allowable.

¹ Notes to the Questioned Costs Presented on the Special Purpose Financial Statement were prepared by the auditor for informational purposes only and as such are not part of the audited Statement.

INDEPENDENT AUDITOR'S REPORT ON INTERNAL CONTROL

To the President and Management of ARD, Inc.
159 Bank Street
Burlington, Vermont 05402

To the Office of the Special Inspector General for Afghanistan Reconstruction
2530 Crystal Drive
Arlington, Virginia 22202

We have audited, in accordance with the auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States, the Special Purpose Financial Statement ("the Statement") of ARD, Inc. ("ARD"), and related notes to the Statement, for the period October 9, 2006, through October 8, 2009, with respect to the Local Governance and Community Development Project in Northern and Western Regions of Afghanistan funded by contract number DFD-I-00-05-00248-00, Order Number 02. We have issued our report thereon dated June 17, 2014.

Internal Control over Financial Reporting

ARD's management is responsible for establishing and maintaining effective internal control. In fulfilling this responsibility, estimates and judgments by management are required to assess the expected benefits and related costs of internal control policies and procedures. The objectives of internal control are to provide management with reasonable, but not absolute, assurance that the assets are safeguarded against loss from unauthorized use or disposition; transactions are executed in accordance with management's authorization and in accordance with the terms of the contract; and transactions are recorded properly to permit the preparation of the Statement in conformity with the basis of presentation described in Note 1 to the Statement. Because of inherent limitations in internal control, errors or fraud may nevertheless occur and not be detected. Also, projection of any evaluation of the structure to future periods is subject to the risk that procedures may become inadequate because of changes in conditions or that the effectiveness of the design and operation of policies and procedures may deteriorate.

In planning and performing our audit of the Statement for the period October 9, 2006, through October 8, 2009, we considered ARD's internal controls to determine audit procedures that are appropriate in the circumstances for the purpose of expressing our opinion on the Statement, but not for the purpose of expressing an opinion on the effectiveness of ARD's internal control. Accordingly, we do not express an opinion on the effectiveness of ARD's internal control.

Our consideration of internal control was for the limited purpose described in the preceding paragraph and was not designed to identify all deficiencies in internal control that might be material weaknesses or significant deficiencies and, therefore, material weaknesses or significant deficiencies may exist that were not identified. However, as described in the accompanying Schedule of Findings and Questioned Costs, we identified certain deficiencies in internal control that we consider to be material weaknesses and significant deficiencies.

(Continued)

A *deficiency in internal control* exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, misstatements on a timely basis. A *material weakness* is a deficiency, or a combination of deficiencies, in internal control such that there is a reasonable possibility that a material misstatement of the Statement will not be prevented, or detected and corrected, on a timely basis. We consider the deficiencies noted in Findings 2014-01, 2014-02, and 2014-07 in the accompanying Schedule of Findings and Questioned Costs to be material weaknesses.

A *significant deficiency* is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance. We consider the deficiencies noted in Findings 2014-03, 2014-04, 2014-05, 2014-06, and 2014-08 in the accompanying Schedule of Findings and Questioned Costs to be significant deficiencies.

We noted certain matters that we reported to ARD's management in a separate letter dated June 17, 2014.

ARD, Inc.'s Response to Findings

ARD, Inc.'s response was not subject to the auditing procedures applied in the audit of the special purpose financial statement and, accordingly, we express no opinion on it.

Purpose of this Report

The purpose of this report is solely to describe the scope of our testing of internal control and the results of that testing, and not to provide an opinion on the effectiveness of the entity's internal control. This report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the entity's internal control. Accordingly, this communication is not suitable for any other purpose.

Restriction on Use

This report is intended for the information of ARD, Inc., the United States Agency for International Development, and the Office of the Special Inspector General for Afghanistan Reconstruction. Financial information in this report may be privileged. The restrictions of 18 U.S.C. 1905 should be considered before any information is released to the public.

A handwritten signature in black ink that reads "Crowe Horwath LLP". The signature is written in a cursive, flowing style.

Crowe Horwath LLP

June 17, 2014
Washington, D.C.

INDEPENDENT AUDITOR'S REPORT ON COMPLIANCE

To the President and Management of ARD, Inc.
159 Bank Street
Burlington, Vermont 05402

To the Office of the Special Inspector General for Afghanistan Reconstruction
2530 Crystal Drive
Arlington, Virginia 22202

We have audited, in accordance with the auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller of the United States, the Special Purpose Financial Statement ("the Statement") of ARD, Inc. ("ARD"), and related notes to the Statement, for the period October 9, 2006, through October 8, 2009, with respect to the Local Governance and Community Development Project in Northern and Western Regions of Afghanistan funded by contract number DFD-I-00-05-00248-00, Order Number 02. We have issued our report thereon dated June 17, 2014.

Management's Responsibility for Compliance

Compliance with Federal rules, laws, regulations, and the terms and conditions applicable to the contract is the responsibility of the management of ARD, Inc.

Compliance and Other Matters

As part of obtaining reasonable assurance about whether the Statement is free of material misstatement, we performed tests of compliance with certain provisions of laws, regulations, and contracts, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit, and, accordingly, we do not express such an opinion. The results of our tests disclosed instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards* and which are described in Findings 2014-01, 2014-02, 2014-03, 2014-04, 2014-05, and 2014-06 in the accompanying Schedule of Findings and Questioned Costs.

ARD, Inc.'s Response to Findings

ARD, Inc.'s response was not subjected to the auditing procedures applied in the audit of the special purpose financial statement and, accordingly, we express no opinion on it.

Purpose of this Report

The purpose of this report is solely to describe the scope of our testing of compliance and the results of that testing, and not to provide an opinion on compliance. This report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the entity's compliance. Accordingly, this communication is not suitable for any other purpose.

(Continued)

Restriction on Use

This report is intended for the information of ARD, Inc., the United States Agency for International Development, and the Office of the Special Inspector General for Afghanistan Reconstruction. Financial information in this report may be privileged. The restrictions of 18 U.S.C. 1905 should be considered before any information is released to the public.

A handwritten signature in black ink that reads "Crowe Horwath LLP". The script is cursive and fluid, with the letters "C", "H", and "L" being particularly prominent.

Crowe Horwath LLP

June 17, 2014
Washington, D.C.

SECTION I: SCHEDULE OF FINDINGS AND QUESTIONED COSTS

Finding 2014-01: Property Management: Contracting Officer Approvals and Inventory Management

Material Weakness and Non-Compliance

Criteria: Section A.19(b) of the contract task order states, "All purchases of nonexpendable property must be approved for purchase by the Contracting Officer. Property currently approved by the Contracting Officer for purchase with Task Order funds is shown in Attachment 2 [of the contract task order]."

AIDAR 752.245-71, *Title to and care of property*, defines nonexpendable property as follows: Property which is complete in itself, does not lose its identify or become a component part of another article when put into use; is durable, with an expected service life of two years or more; and which has a unit cost of \$500 or more.

Pursuant to Section 10.1 of ARD's *Local Procurement of Goods and Services Handbook* ("the Handbook"), which includes equipment and property management procedures, "Any non-expendable item in the care of an ARD project, whether purchased or government-furnished property, must be tagged with a numbered ARD inventory tag and included on a non-expendable inventory report."

Section 10.2.1 of the Handbook further states, "The non-expendable property purchase report needs to be completed and sent to the purchasing coordinator each month. The non-expendable inventory report, which needs to be updated each time a non-expendable item is purchased, is sent in annually."

Condition: ARD could not produce documentation demonstrating that the USAID Contracting Officer approved the purchase of 24 of 60 nonexpendable equipment and property items selected for audit. The total value of these 24 items was \$39,153. See Appendix A of this report for a listing of the equipment items unsupported by Contracting Officer approval.

In addition, ARD conducts and maintains inventories of non-expendable equipment and property purchased for use on the Federally-funded project and requires the submission of monthly property purchase reports to ensure that equipment and property items are accurately tracked and monitored. The final inventory provided by ARD, however, contained items that were not funded with Federal monies but rather were purchased by a subcontractor. Per discussion with ARD, the items did not carry an ARD tag as they were not ARD's property and should not have been included in the inventory report.

ARD also could not produce four requested monthly property purchase reports. Therefore, it cannot be determined if the monthly reporting was being completed as required by ARD's internal procedures.

Questioned costs: \$39,153

Effect: ARD acquired items that the Government may have considered to be unnecessary for execution of the project or that may have been available from other sources (e.g., other Federal projects) such that the use of Federal funds would be unnecessary.

By including items that should not be in the project inventory and not having evidence of monthly property reports having been completed and submitted to the home office, the likelihood that inventory errors were undetected and/or that Federally-funded items were misappropriated was increased.

Cause: ARD did not have an adequate process in place to track actual and planned equipment and property purchases and to ensure that Government approval for such purchases was obtained and documented. Further, the review and analysis of monthly purchase reports and annual inventories conducted by management did not identify and correct the errors and omissions timely.

(Continued)

Recommendation: We recommend that ARD design, document, and implement a process that requires a review of the planned nonexpendable property purchases to ensure that purchases are approved in advance by the contracting officer, when required. We also recommend that the process include: 1) a periodic reconciliation of the budgeted and approved equipment and property to the project inventories to identify any discrepancies between the tracking document and items that have been physically observed and are in use for program purposes; and 2) a required physical or electronic sign-off on the reconciliation evidencing that management has reviewed the reconciliation and concurred with the results.

Regarding inventory matters, we recommend that ARD incorporate a component into the Handbook that requires senior management to monitor the completion and submission of property reports and annual inventories by conducting a review of a subset of report and inventory submissions at least once per year.

Finding 2014-02: Procurement: Sole Source Procurements and Unreasonable Costs Incurred

Material Weakness and Non-Compliance

Criteria: Section 6.1 of the *Local Procurement of Goods and Services Handbook* ("the Handbook") requires that formal bidding or informal competitive procurement procedures be executed for procurements expected to exceed \$2,500.

Section 7 of the Handbook incorporates FAR Part 6 and states that, in instances where a sole-source is required, the sole-source justification memorandum must support one of the following reasons:

1. The specified subcontractor is the only subcontractor with the requisite technical background to complete the contracted-for service;
2. There is only one responsible source for the services to satisfy the requirements; or
3. The product or service has unique design performance specifications or quality requirements that are essential to the prime contract requirements that are not available in comparable products.

Pursuant the Federal Cost Principles applicable to commercial entities in 48 CFR Subpart 31.2, a cost is allowable only when the cost complies with all of the following requirements: (1) Reasonableness; (2) Allocability; (3) Standards promulgated by the [Cost Accounting Standards] board, if applicable, otherwise, generally accepted accounting principles and practices appropriate to the circumstances; (4) Terms of the contract; and (5) Any limitations set forth in this subpart.

Per 48 CFR Subpart 31.201-3(a), *Determining Reasonableness*, "A cost is reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent person in the conduct of competitive business. Reasonableness of specific costs must be examined with particular care in connection with firms or their separate divisions that may not be subject to effective competitive restraints. No presumption of reasonableness shall be attached to the incurrence of costs by a contractor. If an initial review of the facts results in a challenge of a specific cost by the contracting officer or the contracting officer's representative, the burden of proof shall be upon the contractor to establish that such cost is reasonable."

Condition: Crowe tested 51 procurement transactions, including 23 procurements that were completed using sole source procedures. ARD provided copies of the sole source justification memoranda for the aforementioned 23 procurements. However, in 19 of the 23 memoranda, the justifications did not align with the permissible exceptions noted in ARD's Handbook or were otherwise inadequately supported by documentation provided in the procurement file to demonstrate compliance with the Handbook. Justifications included, but were not limited to, the following (summarized):

- The vendor is well-respected and had previously worked with the LGCD project;
- The vendor had previously worked in the area and could provide wheel barrows and shovels;
- The vendor was the only one who was willing to work in the province and could do the work; and
- ARD previously worked with the vendor and needed the work done before spring;

Further, seven of the 19 sole sourced procurements were directed to the same organization; the total value of the seven subcontracts was \$216,534. ARD indicated that the receiving entity was identified as a strategic partner after the contract with USAID was executed.

ARD retained and provided a copy of USAID's action memorandum dated April 21, 2008, that allowed ARD to utilize sole source procedures for subcontracts valued at \$100,000 or less and limited competition for procurements valued between \$100,000 and \$750,000. ARD did not, however, modify its internal procurement practices to require less due diligence.

In addition, the USAID action memorandum did not provide a waiver of the requirement that costs incurred resulting from any sole source or limited competition procurements be reasonable. Of 51 procurement transactions tested, ARD could not provide documentation that was adequate to support the reasonableness of the costs charged to the contract for services rendered for five vendors. Each of the

five procurements in question was completed using sole source procedures. For two of the five procurements, no documentation was provided to identify a reasonable cost for the purchase. Thus, the full amount of costs incurred and charged to the contract is questioned.

For the remaining contracts, ARD was able to provide documentation that demonstrated the market rate for unskilled, skilled, supervisory, and highly skilled labor. Using that information, the portion of the contract charges that are considered to be reasonable was identified. The unreasonable amounts are summarized in the following table.

| Subcontract Number | Nature of Services | Total Costs Incurred | Amount Questioned | Rationale for Questioned Costs |
|--------------------|---|----------------------|-------------------|---|
| SC-069 | Design and construction of boys dormitory in Chaghcharan of Ghor Province | \$185,625 | \$185,625 | The vendor was selected through sole source procedures and a market analysis or other documentation was not provided to indicate that costs incurred were reasonable. The auditor cannot accept an assertion that costs are reasonable without adequate, sufficient audit evidence to test. |
| SC-076 | Design and construction of Maghoul Bridge in Baghlan Province | \$51,973 | \$51,973 | The vendor was selected through sole source procedures and a market analysis or other documentation was not provided to indicate that costs incurred were reasonable. The auditor cannot accept an assertion that costs are reasonable without adequate, sufficient audit evidence to test. |
| SC-113 | QA/QC for canal cleaning | \$36,860 | \$3,912 | Costs incurred for unskilled labor and the foreman exceeded the market rates for unskilled labor and high skilled labor. |
| SC-115 | QA/QC for canal cleaning | \$28,630 | \$3,178 | Costs incurred for unskilled labor and the foreman exceeded the market rates for unskilled labor and high skilled labor. |
| SC-117 | QA/QC for canal cleaning | \$19,830 | \$4,621 | Costs incurred for unskilled labor and the foreman exceeded the market rates for unskilled labor and skilled labor. No pricing or cost comparison was available to support the reasonableness of administrative costs. |

Lastly, ARD did not conduct adequate monitoring of procurement activities in the field, which resulted in procurement errors and noncompliance with internal procedures going undetected. ARD indicated that Contracts staff from the home office traveled to the field for oversight purposes periodically. The procurement file documentation available did not, however, clearly document that monitoring occurred and, with regard to sole source procurements, that steps were taken to ensure that there were no improprieties in the procurement process that contributed to the vendors' selection and identification.

Questioned costs: \$249,309

Effect: The Government may have been overcharged for services due to procedures not having been conducted to ensure costs incurred were reasonable. Federal funds may have also been inappropriately directed to a single vendor.

Cause: ARD considered USAID's approval of sole source procurement methods to be an approval of the costs incurred under sole source procurements. In addition, ARD's monitoring of field procurements, including sole source procurements conducted prior to issuance of USAID's waiver, was inadequate and did not detect the identified procurement errors and instances of noncompliance with internal procedures.

Recommendation: We recommend that ARD 1) conduct a market analysis or obtain an independent estimate of the costs that would have been incurred for work performed under subcontracts 069 and 076 and submit the results to USAID for review; 2) refund the Government for the \$11,711 associated with the canal cleaning projects and, if documentation cannot be assembled to support the reasonableness of costs for the construction projects, remit the remaining balance of \$237,598; and 3) ARD should document and implement a process for the periodic review of procurement activities to record and verify compliance with internal procurement procedures.

Finding 2014-03: Allowable Costs: NICRA Adjustments After Contract Settlement

Significant Deficiency and Non-Compliance

Criteria: Pursuant to Section II(E)(1) of the NICRA, "Indirect costs charged to Federal grants/contracts by means other than the rate(s) cited in the agreement should be adjusted to the applicable rate(s) cited herein which should be applied to the appropriate base to identify the proper amount of indirect costs allocable to the program."

FAR 52.216-7, *Allowable Costs and Payment*, states:

(e) *Billing rates.* Until final annual indirect cost rates are established for any period, the Government shall reimburse the Contractor at billing rates established by the Contracting Officer or by an authorized representative (the cognizant auditor), subject to adjustment when the final rates are established. These billing rates: (1) Shall be the anticipated final rates; and (2) May be prospectively or retroactively revised by mutual agreement, at either party's request, to prevent substantial overpayment or underpayment.

Condition: ARD invoiced the Government for general and administrative (G&A) and material handling overhead (MHO) charges using provisional rates established in the negotiated indirect cost rate agreements (NICRA). The provisional rates were periodically revised and memorialized within future NICRAs. ARD calculated and submitted a voucher containing the indirect cost adjustment for fiscal years 2006 and 2007; however, the contractor did not submit a voucher containing indirect cost adjustments for fiscal years 2008 and 2009.

The fiscal year 2008 and 2009 indirect cost rates were modified subsequent to the contract's being terminated per task order modification number 09 (1 June 2009) and prior to acceptance of the settlement proposal referenced in task order modification number 10 (22 September 2011). Therefore, adjustments to costs charged based on the initial provisional indirect cost rates were required consistent with the provisions of the NICRA and invoicing requirements appearing in FAR 52.216-27 unless formally waived by the Contracting Officer within the final settlement agreement. ARD provided copies of e-mail correspondence dated 28 June 2010 between the contractor and a USAID staff member during the settlement negotiation process. Within those communications, ARD agreed to "waive entitlement to any future claims for reimbursement, i.e. NICRA adjustments (either in [ARD's] favor or [the Government's]), undiscovered invoices, etc." However, ARD could not provide documentation showing that the USAID Contracting Officer formally waived the indirect cost adjustments associated with the NICRA established in August 2010.

During the course of the audit, management developed a true-up calculation schedule that included a review of the indirect costs charged to the contract for the period of performance and a comparison of the rates used for invoicing the Government to the final and/or revised provisional rates. Management's calculation indicated that \$126,280 was owed to the Government. Crowe audited the true-up calculation and did not identify any exceptions. ARD overcharged the Government \$126,280 as detailed in the following table.

| Fiscal Year | Provisional MHO Rate | Revised /Final MHO Rate | Provisional G&A Rate | Revised/ Final G&A Rate | Initial MHO and G&A Amounts Charged | Actual MHO & G&A Amounts Per Revised NICRAs | Amount Due To (Due From) USAID |
|--|----------------------|-------------------------|----------------------|-------------------------|-------------------------------------|---|--------------------------------|
| 2006 | | | | | | | \$4,176 |
| 2007 | | | | | | | \$178,643 |
| 2008 | | | | | | | \$65,444 |
| 2009 | | | | | | | \$58,307 |
| Total Adjustments | | | | | | | \$306,570 |
| Less: Amount Already Refunded Through Voucher 99-05-23 | | | | | | | (\$180,290) |
| Remaining Amount Payable to the Government: | | | | | | | \$126,280 |

Questioned costs: \$126,280

Effect: ARD was over-reimbursed by \$126,280 for indirect cost charges thus resulting in less funds being available for programmatic purposes.

Cause: ARD did not consider the true-up to be required based upon its interpretation of communications with USAID during the Settlement process. E-mail correspondence exchanged between USAID and ARD included an inquiry from USAID to ARD regarding whether or not ARD would waive any future adjustments, and ARD agreed to do so. ARD, therefore, considered the true-up requirement to have been waived as a component of the Settlement.

Recommendation: We recommend that ARD reimburse the Government for the \$126,280 that was overpaid to the contractor or otherwise produce additional documentation supporting the conclusion that a true-up was not required.

Finding 2014-04: Grants Under Contract: Monitoring Grantees

Significant Deficiency and Non-Compliance

Criteria: Section H.9(d) of the Indefinite Quantity Contract funding the LGCD Project states, "Requirements which apply to USAID-executed grants shall also apply to grants signed by the Contractor." Pursuant to the provisions of ADS 303 and the "Cost Sharing (matching) (July 2012)" provision incorporated into the grant agreements issued by ARD, grantees shall meet the cost share/match requirement by expending non-Federal funds on allowable costs only.

Per ARD's *Local Governance and Community Development Project (LGCD) Northern and Western Regions-Afghanistan Small Grants Manual*, ARD shall conduct grantee monitoring through the following actions:

The GM as well as Technical Managers will monitor the implementation of grant activities on a regular basis; visits may include review and examination of technical, administrative, financial, desk audits, and all other aspects of the grant. The GM will support the grantee by addressing questions and helping to resolve issues. The GM will keep LGCD management fully apprised of implementation progress and any issues.

Per the grant agreements executed by and between ARD and the grantees, "The grantee agrees to provide cost share and/or leveraged funding in the amount specified in [the Total Activity Unit Pricing section of the grant agreement]. Cost sharing and leveraged funds shall be handled in accordance with the mandatory standard provision entitled "Cost Sharing (matching) (July 2012)."

Condition: Within sixteen of seventeen grants sampled that were executed between ARD and its grantees, ARD incorporated matching/cost share requirements. The grant agreements, inclusive of the cost share amounts, were reviewed and approved by USAID. Monitoring of the grantees to determine if they complied with the cost share/match requirements included within the agreements was not, however, performed. Due to monitoring of the cost share not having been executed, one cannot determine if the grantees contributed the non-Federal matching funds expected by USAID per the approved grant agreements and, if the cost share was met, if the matching funds were allowable. The seventeen grants tested and associated cost share amounts are presented in Appendix B to this report.

Questioned costs: \$49,215, the cost share amount associated with the grants tested.

Effect: The impact of the Government's funding may have been reduced. Further, the local and community investments anticipated to result from expenditure of non-Federal funds may not have been realized.

Cause: ARD indicated that it considered the incorporation of cost share funds within the grant agreements to be an encouragement to grantees to invest non-Federal funds, but did not consider it to be a requirement and, therefore, did not monitor the cost share spending.

Recommendation: We recommend that ARD: 1) provide supporting documentation to USAID verifying that the cost share/matching contributions were met or otherwise refund the \$49,215 in questioned costs to the Government; and 2) develop a monitoring plan pertaining to the cost share funds specified in the grant agreements and provide the plan to USAID for review and approval. Upon receipt of USAID's approval of the monitoring plan, we recommend that ARD take the following actions:

- 1) Determine and document whether the grantees contributed the cost share/matching contributions totaling \$49,215 required by the sixteen grant agreements including a matching requirement; and
- 2) Provide supporting documentation to USAID verifying that the cost share/matching contributions were met. Should supporting documentation be unattainable, we recommend that ARD refund the Government the \$49,215 in questioned costs.

Finding 2014-05: Cash Management: Accrual-Based Invoicing

Significant Deficiency and Non-Compliance

Criteria: Section G.5(b) of the indefinite quantity contract under which the task order was issued states:

"The Contractor may include in its vouchers for fixed daily rates the costs of allowable other direct costs authorized in the Task Order and incurred during performance of the Task Order; *provided, however, that cash, checks, or other forms of actual payment have been made by the Contractor for such costs.*" (emphasis added by the auditor)

Condition: ARD submitted vouchers to USAID on a monthly basis to obtain reimbursement for costs incurred. The vouchers included personnel-related charges based on the fixed daily rates as well as other direct costs. Other direct costs that were included on the vouchers included both items that had been paid in the field and from the home office as well as home office payables. Thus, costs that were ineligible for reimbursement at the time of each voucher's submission were included in payment requests.

Of 60 unique transactions included in reimbursement requests that were reviewed, five were identified that were submitted prior to their being eligible for reimbursement. Thus, ARD was advanced Federal funds by the Government. As a result of the advance, the Government lost a calculated \$102 in interest income, as detailed in the schedule, below.

| Transaction | Amount | Payment Date | Voucher Submission Date | Days Advanced | Daily Interest Rate per the U.S. Treasury Department | Interest Payable |
|--|-----------|--------------|-------------------------|---------------|--|------------------|
| Kroll Government Services Invoice 99/03/21 | \$8,114 | 5/21/2008 | 4/7/2008 | 44 | 0.0000624 | \$22 |
| MedEx | \$300 | 2/14/2007 | 2/12/2007 | 2 | 0.0001339 | \$1 |
| Kroll Government Services Invoice 066 | \$124,456 | 11/19/2008 | 10/3/2008 | 47 | 0.0000063 | \$37 |
| Kroll Government Services Invoice 070 | \$123,069 | 12/22/2008 | 12/2/2008 | 20 | 0.0000063 | \$16 |
| Kroll Government Services Invoice 050 | \$98,883 | 6/11/2008 | 5/1/2008 | 41 | 0.0000063 | \$26 |
| Total Interest Payable | | | | | | \$102 |

Questioned costs: No costs are questioned as the underlying transactions were examined, on a test basis, and determined to be allowable. Therefore, the costs would have been reimbursable in a subsequent period. Due to the funds having been advanced to ARD, we calculate the interest associated with the advanced funds and that is payable to the Government as \$102.

Effect: The Government unintentionally advanced funds to ARD resulting in a calculated \$102 in interest income lost by the Government.

Cause: ARD interpreted the contract clause to indicate that all costs incurred and scheduled for payment could be included within requests for reimbursement submitted to the Government.

Recommendation: We recommend that ARD 1) remit \$102 in interest to the Government and 2) modify its billing procedures to include a process for cash basis invoicing to prevent future invoicing process errors.

Finding 2014-06: Reporting: Late Submissions and Incomplete Reports

Significant Deficiency and Non-Compliance

Criteria: Per Section A.4(g) of the task order, quarterly activity reports shall be submitted no later than 30 calendar days after the close of the quarterly reporting period.

Section A.4(h) states that the Contractor shall submit to the Chief Technical Officer and Contracting Officer brief quarterly expenditure reports. The reports shall contain a summary page that reflects financial and level of effort (workdays) expended for the quarter by location (Kabul and northwest operations) and cost categories in the Task Order budget, showing cumulative expenditures to date, and a variance analysis. A brief note on any significant accrued expenditures for the quarter that have not yet been billed to the task order, along with the specific amount involved, shall also be reported. The reports shall be submitted approximately two weeks before the end of each quarter.

Modification Number 6 to the task order subsequently revised Section A.4(h) to require "An updated workdays order table inclusive of the updated LOE burn rate" with the quarterly financial report.

Condition: Of eleven financial and programmatic reports that were examined, three quarterly activity reports and three quarterly financial reports were submitted after the deadlines prescribed by USAID. ARD utilized its monthly vouchers submitted to USAID to meet the quarterly financial reporting requirement thereby providing information on a monthly rather than quarterly basis. Due to invoices being rendered after month-end, each financial report was submitted after the USAID-mandated deadline (i.e., two weeks prior to quarter-end). The table, below, summarizes the late submissions.

| Report Type | Reporting Period | Submission Deadline | Submission Date | Days Late |
|----------------------------|-------------------------|---------------------|-----------------|-----------|
| Quarterly Activity Report | January - March 2007 | 4/30/2007 | 5/2/2007 | 3 |
| Quarterly Activity Report | July - September 2007 | 10/30/2007 | 11/6/2007 | 8 |
| Quarterly Activity Report | April - June 2008 | 7/30/2008 | 7/31/2008 | 1 |
| Quarterly Financial Report | October - December 2007 | 12/17/2007 | 1/9/2008 | 23 |
| Quarterly Financial Report | January - March 2008 | 3/17/2008 | 4/7/2008 | 21 |
| Quarterly Financial Report | April - June 2009 | 6/16/2009 | 7/6/2009 | 21 |

In addition, the quarterly financial reports and the final financial report did not include each required reporting element. Included within each invoice was a budget-to-actual report comparing expenditures to date to the approved total project budget; however, the reports omitted (1) comparisons of financial activity and workdays by geographic location; (2) a report of any significant accrued expenditures that were unbilled as of quarter-end; and (3) an updated workdays order table and burn rate.

Questioned costs: None

Effect: USAID may not have received timely and complete financial information necessary for the Agency to monitor the contract's status and progress, burn rate, and level of effort at the desired level.

(Continued)

Cause: ARD utilized its monthly vouchers to meet the quarterly financial report requirements and considered the information included to be sufficient to meet the requirements of the contract. Accrual information was provided to USAID on an as-requested basis rather than having been included in the quarterly financial reports. ARD noted that it continued with the referenced reporting practice pending objection from USAID.

Activity report submission delays were the result of delays in data collection, production time, and review cycles.

Recommendation: We recommend that ARD incorporate, within its reporting procedures, a mechanism by which senior management conducts a periodic review of the submission dates for each report type to determine if submissions are occurring timely. In addition, a tool should be developed and completed by the final approver (or his/her designee) for each financial report to ensure that all required components of the report are included. Lastly, we recommend that ARD incorporate, within its reporting procedures, a deadline for completion of data collection, production, and review activities to help ensure the timely submission of reports to the Government.

Finding 2014-07: Grants Under Contract: Grantee Communications and Records Retention

Material Weakness

Criteria: Section III, Step 7, of the LGCD Grants Manual notes that the signed grant agreement constitutes the authorization for the grantee to proceed with work funded by the contract.

48 CFR Subpart 31.201-2(d) states that a contractor is responsible for accounting for costs appropriately and for maintaining records, including supporting documentation, adequate to demonstrate that costs claimed have been incurred, are allocable to the contract, and comply with applicable cost principles.

FAR 52.215-2 requires that the contractor retain and make available the records relating to the work terminated until three years after finalization of the settlement.

Section M2 of ADS 303 states that, "unless otherwise notified by USAID, the recipient records and subrecipient records that pertain to this award must be retained for a period of three years from the date of submission of the final expenditure report."

Condition: During our testing of 17 grants issued under the contract, we noted the following matters:

- Three grant agreements were not signed by the recipient or the contractor; and
- Two grant agreements were unsigned by the recipient.

In addition, the terms and conditions referenced within all seventeen grant agreements did not incorporate the regulatory and compliance requirements that apply to grants awarded by USAID; specifically, the provisions of Title 22, Part 226 of the Code of Federal Regulations and the Automated Directives System (ADS) 303 were not referenced in the agreements. Due to the grantees selected being non-U.S. entities, the provisions of ADS 303 were expected to be included within the terms and conditions or otherwise reviewed with the grantee and acknowledged in writing. ARD noted that the provisions are reviewed with each auditee by the Grants Manager. Documentation of the communication and acknowledgement was not, however, retained and provided.

ARD's grant agreements also included a requirement that grantees allow USAID and/or ARD access to their project-related records for up to three years. The three year cap is less than the retention and access period mandated by both ADS 303, which is applicable to grantees per Section H.9(d) of the indefinite quantity contract (IQC) under which the LGCD project was funded, and FAR 52.215-2, which applies to ARD.

As a result of these matters, it could not be demonstrated that a contractual obligation to pay the grantees existed and that the grantees were made aware of the compliance requirements to which they were subject. The following table summarizes the exceptions by grantee:

| Grant Number | Grantee Name | Grant Amount | Issue Noted |
|----------------|--|--------------|---|
| 07-03-01 CD 01 | Skills Training & Rehabilitation Society | \$67,776 | Grant was not executed by ARD or the recipient. |
| 08-03 CD | Health and Development Center for Afghan Women | \$40,000 | Grant was not executed by ARD or the recipient. |
| 08-08 CD | Agency for Assistance & Development of Afghanistan | \$330,740 | Grant was not executed by ARD or the recipient. |
| 08-15 CBSG | Sheka Community Development Council | \$7,728 | Grant was not executed by the grantee. |
| 08-22 CBSG | Aqtepa CDC | \$7,699 | Grant was not executed by the grantee. |

Questioned costs: None

Effect: Grantees may have failed to comply with Federal requirements due to a lack of knowledge and understanding of the regulations and requirements applicable to their organizations. The Government may have also funded entities to perform work that was inconsistent with the Chief Technical Officer's goals and objectives for the project. Further, due to the access and retention period referenced in the grant agreements presenting a three year cap, a risk is presented that grantees will destroy records prior to the completion of the retention period prescribed in regulation.

Cause: Copies of fully executed grant agreements were unable to be produced due to their having been distributed and returned via e-mail and ARD's not having access to certain historical e-mail archives following changes to the e-mail systems. The auditee considered inclusion of a statement indicating that the grants were issued in accordance with the Foreign Assistance Act of 1961, as amended, and USAID's standard provisions and ADS 303 within the header of the grant to be adequate notification of applicable regulations to the grantees.

ARD considered its grant agreements and the language therein to be adequate as the agreements were approved by USAID.

Recommendation: We recommend that ARD 1) conduct reviews of their historical e-mail records and determine if the fully-executed grant agreements may be located then forward the documents to USAID for review; and 2) modify the standard grant agreement template to include the applicable USAID provisions and regulations in the terms and conditions portion of the award or otherwise obtain a written concurrence from the grantee that (s)he has reviewed the requirements, understands them, and agrees to comply with the provisions.

We further recommend that ARD issue a memorandum to each grantee under the LGCD project clarifying the retention period and that ARD modify its grant agreements to reflect the full retention period as prescribed by regulation.

Finding 2014-08: Internal Controls: Employee and Contractor File Contents

Significant Deficiency

Criteria: ARD is responsible for maintaining a system of internal control adequate to prevent and detect instances of fraud, waste, and abuse, in a timely manner.

Condition: ARD did not provide photo identification to support the existence of six of ten individuals requested. Five individuals were third county nationals or cooperating country nationals while the sixth was a consultant. Per review of the personnel file checklist, ARD did not include a requirement or expectation that identification be included within the personnel files.

Questioned costs: None

Effect: In the absence of documentation supporting the existence of employees and contractors, the likelihood is increased that payments will be rendered for individuals who do not exist.

Cause: ARD's internal human resources policies do not require that physical identification of an individual be maintained in the employee or vendor's file.

Recommendation: We recommend that ARD modify its human resources policy to require project staff to document the existence of employees and contractors by requesting and retaining copies of government issued identification. Potential sources include passports, state issue ID's, and Driver's Licenses. In addition, we recommend that ARD add a photo identification requirement to the personnel file checklist.

SECTION 2: Summary Schedule of Prior Audit, Review, and Assessment Findings

Per discussion with ARD, Inc. and USAID, no compliance reviews, audits, or assessments had been conducted over the Local Governance and Community Development Project in the Northern and Western Regions of Afghanistan. Therefore, Crowe Horwath did not conduct procedures specific to identifying and evaluating whether ARD adequately implemented corrective action as pertaining to prior findings and observations.

APPENDIX A: Summary Schedule of Equipment Items and Questioned Costs

The table presented on the following pages presents a summary of the equipment and property items purchased by ARD and funded with Federal monies under the LGCD project for which evidence of the Contracting Officer's approval was not provided. The schedule presents the detail underlying the \$39,153 questioned in Finding 2014-01.

| Qty | Description | Serial Number | Location | Unit Price | Total Price |
|-----|---|-------------------|---|-------------|-------------|
| 1 | Gym, Treadmill, Daily Youth, Deluxe Motorized, KL606 | N/A | Kabul Main Residence/Room B5 | \$ 1,950.00 | \$ 1,950.00 |
| 1 | Air Conditioner, Split Unit, LG KSH186KLA4, Indoor Unit, 26,000 BTU | 0703TK00295 | Parwan Residence/Rodolfo | \$ 705.00 | \$ 705.00 |
| 1 | Projector, Sony ES-4, 2000 ANSI Lumens SVGA | 7026681739 | Badghis Office/Admin | \$ 780.00 | \$ 780.00 |
| 1 | GPS, Garmin, MAP 60CX, Color | 74865515 | Kabul Main Office/GIS Dept | \$ 503.50 | \$ 503.50 |
| 1 | Projector, Sony ES-4, 2000 ANSI Lumens SVGA | 7516893807 | Kabul Main Office/IT Dept | \$ 730.00 | \$ 730.00 |
| 1 | Rack, Cabinet 42U, D-Net, Patch Panel | N/A | Kabul Main Office/IT Dept | \$ 730.00 | \$ 730.00 |
| 1 | Computer, CPU Dell GX210L, Keyboard, Mouse | 7F6HM1S | Kabul Main Office/IT Dept, In stock | \$ 1,135.00 | \$ 1,135.00 |
| 1 | Photocopier, Black and White, Network 1018 | F189204 | Kabul Main Office/IT Dept, Not Assigned | \$ 2,500.00 | \$ 2,500.00 |
| 1 | Network Switch, Catalyst 2960, 48 port 10/100 | FOC1204X1NE | Kabul Main Residence/Room B1 | \$ 1,427.14 | \$ 1,427.14 |
| 1 | Copier, Digital, Sharp, MX-450N | 75020580 | Kabul Office Annex/1st Floor Hall | \$ 9,000.00 | \$ 9,000.00 |
| 1 | Satellite Phone, Thuraya with Charger | 35601 13003129205 | Kabul Office Annex/HR/Admin Dept | \$ 680.00 | \$ 680.00 |
| 1 | Computer, Laptop, Dell D820 | 2673504541 | Kabul Office/Bob | \$ 1,385.00 | \$ 1,385.00 |
| 1 | Network Switch, Cisco Catalyst 3750 48 10/100 | CAT1050ZGLS | Kabul Residence/IT Room | \$ 4,412.67 | \$ 4,412.67 |
| 1 | Network Switch, Catalyst 2960, 48 port 10/100 | FOC1204W18L | Mazar Office | \$ 1,427.14 | \$ 1,427.14 |
| 1 | Computer, Laptop, Dell D830, Carrying Bag | 5034825280 | Parwan Office/Shir Ali Shahid | \$ 1,470.00 | \$ 1,470.00 |
| 1 | Network Bridge, Wireless Access Point, Aironet 1310 Outdoor AP/BR with Integrated Antenna | FCZ1214U06X | Takhar Directorate of Economy | \$ 743.03 | \$ 743.03 |
| 1 | Sofa | N/A | Badghis Office | \$ 705.00 | \$ 705.00 |
| 1 | Table, Conference | N/A | Hirat Office/Meeting Room | \$ 2,400.00 | \$ 2,400.00 |
| 1 | Refrigerator, Samsung, Double Door | 031542BY900003 A | Kabul Main Office/Kitchen | \$ 950.00 | \$ 950.00 |
| 1 | Gym, Treadmill, Daily Youth, Deluxe Motorized, | N/A | Kabul Main | \$ 1,950.00 | \$ 1,950.00 |

| Qty | Description | Serial Number | Location | Unit Price | Total Price |
|--------------------|--|----------------|---------------------------------|-------------|--------------------|
| | KL606 | | Residence/Room B5 | | |
| 1 | Armchair, Leather, Black | N/A | Kabul Main Residence/Room G2 | \$ 900.00 | \$ 900.00 |
| 1 | Washer, Clothes, General Electric, FG915543G | WIHR106DDBWW | Kabul Main Residence/Store Room | \$ 800.00 | \$ 800.00 |
| 1 | Generator Fuel Tank, 2,000 Liters | | Kabul Residence Annex | \$ 1,000.00 | \$ 1,000.00 |
| 1 | Air Conditioner, Indoor Unit | E302PAJP600702 | Mazar Office/Najibullah Mohibi | \$ 870.00 | \$ 870.00 |
| Total Costs | | | | | \$39,153.48 |

APPENDIX B: Summary Schedule of Cost Share Requirements for Grants Under Contract

The table presented on the following pages presents a summary of the cost share amounts required by the grants under contract included within the sample tested by the auditors. The schedule presents the detail underlying the \$49,215 questioned in Finding 2014-04.

| Item No. | Grant No. | Grant Title | Grant Value | Cost Share |
|----------|-------------------|---|-------------|------------|
| 1 | 07-03-01 CR 02 | Promote Peaceful Coexistence of People and Communities that Have Been Divided by a History of Conflict: Khoja Alwan, Baghlan Province | \$ 72,690 | \$ 7,465 |
| 2 | 07-03-01 CD01 | Skills Training & Rehabilitation Society (STARS) | \$ 67,776 | \$ 5,998 |
| 3 | 07-01-02 LG 01 | Improvements on Farah Agriculture High School and Associated Projects | \$ 229,494 | \$ 10,400 |
| 4 | 08-03 CD | Tailoring and Embroidery Training for Afghan Women | \$ 40,000 | \$ 3,400 |
| 5 | 08-08 CD | Erkaly and Qazal Ayaq Carpet Weaving Resource Support and Small Business/Work Environment Training Activity | \$ 330,740 | \$ 2,000 |
| 6 | 08-09 CD | Shakyar Community Tailoring Training & Livelihood Resources Project | \$ 29,995 | \$ 4,060 |
| 7 | 08-15 CBSG | Sheka Community Water Pipe Scheme Extension | \$ 7,728 | \$ 2,800 |
| 8 | 08-22 CBSG | Rehabilitation of Aqtepa Community Clinic | \$ 7,699 | \$ 1,500 |
| 9 | 08-23 CBSG | School Commodities for Dara Zamchi High School | \$ 9,950 | \$ 1,120 |
| 10 | 08-28 CBSG | School Furniture and Supply Delivery | \$ 9,960 | \$ 200 |
| 11 | 08-30 CBSG | Dunbuli Sofla and Dunbuli Awliya Irrigation Culverts | \$ 9,925 | \$ 4,659 |

| Item No. | Grant No. | Grant Title | Grant Value | Cost Share |
|---------------|---------------|--|-------------------|------------------|
| 12 | 08-40 CBSG | Saruki School Furniture and Supply Delivery | \$ 9,977 | \$ 1,980 |
| 13 | 08-46 CBSG | Reconstruction and Cleaning of Azizabad Village Karees | \$ 10,000 | \$ 1,100 |
| 14 | 08-54 CBSG | Kilgu-e-Bala Road Culverts Section 2 | \$ 8,869 | \$ 1,813 |
| 15 | 08-56 CBSG | Pashakari Kariz Cleaning | \$ 10,000 | \$ - |
| 16 | 08-61 CBSG | Daykuandi Village School Commodities | \$ 7,430 | \$ 240 |
| 17 | 08-67 CBSG | Arab Mazari Village Temporary School | \$ 10,000 | \$ 480 |
| TOTAL: | | | \$ 872,233 | \$ 49,215 |

APPENDIX C: Views of Responsible Officials



June 16, 2014

Eric Russell
Crowe Horwath LLP
13525 G Street NW, Suite 500
Washington, DC 20005

Re: ARD Inc. Management Response to Crowe Horwath LLP Draft Audit Report Concerning the Special Purpose Financial Statement of ARD, Inc. for the Period October 9, 2006 through October 8, 2009 With Respect to Contract No. DFD-I-00-05-00248-00, Task Order 2.

This letter provides the management response of ARD, Inc. (“ARD”), a wholly owned subsidiary of Tetra Tech Inc., to the undated draft audit report issued by Crowe Horwath LLP (“Crowe”), on behalf of the Special Inspector General for Afghanistan Reconstruction (“SIGAR”). That report was prepared in connection with Crowe’s audit of Task Order 2 performed by ARD under U.S. Agency for International Development (“USAID”) Contract No. DFD-I-00-05-00248-00 (“Task Order 2”) between 2006 and 2009.

In its draft report, Crowe “questions” a total of \$463,957 in costs incurred by ARD in the performance of Task Order 2. As discussed below, pursuant to Modification 10 to that task order, as well as the contemporaneous correspondence between ARD and the USAID Contracting Officer, USAID formally closed out Task Order 2, made final payment, and waived any U.S. Government entitlement to future claims or adjustments related to the contract. Accordingly, the Government is foreclosed from seeking any cost adjustments under Task Order 2, including any such adjustments based on the Crowe draft audit report.

Although ARD disagrees with the draft audit report’s findings and conclusions concerning the documentation, allowability and reasonableness of the costs incurred under Task Order 2, and there is no legal basis under which USAID may assert a claim against ARD with regard to these costs, ARD hereby expressly reserves the right to challenge any and all of the Crowe audit findings in the future.

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Background

In June 2009, pursuant to Modification 9 to Task Order 2, USAID terminated ARD's contract for the convenience of the Government. Thereafter, on February 25, 2010, in accordance with Federal Acquisition Regulation ("FAR") clause 52.249-6, Termination (Cost Reimbursement), ARD submitted a termination settlement proposal to USAID in the form of a "SF 1437," which proposed a final payment of \$493,836.

During the close-out process, USAID requested that the Defense Contract Audit Agency ("DCAA") audit ARD's termination settlement proposal, but DCAA was unable to conduct the requested audit in a timely manner. As part of the settlement negotiation process, in June 2010, ARD contacted the USAID Contracting Officer concerning the close-out of Task Order 2. In that correspondence, ARD noted that DCAA had only completed its incurred cost audits on ARD through fiscal year 2006 and it would likely be "a couple more years" before a rate audit covering the Task Order 2 period of performance was completed.

As an alternative to waiting for DCAA to complete the termination and incurred cost audits, ARD proposed closing out Task Order 2 based on ARD's then-current rates. The USAID Contracting Officer forwarded this request to the Washington, DC headquarters and subsequently requested additional information from ARD concerning its February 25, 2010 termination settlement proposal.

On June 24, 2010, in response to the USAID Contracting Officer's follow-up questions regarding the ARD settlement proposal, ARD's Senior Contract Manager provided supplemental information supporting the termination settlement proposal, including an explanation of the bases for the direct labor, other direct costs, and general and administrative ("G&A") expenses included in the proposal. On June 27, 2010, the USAID Contracting Officer wrote the following email to ARD with regard to the settlement proposal:

Just to clarify before I request that this action be processed. With the payment of \$493,386.00 this will officially close out this task order and ARD will waive entitlement to any future claims for reimbursement, i.e. NICRA adjustments (either in your favor or ours), undiscovered invoices, etc?

ARD replied to this question on June 28, 2010 as follows:

With the payment of \$493,386 ARD will waive entitlement to any future claims or adjustments and consider the Task Order closed.

On June 29, 2010, the Contracting Officer responded:

We are putting the documents together.

On September 22, 2011, USAID and ARD executed Modification 10 to the task order. The purpose of this modification was to “[a]uthorize payment of the settlement proposal in the amount of \$493,386.00 to the contractor” and to “[f]ormally close the task order.” In issuing that modification, USAID did not reserve the right to make any future adjustments to the settlement amount or to “reopen” the task order for further negotiation. On September 26, 2011, ARD submitted a final invoice to USAID in the amount of \$493,386.00 and USAID subsequently paid this invoice in full.

ARD’s Management Position

Parties to a contract may effectively discharge the contract, in whole or in part, by mutual agreement. Here, rather than wait for DCAA to complete its audit in order to close-out Task Order 2, USAID and ARD agreed to a termination settlement based on the application of ARD’s 2010 indirect rates. This settlement proposal entailed risk for both parties: the Contracting Officer expressly recognized that future rate changes could be “either in your favor or ours,” and by reaching a termination settlement agreement, the parties agreed to waive any potential future adjustments in their favor.

The parties’ mutual agreement to this settlement constituted a complete accord and satisfaction concerning the final close-out of Task Order 2 and a valid and binding waiver of any future government claims related to that contract. The Contracting Officer’s assent to the complete release of any such claims is apparent from the email correspondence quoted above, namely, his acknowledgment that the settlement constituted a waiver of “entitlement to any future claims or adjustments” under Task Order 2.

USAID subsequently agreed to the terms of ARD’s termination settlement proposal. This arrangement became fixed and binding upon the bilateral execution of Modification 10, which authorized payment to ARD in the negotiated amount and “formally” closed the task order. Accordingly, Modification 10 to Task Order 2 released both parties from any future claims under the task order.

Further, USAID made final payment under Task Order 2, meaning that the rights of the parties were extinguished and the contract was complete. Final payment is made upon completion and acceptance of all work required under a contract, and after the contractor presents a properly executed and duly certified voucher or invoice to the disbursing officer showing the amount agreed upon, less any amounts previously paid. Here, Modification 10 “[f]ormally close[d] the task order” and ARD subsequently submitted a voucher for \$493,386, which was promptly paid by USAID.

* * *

Since USAID conclusively waived any future entitlement to cost adjustments arising from ARD’s performance of Task Order 2, the findings and conclusions in Crowe’s draft audit report do not constitute a valid legal basis for reopening Task Order 2. Under the terms

of Task Order 2, and as a matter of law, USAID was required to have deducted any claim that it had against ARD prior to close-out. The effect of accepting the termination settlement was to “[f]ormally close the task order,” and the final payment precludes future Government claims. The settlement was binding on the Government, and USAID may not get a “second bite at the apple” based on the Crowe audit.

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