SIGAR

Special Inspector General for Afghanistan Reconstruction

SIGAR 15-11 Inspection Report

Pol-i-Charkhi Prison: After 5 Years and $18.5 Million, Renovation Project Remains Incomplete

OCTOBER
2014

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WHAT SIGAR REVIEWED

Pol-i-Charkhi prison, Afghanistan's largest correctional facility, was built in 1973 to house approximately 5,000 prisoners. In June 2009, the Department of State's Bureau of International Narcotics and Law Enforcement Affairs (INL) awarded a contract with a modified valued of $20.2 million to Al-Watan Construction Company (AWCC) to replace prison block holding areas with individual cells and renovate the prison's infrastructure, including its plumbing, electrical, and septic systems. On November 26, 2010, the Department of State terminated the contract for convenience.

The Department of State also funded three capital improvement projects—a potable water tower, a commercial power upgrade, and a new staff barracks—at a cost of $5.3 million. All three projects were transferred to Afghan prison authorities.

SIGAR assessed whether (1) the work was completed in accordance with contract requirements and applicable construction standards, and (2) the prison facility was being used as intended and maintained.

SIGAR conducted its work in Kabul, Afghanistan, from April through September 2014, in accordance with the *Quality Standards for Inspection and Evaluation* published by the Council of the Inspectors General on Integrity and Efficiency.

October 2014

Pol-i-Charkhi Prison: After 5 Years and $18.5 Million, Renovation Project Remains Incomplete

SIGAR 15-11 INSPECTION REPORT

WHAT SIGAR FOUND

More than 5 years after renovation work began, Pol-i-Charkhi prison has not been completed, and the contract has been terminated for convenience. The Department of State's (State) Bureau of International Narcotics and Law Enforcement Affairs (INL) paid Al-Watan Construction Company (AWCC) $18.5 million for work performed on a contract valued at $20.2 million, even though AWCC only completed about 50 percent of the required work. Furthermore, an independent firm identified defective workmanship, including the failure to backfill trenches, improper roof flashing, soil settlement issues, and the failure to connect six back-up generators to the prison's power grid.

SIGAR found that not all of AWCC's work was completed according to contract requirements. Most notably, AWCC substituted wood for metal roof trusses without authorization and covered 30-year old wood trusses with new roofing material, rather than replacing them as required under the contract. AWCC's work was overseen by a contracting officer's representative—a State employee—who was later convicted in the United States of improperly accepting gratuities from an INL contractor.

In contrast to the issues identified under the renovation contract, SIGAR found that three capital improvement projects—water tower, commercial power upgrade, and staff barracks—generally were completed in accordance with contract requirements. Furthermore, Pol-i-Charkhi prison is being used, but in an overcrowded condition with prisoners housed in hallways. The prison was designed for about 5,000 prisoners, but currently houses about 7,400. The security advantage of reconfiguring prisoner holding areas into smaller cells—the primary basis for the renovation work—that could contain and separate maximum security and other prisoners has been lost. Despite overcrowding, SIGAR found the prison to be relatively well maintained.

In commenting on a draft of this report, State said it is committed to completing the renovations project. At one point INL estimated it would cost $11 million to finish renovations and another $5 million to construct a wastewater treatment plant to remedy wastewater pooling on the surface of the two septic/leach fields. State said that once a construction monitoring system is in place, it plans to award the renovation contract and a second contract for a sustainable wastewater treatment system. However, there is currently no plan to connect six back-up diesel generators to the prison's power grid.

WHAT SIGAR RECOMMENDS

We recommend that the Secretary of State direct INL to (1) determine the extent to which AWCC substituted wood for metal trusses or covered, rather than replaced, existing wooden trusses without authorization, and take appropriate action to recoup any funds due from the contractor; (2) conduct an inquiry into whether the contracting officer negotiated an equitable settlement agreement with AWCC, document all accelerated construction schedule payments, and take steps to recoup funds as appropriate; (3) conduct a cost-benefit analysis of alternative wastewater management systems, and, if warranted, reissue a Request for Information soliciting proposed solutions to managing the prison's wastewater management needs; (4) ensure that, before the follow-on renovation work and construction of the wastewater treatment plant or alternative system begins, that it has a written monitoring plan in place to oversee the work performed pursuant to the two contracts; and (5) identify the scope of work and conduct a cost-benefit analysis of awarding a separate contract—on an expedited basis—to hook-up the prison's six back-up power diesel generators. In commenting on a draft of this report, State generally agreed with four of our recommendations and did not concur with one. We revised our second and fifth recommendations to reflect the fact that a review of possible disciplinary action of the contracting officer already has occurred and to address State's concerns regarding connecting the prison's six generators to the prison's electrical system.

For more information, contact SIGAR Public Affairs at (703) 545-5974 or sigar.pentagon.ccr.mbx.public-affairs@mail.mil.

October 17, 2014

The Honorable John F. Kerry
Secretary of State

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

This report discusses the results of SIGAR's inspection of renovation and new construction work funded by the Department of State's (State) Bureau of International Narcotics and Law Enforcement Affairs (INL) at Pol-i-Charkhi prison located in Kabul province. We recommend that the Secretary of State direct INL to (1) determine the extent to which AWCC substituted wood for metal trusses or covered, rather than replaced, existing wooden trusses without authorization, and take appropriate action to recoup any funds due from the contractor; (2) conduct an inquiry into whether the contracting officer negotiated an equitable settlement agreement with AWCC, document all accelerated construction schedule payments, and take steps to recoup funds as appropriate; (3) conduct a cost-benefit analysis of alternative wastewater management systems, and, if warranted, reissue a Request for Information soliciting proposed solutions to managing the prison's wastewater management needs; (4) ensure that, before the follow-on renovation work and construction of the wastewater treatment plant or alternative system begins, that it has a written monitoring plan in place to oversee the work performed pursuant to the two contracts; and (5) identify the scope of work and conduct a cost-benefit analysis of awarding a separate contract—on an expedited basis—to hook-up the prison's six back-up power diesel generators.

In commenting on a draft of this report, State generally agreed with four of our recommendations and did not concur with one. We revised our second and fifth recommendations to reflect the fact that a review of possible disciplinary action of the contracting officer already has occurred and to address to State's concerns regarding connecting the prison's six generators to the prisons electrical system. We will monitor its implementation of corrective actions as part of our regular recommendation follow-up activities.

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

John F. Sopko
Special Inspector General
for Afghanistan Reconstruction

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ABBREVIATIONS

AWCC	Al-Watan Construction Company
COR	contracting officer's representative
INL	Bureau of International Narcotics and Law Enforcement Affairs
RFI	Request for Information
RPSO	Regional Procurement Support Office
State	Department of State

Since 2009, the Department of State's (State) Bureau of International Narcotics and Law Enforcement Affairs (INL) has funded the construction or renovation of five prisons in Afghanistan. This inspection focused on one of these regional prisons, the Pol-i-Charkhi prison in Kabul province.[1] The Soviet Union funded the prison's initial construction—Afghanistan's largest correctional facility—in 1973. A contractor from India built the prison to hold about 5,000 prisoners, but it currently houses nearly 7,400. As the aerial view in photo 1 shows, the prison consists of support facilities and three major blocks, including the wheel and spoke structure in the center, each of which contains prisoner cells.

Photo 1 - Aerial View of Pol-i-Charkhi Prison

Source: INL, December 16, 2012

In June 2009, in response to damage caused by 35 years of neglect, Soviet occupation, and warfare, the Department of State's Regional Procurement Support Office (RPSO) awarded an INL-funded renovation contract to Al-Watan Construction Company (AWCC)—an Afghan firm—for $16.1 million.[2] Following two modifications, the contract's overall value increased to $20.2 million. The contract's primary purpose was to reconfigure large, undivided prisoner holding areas into smaller maximum, medium, and minimum security cells. Each cell was to have a sink and one or more eastern-style toilets depending on cell size. The renovation contract also called for electrical and plumbing system improvements, renovating several structures including the prison industries building and kitchen facilities, building two septic/leach field systems,[3] and procuring and installing six refurbished back-up power diesel generators.

In August 2009, the RPSO awarded a separate INL-funded contract to Basirat Construction Firm—an Afghan architectural and engineering company—with an overall value of nearly $950,000, to provide renovation design, project monitoring, and contractor submittal review services.

In November 2010, the RPSO terminated AWCC's INL-funded renovation contract at the government's convenience based on unsatisfactory performance.[4] Following contract termination, INL awarded Batoor

[1] This is SIGAR's second inspection report on an INL-funded prison project in Afghanistan. Our first inspection reviewed INL's construction of a regional prison in Baghlan province. See SIGAR Inspection 14-62*, Baghlan Prison: Severe Damage to $11.3 Million Facility Requires Extensive Remedial Action,* May 27, 2014.

[2] The contract (SGE500-09-C-0010) was awarded by the Department of State's Regional Procurement Support Office in Frankfurt, Germany.

[3] A leach field, more commonly referred to as a drain field, is part of an on-site wastewater disposal system (septic system) consisting of a septic tank and discharge to a drain field. Wastewater leaving the septic tank is pretreated in that solids have settled and floatables are trapped in the first cell of the tank or at the outlet tee from the tank. This pretreated wastewater is routed to a series of trenches which make up the drain field where a volume of storage is available while the effluent breaks down biologically and infiltrates the soil surrounding the walls and floor of the trenches.

[4] Government contracts include a termination for convenience clause, which allows the contracting officer to terminate the contract if such action is determined to be in the government's interest. If the government terminates a contract for convenience, it must pay the contractor's costs up to the termination date. Government contracts also include a termination for default clause, which allows the contracting officer to terminate the contract for a number of reasons including the contractor's failure to deliver products or services within the time period specified by the contract.

Construction Company—an Afghan company—a $250,000 contract to document AWCC's work completed under the renovation contract.

Since September 2010, INL also has funded three capital improvement projects at Pol-i-Charkhi prison—a potable water tower, a commercial power upgrade, and a new staff barracks—at a combined cost of approximately $5.3 million. These contracts were awarded to the Afghan firms of Omran Consulting and Construction Company, BSCEC JV MSCC, and Afghanistan Rehabilitation and Architecture Organization, respectively.

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

We conducted our work in Kabul, Afghanistan, from April through September 2014, in accordance with the *Quality Standards for Inspection and Evaluation*, published by the Council of the Inspectors General on Integrity and Efficiency. Appendix I discusses our scope and methodology.

RENOVATION CONTRACTOR DID NOT MEET CONTRACT REQUIREMENTS, RESULTING IN CONTRACT TERMINATION AND ONLY ABOUT 50 PERCENT OF THE REQUIRED WORK BEING COMPLETED

More than 5 years after work began, renovation of Pol-i-Charkhi prison has not been completed, and the contract has been terminated for convenience. Following the RPSO's termination of the INL-funded contract in November 2010, Batoor Construction Company reviewed and documented AWCC's work completed under the renovation contract. In March 2011, Batoor reported that AWCC completed approximately 50 percent of the required renovation work. Batoor's report also noted multiple instances of defective workmanship including the lack of backfilling of trenches, not repairing/replacing broken fixtures, lack of proper roof flashing and gutters, and soil settlement issues. For example, the report noted that there were no metal flashing or gutters installed on one of the prison blocks resulting in damage to surface paint and moisture penetration in supporting walls.

We conducted our prison inspection on April 19, 2014, but were limited by the fact that the renovation work had been completed more than 3 years prior to our site visit. We found that the prison holding areas had been reconfigured into maximum, medium, and minimum security cells, and the cells contained the required sinks and toilets. Our inspection of the renovated industries building and kitchen facilities did not disclose any major deficiencies. We also found that AWCC procured and installed the six back-up power diesel generators, as required by the contract. However, the generators cannot be used because they were not hooked-up to the prison's electric power grid before the renovation contract was terminated. INL officials told us that the work necessary to make the generators operational—primarily installing paired transformers—will be done under the planned follow-on renovation contract, which they hope to begin in late 2014 or early 2015.

We also found that not all of the renovation work was completed according to the contract requirements. For example, based on our review of available contract documents, AWCC substituted building materials without authorization. Specifically, under the contract's scope of work, all roof replacements required the use of metal trusses. INL site visit reports show that the contractor substituted wood trusses for metal trusses (see photo 2). Documents we reviewed also show that the contractor improperly covered 30-year-old wood trusses with new roofing material, rather than replacing them as required under the contract. Following our disclosure of this information, INL officials stated that covering existing deficient wood trusses with new roofing material would never have been approved by a U.S. government official acting in good faith. However, AWCC performed those renovation activities under the oversight of a contracting officer's representative (COR) who was later convicted in the United States of improperly accepting gratuities from Basirat Construction Firm. Further, even if the COR believed he was acting in good faith in this instance, INL officials were unable to locate documentation authorizing this substitution.

Photo 2 - Wood, Instead of Metal, Trusses Installed in Wing A of Block 3

Source: INL Site Visit Report, October 15, 2009

INL officials told us they anticipated an award of a follow-on contract by the spring of 2015 to complete the renovation work initiated in 2009 and a separate contract to construct a wastewater treatment plant. They estimated the renovation work would cost $11 million; the wastewater treatment plant, $5 million. However, in October 2014, State officials said that they are in the process of putting a construction monitoring system in place before awarding renovation contracts. In addition, the department estimates it will have an analysis of wastewater treatment options by the spring of 2015.

INL officials told us they need a wastewater treatment plant to replace the prison's three septic/leach field systems, two of which were constructed under the renovation contract and a third under a more recent contract. Wastewater is currently pooling on the surface of two of the three leach fields due to the soil's poor absorption capacity.[5] The renovation contract's scope of work required the contractor to conduct soil percolation tests, using a certified testing agency, to verify that the sanitary leach field systems provided for in the design drawings would be adequate for the task. We found that the required soil percolation tests were performed in February 2010 and revealed poor soil porosity at the site. However, for reasons that we could not determine, the decision was made to proceed with the septic/leach field systems.

In January 2013, due to the failing septic/leach field systems, INL issued a Request for Information (RFI) asking for proposals to develop an above ground wastewater treatment plant. However, no technical feasibility or cost-benefit studies had been conducted to warrant the decision to focus the RFI on an above ground wastewater treatment plant. INL received four proposals, all focusing on the construction of an above-ground wastewater treatment plant. One proposal also included a "lagoon style system" as a potential alternative.[6] Along with certain disadvantages, including odor and the amount of land required, the proposal noted several advantages to this option, including observations that lagoon systems can be cost-effective to design and construct in areas where land is inexpensive, are simple to operate and maintain, and generally require only part-time staff. State subsequently said it has taken steps to hire an independent firm specializing in wastewater treatment systems in Afghanistan to conduct an analysis of the prison's wastewater needs.

Department of State Terminated AWCC Renovation Contract for Convenience Rather than Default, Despite Unsatisfactory Work

On November 26, 2010, the RPSO terminated AWCC's INL-funded Pol-i-Charkhi prison renovation contract for convenience instead of default. On September 30, 2010, the contracting officer sent a Show Cause Notice to AWCC stating that the government was considering terminating the contract for default because, in its opinion,

[5] The new staff barracks septic tank/leach system has not yet shown signs of failing, presumably due to its more recent construction and relatively low usage compared to the other two systems serving the general prison population.

[6] Lagoon systems include construction of one or more shallow ponds or basins designed to receive, hold, and treat wastewater for a predetermined period of time. Lagoons are constructed and lined with material, such as clay or an artificial liner, that will minimize the risk of wastewater contaminating the groundwater below. In contrast, above-ground systems typically involve holding and aeration tanks along with the blowers and pumps needed to process waste.

AWCC could not complete the project by the agreed-upon date of October 31, 2010.[7] The letter also noted that the government had sent AWCC a Letter of Concern on February 18, 2010, stating that it had failed to complete the work on time. The contracting officer, pending a final decision on the matter, invited AWCC to present any written facts relevant to the company's failure to perform that arose from causes beyond its control and without fault or negligence on its part. INL officials stated their records indicate that AWCC never responded to the offer.

On November 5, 2010, the contracting officer issued a Stop Work Order which noted that AWCC's performance was deemed unsatisfactory due to its lack of progress on the project, labor unrest at the work site, and a lack of supplies to maintain efficient progress. Then, on November 26, 2012, the RPSO contracting officer issued AWCC a termination for convenience letter.[8]

Although the contracting officer was able to execute some oversight and issue clear warnings to AWCC regarding its performance, INL's oversight efforts were compromised by a U.S. employee who served as the COR for the AWCC renovation contract as well as the Basirat design and project monitoring contract. The COR served in this capacity until May 2010, when he was suspended after INL and State's Office of Inspector General found that he had accepted money from Basirat to promote the company's interests. The COR was convicted and sentenced by a U.S. District Court for accepting illegal gratuities from Basirat.[9] As a result, in August 2010, State suspended Basirat from receiving any government contracts. In August 2010, State also suspended AWCC from receiving government contracts based on receiving confidential proposal information from Basirat concerning State solicitations.

The contracting officer who approved terminating the AWCC contract told us that he used his professional judgment and terminated for convenience due to legal advice claiming that State would have difficulty defending a termination for default. He added that this legal advice was chiefly based on information from another American COR (who replaced the suspended COR), which partially supported the contractor's case that the company was not at fault for failing to meet the contract terms.

Department of State Reached an $18.5 Million Settlement Agreement with AWCC for Completed Renovation Work

After a 2-year negotiation that concluded in December 2012, RPSO agreed to an $18.5 million settlement with AWCC—92 percent of the $20.2 million contract value. RPSO agreed to the settlement despite INL and Batoor reports showing that AWCC only completed about 50 percent of the work required under the contract. The contracting officer who negotiated the settlement for the U.S. government told us that the final award amount reflected actual incurred costs and not any specific completion rate. The contracting officer noted that an RPSO contract specialist and an Afghan COR[10] assisted her in lengthy negotiations with AWCC and joined her for the final round of discussions in Istanbul, Turkey, which concluded with the signed settlement agreement.

The contracting officer added that during these final negotiations the COR concurred with many of the contractor's assertions. In June 2013, just 6 months later, the COR's designation was suspended amid

[7] During the project, AWCC agreed to an accelerated construction schedule, reducing the period of performance from 24 to 16 months.

[8] For this project, the contracting officer was located at State's RPSO in Frankfurt, Germany, and worked with a designated COR in Kabul.

[9] The contracting officer's suspension letter to the COR notes his concerns regarding possible fraudulent activity involving both Basirat and AWCC. Specifically, the contracting officer noted that "Investigation into your relationships with Basirat and Al Watan Construction Company (Al Watan) are continuing, but acceptance of the $30,000 payment is by itself a serious impropriety even if the payment could be deemed compensation for services rendered, since your duties for INL included serving as Contracting Officer's Representative for the Pol-i-Charkhi project."

[10] While not assigned as the COR for the renovation project—which was terminated in November 2010—this individual had COR authority on other INL funded projects including the Baghlan prison project. This individual was asked to assist the contracting officer with the negotiation process with AWCC since the first American COR assigned to the project was suspended and the second American COR subsequently resigned his position.

concerns that he may have colluded with another INL contractor, an issue discussed in our May 2014 inspection report on Baghlan prison.[11] As noted in that report, INL suspected this COR of enabling a contractor to substitute inferior products and materials, failing to discover substandard construction, approving questionable invoices, and certifying that all contract terms had been met at the time of project turnover to INL even though construction deficiencies remained. The COR resigned in August 2013. SIGAR investigators are currently conducting an inquiry to determine whether the contractor or other U.S. government officials were complicit in these alleged activities.

The final contract modification in December 2012 reflecting a settlement agreement showed that the contracting officer granted AWCC $1.9 million—out of a possible $3.6 million—in accelerated construction schedule payments, bringing the final contract cost to $18.5 million.[12] While State said in comments to a draft of this report that it paid only $450,000 in additional accelerated payments to the contractor, only the $1.9 million in accelerated payments stated in the final contract modification appears in documents that we received from State. An accelerated payment schedule had been negotiated in 2009. The first contract modification in August 2009 reduced the performance period from 24 months to 16 months and provided for $225,000 in monthly compensatory payments over a 16-month period in recognition of the extra costs the contractor would incur by adding weekend and night shifts to complete the work on time. To support these payments, INL required AWCC to file monthly progress invoices, including supporting documentation demonstrating that AWCC expended additional resources before each monthly payment could be authorized by the COR. However, in November 2009, we analyzed the accelerated schedule payments and found that AWCC may not have fully earned them.[13] For example, our analysis found that AWCC's labor hour submissions did not fully justify its request for monthly acceleration payments. Our analysis concluded that the COR appeared to have attempted to mislead the contracting officer by advising him that AWCC was meeting the accelerated schedule, although AWCC's own submittals showed that it was not in compliance.

Capital Improvement Projects Generally Met Contract Requirements

Since August 2010, INL has funded three capital improvement projects at Pol-i-Charkhi prison: (1) a water tower to service the prison's potable water needs, (2) a commercial power upgrade project to meet the prison's growing power needs;[14] and (3) a new staff barracks for correction officials.[15] These projects, awarded to Omran Consulting and Construction Company, BSCEC JV MSCC, and Afghanistan Rehabilitation and Architecture Organization, respectively, were completed between September 2012 and May 2013, at a combined cost of approximately $5.3 million.

We found that the water tower and commercial power upgrade project were generally completed in accordance with contract requirements. Although the commercial power upgrade project was completed according to requirements, we found that work on the transformer station and connection point had not been completed under the original renovation work prior to contract termination. As a result, the power line provided under the capital improvement project could not be connected to the electrical grid. INL officials told us they plan to

[11] SIGAR Inspection 14-62.

[12] The $1.9 million included in the settlement agreement for accelerated schedule payments came under modification M003 to the prison renovation contract (SGE500-09-C-0010) signed by the contracting officer and contractor on December 14, 2012. This document indicated that the total payment to the contractor would be $18,537,524.

[13] A SIGAR engineer conducted this review in November 2009 at the request of law enforcement officials interested in the activities of the COR.

[14] The commercial power upgrade was designed to meet the prison's growing need for power by constructing a new aerial line from the electrical substation south of the prison. This new line was meant to supplement the existing 6-megavolt commercial line which connects to the north side of the prison from a different substation.

[15] This 12-megavolt amperes project was designed to provide half of its capacity to the prison by building a new aerial line from an electrical substation south of the prison. This new line was meant to supplement the existing 6-megavolt commercial line which connects to the north side of the prison from a different substation.

complete the transformer and connection point work under the $11 million follow-on renovation contract. The officials noted that once the work is completed there is a sufficient amount of power line at the point of termination to make the connection. Regarding the staff barracks project, we could not find any documentation showing that either the geotechnical site investigation or the design calculations by the barracks building supplier had been completed. We also found, among other things, that the barracks latrine building did not have attic exhaust vents and air conditioning as required by the contract.

PRISON IS BEING USED AND MAINTAINED, BUT OVERCROWDING PREVENTS INTENDED SEPARATION OF PRISONERS

Pol-i-Charkhi prison is being used, but not necessarily as intended. The prison is designed to hold about 5,000 prisoners; however, INL officials estimate that it currently houses nearly 7,400 prisoners. During our inspection, we observed some prisoners being housed in hallways due to overcrowded prison conditions. In addition, we were told that cell doors are left open so that prisoners housed in the hallways can have access to sinks and toilets (see photo 3).

Photo 3 - Overcrowding in Renovated Maximum Security Cells

Source: SIGAR, April 19, 2014

Based on our inspection, the prison appeared to be relatively well maintained. We did not find any significant maintenance problems. However, we did find some minor maintenance issues such as damaged light fixtures in cells. The prison has a trained maintenance staff and, according to INL officials, the Facility Maintenance Team training initiative—a nationwide prison operation and maintenance program implemented through Afghanistan's Corrections System Support Program—should be operational by November 2014.[16] INL approved the Facility Maintenance Team Initiative in the spring of 2012, which is designed to enhance the General Directorate of Prisons and Detention Center's capacity to perform basic facility maintenance at prisons nationwide. Under the initiative, mobile maintenance teams consisting of electricians, plumbers, masons, carpenters, and painters will be placed in seven regions, including the Kabul region which services Pol-i-Charkhi prison.

CONCLUSION

Pol-i-Charkhi prison's renovation remains far from finished, despite work beginning 5 years ago and spending $18.5 million or almost all of the $20.2 million contract value. Further, some of the contractor's renovation work was not completed according to contract requirements—most notably wood roof trusses were substituted without authorization for metal trusses and some 30-year old wood trusses were simply covered with new

[16] INL funds the Afghanistan Corrections System Support Program, which provides mentoring, advising, capacity building, and infrastructure support to the Afghan Ministry of Interior's General Directorate of Prisons and Detention Centers. While the Afghan government will provide most of the future funding for these regional Facility Maintenance Teams, INL plans to provide $80,000 during 2014 to support this initiative.

roofing material rather being replaced as the contract required. A corrupt COR was a factor in the oversight breakdown of the renovation work, and another COR who resigned his position was a factor in the financial settlement for AWCC. Furthermore, it is puzzling as to why the septic/leach field systems were constructed when testing revealed poor soil porosity at the prison site. The decision to proceed with these now failed systems could cost $5 million to replace with a new wastewater plant. However, potentially less expensive and more easily maintained alternatives to the planned above ground wastewater treatment plant are only now under consideration. INL also will need to spend an additional $11 million to complete the work that was unfinished when the renovation contract was terminated. Both projects—wastewater treatment system and follow-on renovation work—will require close monitoring by INL to avoid repeating the situation that occurred under the original renovation work. One item, in our view, that needs additional review is the lack of a connection to the prison's power grid of the six back-up power diesel generators that were installed under the renovation contract. On a positive note, most of the work for the three capital improvement projects—except for several minor deficiencies associated with the staff barracks—was completed according to contract requirements.

Pol-i-Charkhi prison is currently being used, but in an extremely overcrowded condition. As a result, the security advantage of reconfiguring large prisoner holding areas into smaller cells—the primary basis for renovation called for in the INL contract with AWCC—that could contain and separate maximum, medium, and minimum security prisoners, has been lost. Despite the overcrowding, the prison has been relatively well maintained. We believe that it is important that Afghanistan's nationwide prison operation and maintenance program become operational by the end of 2014, as currently planned.

RECOMMENDATIONS

To ensure the safety and security of Pol-i-Charkhi prison's inmates and workers and to ensure the U.S. government receives the highest value for its contract dollars, SIGAR recommends that the Secretary of State direct INL to:

1. **Determine the extent to which AWCC substituted wood for metal trusses or covered, rather than replaced, existing wooden trusses without authorization, and take appropriate action to recoup any funds due from the contractor.**
2. **Conduct an inquiry into whether the contracting officer negotiated an equitable settlement agreement with AWCC, document all accelerated construction schedule payments, and take steps to recoup funds as appropriate.**
3. **Conduct a cost-benefit analysis of alternative wastewater management systems and, if warranted, reissue an RFI soliciting proposed solutions to the prison's wastewater management needs.**
4. **Ensure that, before the follow-on renovation work and construction of the wastewater treatment plant or alternative system begins, that it has a written monitoring plan in place to oversee the work to be performed pursuant to the two contracts.**
5. **Identify the scope of work required and conduct a cost-benefit analysis of awarding a separate contract—on an expedited basis—to hook-up the prison's six back-up power diesel generators to the prisons existing electric system.**

AGENCY COMMENTS

State provided written comments on a draft of this inspection report that are reproduced in appendix II. State also provided technical comments that we incorporated into the report, as appropriate.

State generally agreed with four of our five recommendations and detailed the steps it is taking to implement them. In our view, State's ongoing and planned actions are generally responsive to our recommendations and we will monitor its implementation of these actions as part of our regular recommendation follow-up activities.

State disagreed with our second recommendation, noting that only two acceleration payments were made to the contractor, each in the amount of $225,000, for a total of $450,000 and that the additional acceleration payment request was denied in its entirety and not included in the settlement amount negotiated between the contracting officer and AWCC. However, contract modification M003—the final contract modification and settlement agreement signed by the contracting officer and contractor on December 14, 2012—provides for a $1.9 million payment to the contractor for accelerated schedule performance. As previously indicated in this report, our preliminary analysis of payments for accelerated performance indicates that they were not fully supported by the contractor's records. Furthermore, we believe the difference between the settlement agreement amount (92 percent of the total contract value paid to contractor) and the amount of work completed (50 percent), raises sufficient concern to warrant a review of the negotiation and settlement files before reaching a definitive conclusion that the contracting officer negotiated an agreement that was fair to both the contractor and the government. Moreover, the involvement in the settlement agreement of a COR who ultimately resigned under suspicion of collusion with an INL contractor raises the possibility that the contracting officer may have been given unreliable or biased advice that favored the contractor. Therefore, we maintain our recommendation that INL should conduct an inquiry into the appropriateness of the negotiated settlement.

Finally, while State partially agreed with our fifth recommendation—and commented that connecting the six power diesel generators to the electric grid is essential to providing the prison with reliable backup power—it also stated that there is no existing infrastructure at the prison to support the connection of the back-up power diesel generators to the electrical grid at this time. State also stated that, were it to award a separate contract to hook-up the generators and install the necessary electrical system components, the project would cost an additional $5 million and take a minimum of two years to complete. It is not clear to us why it would be so expensive and take so long to connect the generators to the prison's existing electrical system. As a result of State's comments, though, we revised our fifth recommendation to state that INL should identify the scope of work required and conduct a cost-benefit analysis of awarding a separate contract—on an expedited basis—to connect the prison's six back-up power diesel generators to the prisons existing electric system.

APPENDIX I - SCOPE AND METHODOLOGY

This report provides the inspection results of renovation and new construction work funded by the Department of State's Bureau of International Narcotics and Law Enforcement Affairs at Pol-i-Charkhi prison. To determine whether the work was completed in accordance with contract requirements and applicable construction standards, and the prison was being used as intended and maintained, we

- reviewed contract documents, design submittals, site visit reports, and other relevant project documentation;
- conducted an engineering assessment of the facility drawings, the construction methods used, and the seismic zone and relevant code requirements for the location of the prison;
- interviewed cognizant U.S. government officials concerning the facility's construction and maintenance; and
- conducted a site inspection of the prison on April 19, 2014.

We conducted our inspection work in Kabul, Afghanistan, from April through September 2014. This work was conducted in accordance with the *Quality Standards for Inspection and Evaluation*, published by the Council of the Inspectors General on Integrity and Efficiency. The engineering assessment was conducted by professional engineers in accordance with the National Society of Professional Engineers' Code of Ethics for Engineers. We did not rely on computer-processed data in conducting this inspection. However, we considered the impact of compliance with laws and fraud risk. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our inspection objectives. We conducted this inspection under the authority of Public Law No. 110-181, as amended; and the Inspector General Act of 1978, as amended.

United States Department of State

Washington, D.C. 20520

OCT 08 2014

Mr. Ryan T. Coles
Assistant Inspector General for Audits and Inspections
Special Inspector General for Afghanistan Reconstruction
1550 Crystal Drive, Suite 900
Arlington, VA 22202

Dear Mr. Coles:

The Department of State welcomes the opportunity to comment on this draft Special Inspector General for Afghanistan Reconstruction (SIGAR) report entitled, "Pol-i-Charkhi Prison: Renovation Project Remains Far from Complete after 5 Years and $18.5 Million" (dated October 2014). The Department respects SIGAR's role in safeguarding U.S. taxpayer investment, and we share your goals of implementing programs free from waste, fraud, and abuse.

This letter, which includes detailed responses to the recommendations in the draft report, provides clarifications on the Department's actions to remedy corruption and poor performance during the original Pol-i-Charkhi renovations project, as well as the Department's planned actions to complete the remaining renovations.

The Department appreciates SIGAR's recognition of its successful completion of three capital improvement projects at Pol-i-Charkhi prison: a water tower to service the prison's potable water needs, a commercial power upgrade project to meet the prison's growing power needs, and a new staff barracks for corrections officials.

The Department acted swiftly, decisively, and transparently when we observed problems with the performance and oversight of the contracts, alerting and fully coordinating with the Department of State Office of the Inspector General (OIG) to determine the extent of the abuse, the relevant consequences, and the appropriate next steps. Regarding the larger prison renovations project, the Bureau of International Narcotics and Law Enforcement Affairs (INL) alerted the OIG to possible misconduct related to these contracts, resulting in an OIG investigation which revealed fraud, corruption, and abuse involving the contractors and the contracting officer's representative (COR). The OIG disclosed the results

of its investigation to INL on May 10, 2010, and INL terminated the project COR the following day. The COR subsequently pled guilty to criminal charges. Moreover, at INL's recommendation, both host country contractors involved were suspended in August 2010, their contracts were terminated, and they were placed on the excluded parties list which removed them from consideration for future U.S. government contracts.

The Department is committed to completing the renovations project and ensuring that U.S. taxpayer dollars are directed toward sustainable, achievable programs that address the fundamental needs of the Afghan people, as well as the national security interests of the United States. Rather than hastening to commit further taxpayer dollars to award a contract for the remaining renovations, the Department's first step is to identify a suitable mechanism to more effectively monitor the project.

As security conditions have deteriorated, Department personnel have become increasingly restricted in their ability to travel to project sites, including Pol-i-Charkhi prison, to conduct direct project oversight. To address this monitoring challenge, the Department is putting in place a construction monitoring and reporting contract to track daily construction activities at Pol-i-Charkhi prison. If/as security conditions improve, the Department will reinstitute regular oversight visits by INL local and American engineers.

Once appropriate monitoring and reporting tools are in place, INL will work, through the contracting office, to award two construction contracts: the first for significant upgrades to three cell blocks, and major structural, electrical, and plumbing renovations throughout the prison; the second for the construction of a waste water treatment system appropriate for the surrounding environment and sustainability prospects.

Department of State Responses to SIGAR's Recommendations

Recommendation 1: Determine the extent to which AWCC substituted wood for metal trusses or covered, rather than replaced, existing wooden trusses without authorization, and take appropriate action to recoup any funds due from the contractor.

Department Response (October 2014): The Department partially agrees with this recommendation and has taken steps to determine the extent of substitutions. The Department notes that when the contractor performed these substitutions it

was approved under the oversight of a project COR, who subsequently pled guilty to fraudulent activity pursuant to this project. The Department will work with the Office of the Legal Advisor to determine what, if any, funds can be reclaimed from the contractor.

Recommendation 2: Conduct an inquiry into whether the contracting officer negotiated an equitable settlement agreement with AWCC, including $1.9 million in potentially unsupported accelerated construction schedule payments, take any disciplinary actions and/or steps to recoup funds as appropriate and provide a copy of the written results of the inquiry to SIGAR for further evaluation regarding the potential need for investigative follow-up activity.

Department Response (October 2014): The Department disagrees with this recommendation. The Department notes that only two acceleration payments were made to the contractor, each in the amount of $225,000, for a total of $450,000. As evidenced by the settlement memorandum to file and supporting spreadsheet provided to SIGAR on June 3, 2014, the additional acceleration payment request was denied in its entirety and not included in the settlement amount negotiated between the Contracting Officer and AWCC.

See SIGAR comment 1.

Moreover, as the Contracting Officer negotiated the settlement in accordance with FAR 49.201and all internal quality assurance procedures, the Department does not intend to seek disciplinary action.

Recommendation 3: Conduct a cost-benefit analysis of alternative wastewater management systems and, if warranted, reissue an RFI soliciting proposed solutions to the prison's wastewater management needs.

Department Response (October 2014): The Department agrees with the recommendation and initiated steps prior to the SIGAR inspection to hire an independent firm specializing in wastewater treatment systems in Afghanistan to conduct a comprehensive analysis of the prison's wastewater management needs. This analysis will include consideration of the surrounding environment, expected continued growth in system usage, and the prison maintenance capacity. INL estimates this analysis will be completed by spring 2015. INL is also seeking the input of the Afghan General Directorate of Prisons and Detention Centers.

Recommendation 4: Ensure that, before the follow-on renovation work and construction of the wastewater treatment plant or alternative system begin, it has a

written monitoring plan in place to oversee the work to be performed pursuant to the two contracts.

Department Response (October 2014): The Department agrees with the recommendation and initiated steps prior to the SIGAR inspection to develop a thorough monitoring and oversight plan. As previously mentioned, fluctuating security conditions prevent INL personnel from conducting regular, direct oversight at Pol-i-Charkhi prison. Therefore, INL is putting in place a construction monitoring and reporting contract to track daily construction activities at Pol-i-Charkhi prison. This independent contractor will perform daily on-site observation and tracking of construction and renovation activities and report to INL daily. Should the security situation at any point allow COM personnel to access the site, INL will conduct direct project oversight.

Recommendation 5: Award a contract—on an expedited basis—to hook-up the prison's six back-up power diesel generators to the electric grid.

Department Response (October 2014): The Department partially agrees with the recommendation. We agree that connecting the six power diesel generators to the electric grid is an essential component in providing the prison with reliable back-up power. However, there is no existing infrastructure at the prison to support the connection of the back-up power diesel generators to the electrical grid at this time. Secondly, if INL were to award a separate contract to hook-up the generators and install the necessary electrical system components, INL estimates the project would cost an additional $5 million and take a minimum of two years.

See SIGAR comment 2.

The Department of State appreciates SIGAR's thorough examination of programming in Afghanistan's corrections sector and looks forward to continuing to work with SIGAR and other relevant authorities on these issues.

Sincerely,

James A. Walsh
Executive Director
Bureau of International
Narcotics and Law
Enforcement Affairs

Cathy J. Read
Deputy Assistant Secretary, Acting
Office of Logistics Management
Bureau of Administration

SIGAR's Response to Comments from the Department of State

1. The $1.9 million amount cited in the report and recommendation 2 is the amount stated in the settlement agreement for accelerated schedule payments. The settlement agreement is final modification M003 to the prison renovation contract (SGE500-09-C-0010), signed by the contracting officer and contractor on December 14, 2012. This document indicated that the total payment to the contractor would be $18.5 million. The settlement memorandum, dated December 10, 2012, and the undated supporting spreadsheet referred to by INL in its comments that were provided to SIGAR on June 3, 2014 do not document that only two acceleration payments were made to the contractor, each in the amount of $225,000, for a total of $450,000 or that the $1.9 million listed in the settlement agreement, modification M003 to the prison renovation contract dated and signed by the contracting officer and contractor on December 14, 2012, was not the basis for amounts paid to the contractor.

   As previously indicated in this report, our preliminary analysis of payments for accelerated performance indicates that they were not fully supported by the contractor's records. Furthermore, we believe the difference between the settlement agreement amount (92 percent of the total contract value was paid to contractor) and the amount of work completed (50 percent), raises sufficient concern to warrant a review of the negotiation and settlement files before reaching a definitive conclusion that the contracting officer negotiated an agreement that was fair to both the contractor and the government. Moreover, the involvement of a COR who ultimately resigned under suspicion of collusion with an INL contractor in the settlement agreement process raises the possibility that the contracting officer may have been given unreliable or biased advice that favored the contractor. Therefore, we maintain our recommendation that INL should conduct an inquiry into the appropriateness of the negotiated settlement.

2. While INL partially agreed with our fifth recommendation—and commented that connecting the six power diesel generators to the electric grid is essential to providing the prison with reliable backup power—it also stated that there is no existing infrastructure at the prison to support the connection of the back-up power diesel generators to the electrical grid at this time. INL also stated that, were it to award a separate contract to hook-up the generators and install the necessary electrical system components, the project would cost an additional $5 million and take a minimum of two years to complete. It is not clear to us why it would be so expensive and take so long to connect the generators to the prison's existing electrical system. As a result of INL's comments, though, we revised our fifth recommendation to state that INL should identify the scope of work required and conduct a cost-benefit analysis of awarding a separate contract—on an expedited basis—to connect the prison's six back-up power diesel generators to the prisons existing electric system.

APPENDIX III - ACKNOWLEDGMENTS

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SIGAR's Mission

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

- improve effectiveness of the overall reconstruction strategy and its component programs;
- improve management and accountability over funds administered by U.S. and Afghan agencies and their contractors;
- improve contracting and contract management processes;
- prevent fraud, waste, and abuse; and
- advance U.S. interests in reconstructing Afghanistan.

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