

SIGAR

**Special Inspector General for
Afghanistan Reconstruction**

SIGAR 20-06 Audit Report

Afghanistan's Anti-Corruption Efforts: The Afghan Government Made Progress in Meeting its Anti-Corruption Strategy Benchmarks, but Serious Challenges Remain to Fighting Corruption



**NOVEMBER
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SIGAR

Special Inspector General for Afghanistan Reconstruction

WHAT SIGAR REVIEWED

In May 2018, SIGAR reported on the Afghan government's progress toward achieving anti-corruption reforms. SIGAR found that Afghanistan's 2017 anti-corruption strategy had weaknesses and that the Afghan government encountered major challenges to combatting corruption.

Recognizing the importance of Afghanistan's anti-corruption efforts, Congress required SIGAR, through the explanatory statement for the Consolidated Appropriations Act, 2018, to continue monitoring the Afghan government's progress in implementing the strategy and to provide an update to SIGAR's 2018 audit.

SIGAR conducted this new audit in accordance with the explanatory statement of the Consolidated Appropriations Act, 2018, which directed SIGAR to update its May 2018 report on the Afghan government's progress implementing its anti-corruption strategy, including whether the Afghan government is making progress toward achieving its anti-corruption objectives. SIGAR also reviewed the Afghanistan Compact, which is a document that tracks Afghan progress in several areas, including counter-corruption.

The objectives of this audit were to determine the extent to which the Afghan government (1) implemented the "Afghanistan National Strategy for Combatting Corruption" in accordance with associated benchmarks and timelines; (2) met anti-corruption benchmarks in accordance with the Afghanistan Compact; (3) addressed key concerns raised by SIGAR in our May 2018 report and by the international community; and (4) made progress or experienced challenges in furthering its anti-corruption reforms.

November 2019

Afghanistan's Anti-Corruption Efforts: The Afghan Government Made Progress in Meeting its Anti-Corruption Strategy Benchmarks, but Serious Challenges Remain to Fighting Corruption

SIGAR 20-06 AUDIT REPORT

WHAT SIGAR FOUND

SIGAR found that the Afghan government has made progress in meeting its anti-corruption strategy benchmarks since May 2018. However, serious challenges remain to fighting corruption. Without the political will to address these challenges, including resource shortfalls at anti-corruption institutions, the seeming impunity of powerful individuals, and declining activity at the corruption courts, transformative change will remain elusive.

On December 25, 2018, the Afghan government approved a revised anti-corruption strategy that contained 103 benchmarks with completion deadlines between December 2016 and June 2020. The Afghan government updated the strategy again in February 2019 to include 102 of the 103 benchmarks from the December 2018 version. SIGAR determined that the Afghan government met 57 of 76 benchmarks, or about 75 percent, due by June 2019.

However, the accomplishment of benchmarks contained in the anti-corruption strategy is just one way to measure progress in combatting corruption. While the meeting of any individual benchmark is a positive development, ensuring that the broader intent of each benchmark is accomplished has been a concern of international donors and Afghan civil society. International donors and Afghan civil society organizations remained concerned about the strategy's revisions and implementation. Specifically, officials from international donor and civil society organizations we spoke with were concerned about the lack of resources provided to the Access to Information Commission, the creation of multiple benchmarks for the establishment of the Palace Ombudsman, the lack of clarity about the Deputy Attorney General for Anti-Corruption's roles and responsibilities, and the delay in making the Anti-Corruption Commission operational by appointing commissioners. In its response to our draft report, the Afghan government stated that it was providing resources to the Access to Information Commission, and hopes to appoint Commissioners to the Anti-Corruption Commission soon. Additionally, SIGAR found that the Afghan government met some of the anti-corruption benchmarks contained in the Afghanistan Compact, a mechanism for compiling the Afghan government's commitments and monitoring their implementation. Both the U.S. and Afghan governments acknowledged that the Compact is a useful tool, even though it has no enforcement requirements.

SIGAR's May 2018 audit report contained six matters for consideration for the Afghan government that would increase the efficacy of its anti-corruption efforts. Of the six matters, the Afghan government concurred or partially concurred with all but one. Since that time, the Afghan government has made progress in addressing all six matters for consideration. Our work has shown that the Afghan government has taken steps that met the intent of five of the six matters for consideration contained in our prior audit.

Despite this progress, the Afghan government continued to face significant challenges fighting corruption and its key anti-corruption institutions

continued to experience resource shortfalls. In some instances, the Afghan government has provided more resources to anti-corruption institutions, like increasing the number of prosecutors at the Anti-Corruption Justice Center (ACJC). In other cases, resource shortfalls remain, such as having an insufficient number of vehicles for the Major Crimes Task Force (MCTF).

Capacity issues within anti-corruption agencies, such as the MCTF, caused anti-corruption cases to be remanded for further investigation. Between July and December 2018, ACJC judges returned 41 out of 47 cases brought before them for additional investigation. The ACJC's Chief Prosecutor stated that the judges rejected the 41 cases without a clear reason or justification, apart from stating that there were "gaps" or "errors" in the information provided. For their part, the ACJC judges have said that insufficient evidence is the most common reason they return cases to prosecutors. However, without copies of the judges' orders, neither we nor international donor officials could determine why the judges returned any individual case to prosecutors or the MCTF.

Similar to our May 2018 findings, we once again found that Afghanistan's anti-corruption institutions continued to disagree over important functions. For example, the ACJC and the MCTF disputed the apportionment of human resources between the two institutions, with ACJC officials stating that MCTF investigators should be assigned to be physically present at the ACJC. We also found that the Attorney General's Office (AGO) and the Ministry of Interior Affairs continued to blame each other for unexecuted warrants. Regardless of the cause of the institutional conflict, as of January 2019, AGO stated that there was a list of 6,586 people with outstanding arrest warrants, including 126 high profile warrants or summonses. In response to a draft of this report, the Afghan government told us that the MOI has arrested 1,500 of these people "on the basis of these lists."

The seeming impunity of powerful Afghans also continued to be a problem. Although AGO officials stated that the first 3 months of 2019 were the most successful in the history of the ACJC, in terms of individuals prosecuted, the ACJC's output for 2018 was lower than prior years. Following an increase in individuals prosecuted in the first quarter of 2019, the output of the ACJC decreased, and in September 2019, the United Nations reported that output of the ACJC had been declining since mid-June 2019. Additionally, responsible Afghan government institutions continued to struggle with arresting powerful individuals. Combined Security Transition Command-Afghanistan (CSTC-A), ACJC, and AGO officials all reported that a lack of cooperation amongst Afghan institutions resulted from a "lack of interest or will" among partner Afghan institutions, which impeded the arrest of powerful Afghans. The AGO stated that as of April 2019, of the 127 high profile warrants and summonses, the Afghan government executed only 14 of the 48 warrants, and only 41 of the 79 summonses resulted in individuals appearing before the ACJC. Despite ongoing issues related to the arrest, prosecution, and incarceration of powerful Afghans, the U.S. Department of Justice's December 2018 report to the State Department concluded that the Afghan government has made some progress in investigating and prosecuting corruption cases.

Finally, SIGAR found that the Afghan government has made some anti-corruption reforms, but concerns remain about its overall progress. For example, the Afghan government and CSTC-A created the Warrant Action Group to increase coordination between Afghan law enforcement agencies and the pace of executing warrants, but as of January 2019 more than 6,500 criminal arrest warrants remained outstanding. Similarly, the Afghan government increased coordination with international law enforcement organizations, such as the International Criminal Police Organization, but had not yet extradited any suspects. The Afghan government has recovered 40 percent of the \$987 million stolen from the Kabul Bank, but 60 percent of the stolen funds have yet to be recovered. Separately, the Afghan government has also begun seizing assets from those convicted of crimes, but cannot distribute them to law enforcement agencies. Additionally, the Afghan government removed ACJC prosecutors and MCTF employees who failed two polygraph examinations, but this removal has had a negative impact on the capacity and morale of the organizations as many of those removed were among the most experienced personnel. Furthermore, the Afghan government expanded the use of the Case Management System, but implementation has remained uneven across its law enforcement institutions and the inconsistency has hindered the institutions' abilities to track cases from discovery through prosecution. Despite this, in their responses to our draft of this report, both CSTC-A and the Afghan government reported that the Afghan government's use of CMS has been improving.

MATTERS FOR CONSIDERATION FOR THE AFGHAN GOVERNMENT

To improve its implementation of the Afghanistan National Strategy for Combatting Corruption and other anti-corruption efforts, the Afghan government should consider (1) increasing the resources provided to anti-corruption law enforcement organizations such as the AGO, ACJC, and MCTF, to provide them with the ability to increase the number of arrests and prosecutions of corrupt individuals; (2) taking action to reduce the legal and de facto immunity of powerful individuals; (3) continuing to polygraph personnel at the ACJC and the MCTF on a regular basis and increasing efforts to eliminate lost productivity from the dismissal of personnel who fail the polygraph examinations; (4) making public all anti-corruption court decisions in accordance with Afghan law; (5) increasing coordination and cooperation between Afghan law enforcement organizations and international law enforcement organizations; (6) increasing efforts to recover assets stolen from Kabul Bank and returning the funds to the Afghan Central Bank; (7) taking action to allow for the distribution of criminally derived assets to government organizations; and (8) continuing to implement the Case Management System and ensuring its systematic use among Afghan law enforcement organizations.

SIGAR received comments on a draft of this report from the U.S. Embassy in Kabul, the USAID, CSTC-A, and the Government of Afghanistan. The Afghan government generally concurred with all eight matters for consideration and provided steps it would take to meet the matters. These steps include fully resourcing the office of the Palace Ombudsman and ensuring the Supreme Court completes its trials of former ministers and election commission officials accused of corruption. The Afghan government also provided nine points of disagreement with our report. We considered the Afghan government's response and updated our report, as appropriate. The U.S. Embassy in Kabul, USAID, and CSTC-A did not comment on the matters for consideration. The U.S. Embassy in Kabul and USAID noted that prior Afghan anti-corruption efforts had fallen short due to a lack of a sustained commitment and political will. CSTC-A agreed with the report's findings that anti-corruption improvements had occurred. The Office of the Undersecretary of Defense for Policy also provided technical comments, which we incorporated in the report, as appropriate.



SIGAR

Office of the Special Inspector General
for Afghanistan Reconstruction

November 1, 2019

The Honorable Lindsey Graham
Chairman
Subcommittee on State, Foreign Operations, and
Related Programs
Committee on Appropriations
United States Senate

The Honorable Nita Lowey
Chairwoman
Subcommittee on State, Foreign Operations, and
Related Programs
Committee on Appropriations
United States House of Representatives

The Honorable Patrick Leahy
Ranking Member
Subcommittee on State, Foreign Operations, and
Related Programs
Committee on Appropriations
United States Senate

The Honorable Hal Rogers
Ranking Member
Subcommittee on State, Foreign Operations, and
Related Programs
Committee on Appropriations
United States House of Representatives

This report provides the results of SIGAR’s updated review of the Afghan government’s efforts to combat corruption and implement its national anti-corruption strategy. SIGAR conducted this audit in accordance with the explanatory statement of the Consolidated Appropriations Act, 2018, which directed SIGAR to “update the assessment required by the explanatory statement accompanying division J of Public Law 115-31 of the Government of Afghanistan’s implementation of the ‘Afghanistan National Strategy for Combating Corruption,’ including whether such government is making progress toward achieving its anti-corruption objectives.”¹

In accordance with the requirement, this audit’s objectives were to determine the extent to which the Afghan government (1) implemented the “Afghanistan National Strategy for Combatting Corruption” in accordance with associated benchmarks and timelines; (2) met anti-corruption benchmarks in accordance with the Afghanistan Compact; (3) addressed key concerns raised by SIGAR in our May 2018 report and by the international community; and (4) made progress or experienced challenges in furthering its anti-corruption reforms.

Overall, the Afghan government provided us the access necessary to conduct this work, and we are offering eight matters for the Afghan government to review and consider. To improve its implementation of the “Afghanistan National Strategy for Combatting Corruption” and other anti-corruption efforts, the Afghan government should consider (1) increasing the resources provided to anti-corruption law enforcement organizations such as the AGO, ACJC, and MCTF, to provide them with the ability to increase the number of arrests and prosecutions of corrupt individuals; (2) taking action to reduce the legal and de facto immunity of powerful individuals; (3) continuing to polygraph personnel at the ACJC and the MCTF on a regular basis and increasing efforts to eliminate lost productivity from the dismissal of personnel who fail the polygraph examinations; (4) making public all anti-corruption court decisions in accordance with Afghan law; (5) increasing coordination and cooperation between Afghan law enforcement organizations and international law enforcement organizations; (6) increasing efforts to recover assets stolen from Kabul Bank and returning the funds to the Afghan Central Bank; (7) taking actions to allow for the distribution of criminally derived assets to government organizations; and (8) continuing to implement the Case Management System and ensuring its systematic use among Afghan law enforcement organizations.

¹ 164 Cong. Rec. H2851 (daily ed. Mar. 22, 2018) (explanatory statement of the Consolidated Appropriations Act, 2018).



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SIGAR received comments on a draft of this report from the Government of Afghanistan, the U.S. Embassy in Kabul, the U.S. Agency for International Development, and the Combined Security Transition Command–Afghanistan. These comments are reproduced in appendices V, VI, and VII, respectively. The Afghan government concurred with all eight matters for consideration, and identified the steps it intended to take to implement the matters. The Afghan government also provided nine points of disagreement with our report. We considered the Afghan government’s response and updated our report, as appropriate.

The Office of the Undersecretary of Defense for Policy also provided technical comments, which we incorporated in the report, as appropriate.

SIGAR conducted this work under the authority of Public Law No. 110-181, as amended, and the Inspector General Act of 1978, as amended; and in accordance with generally accepted government auditing standards.

John F. Sopko
Special Inspector General
for Afghanistan Reconstruction

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ABBREVIATIONS

ACJC	Anti-Corruption Justice Center
ACC	Anti-Corruption Commission
AGO	Attorney General's Office
CMS	Case Management System
CSTC-A	Combined Security Transition Command–Afghanistan
DOD	Department of Defense
GMAF	Geneva Mutual Accountability Framework
HCLAC	High Council on Rule of Law and Anti-Corruption
INL	Bureau of International Narcotics and Law Enforcement
INTERPOL	International Criminal Police Organization
MCTF	Major Crimes Task Force
MEC	Joint Monitoring and Evaluation Committee on Anti-Corruption
MOD	Ministry of Defense
MOF	Ministry of Finance
MOI	Ministry of Interior
MOJ	Ministry of Justice
State	Department of State
UNCAC	“United Nations Convention against Corruption”
USAID	U.S. Agency For International Development

Afghanistan is often ranked as one of the most corrupt countries in the world. According to the World Bank, Afghanistan ranked in the bottom 7 percent of countries for “control of corruption” between 2002 and 2017, and Transparency International listed Afghanistan as 177 out of 180 in its corruption perceptions index in 2017.¹ Corruption negatively affects many parts of Afghanistan’s development. Corruption fuels the ongoing conflict; it drains the resources that could otherwise have been spent reducing Afghanistan’s crushing level of poverty. Most Afghans consider corruption to be a major problem in their daily lives, according to The Asia Foundation’s 2018 survey.² The United Nations Assistance Mission in Afghanistan’s 2019 anti-corruption report states that “for the most part...corruption remains a pervasive part of Afghan life and an impediment to Afghanistan’s recovery.”³

On May 3, 2017, the explanatory statement of the Consolidated Appropriations Act, 2017, directed SIGAR to assess the implementation of the Afghan government’s national anti-corruption strategy and five ministerial action plans.⁴

In May 2018, we issued an audit report detailing the Afghan government’s anti-corruption strategy and ministerial action plans, their implementation and weaknesses, as well as other challenges in fighting corruption, especially as they pertained to upholding the rule of law.⁵ Since the issuance of our report, the Afghan government released a revised version of its national anti-corruption strategy and committed to achieving anti-corruption benchmarks within the Afghanistan Compact. Additionally, at the International Anti-Corruption Conference in Copenhagen in October 2018 and the Geneva Ministerial Conference in November 2018, the Afghan government pledged to meet anti-corruption commitments.

Despite the Afghan government’s multiple commitments to fight corruption, Afghans’ perceptions of corruption in their country have only slightly improved according to polling by Transparency International and The Asia Foundation. According to Transparency International’s 2018 Corruption Perceptions Index, Afghanistan was ranked as the 172nd most corrupt country out of 180, scoring 16 out of 100 (with 0 being “highly corrupt”). This was only a slight improvement from 2017 when its score was 15 out of 100, and its rank was 177th out of 180.⁶ Similarly, The Asia Foundation’s Survey on Afghanistan found that Afghans’ perception of corruption in Afghanistan improved slightly; in 2017, 83.7 percent of Afghans saw corruption as a major problem, whereas 81.5 percent did in 2018.⁷

The explanatory statement of the Consolidated Appropriations Act, 2018, required SIGAR to update our May 2018 report and to determine whether the Afghan government is making progress toward achieving its anti-corruption

¹ Transparency International, *Corruption Perceptions Index 2017*, February 21, 2018, https://www.transparency.org/news/feature/corruption_perceptions_index_2017.

World Bank, *Worldwide Governance Indicators*, “2002–2017,” last updated Oct 4, 2019, <https://databank.worldbank.org/source/worldwide-governance-indicators>.

² The Asia Foundation, *Afghanistan in 2018: A Survey of the Afghan People*, December 4, 2018, https://asiafoundation.org/wp-content/uploads/2018/12/2018_Afghan-Survey_fullReport-12.4.18.pdf

³ United Nations Assistance Mission in Afghanistan, *Afghanistan’s Fight against Corruption: Groundwork for Peace and Prosperity*, A/73/990-S/2019/703, May 2019, p. 6.

⁴ 163 Cong. Rec. H4055 (daily ed. May 3, 2017) (explanatory statement of the Consolidated Appropriations Act, 2017); see also Consolidated Appropriations Act, 2017, Pub. L. No. 115-31, § 4, § 7044.

Corruption experts typically recognize a difference between “anti-corruption,” which is the prevention and discouragement of corruption, and “counter-corruption,” which is the detection and punishment of corruption after it has occurred. However, the Afghan government collapses these two terms under “anti-corruption,” which it understands to encompass both prevention and enforcement activities. Therefore, in this report we will use “anti-corruption” in the same way.

⁵ SIGAR, *Afghanistan’s Anti-Corruption Efforts: The Afghan Government Has Begun to Implement an Anti-Corruption Strategy, but Significant Problems Must Be Addressed*, SIGAR 18-51-AR, May 31, 2018.

⁶ Transparency International, *Corruption Perceptions Index 2018*, January 30, 2019, https://www.transparency.org/whatwedo/publication/corruption_perceptions_index_2018

⁷ The Asia Foundation, *Afghanistan in 2017: A Survey of the Afghan People*, November 14, 2017, <https://asiafoundation.org/publication/afghanistan-2017-survey-afghan-people>; and The Asia Foundation, *Afghanistan in 2018*.

objectives.⁸ In accordance with this requirement, the objectives of this audit were to determine the extent to which the Afghan government

1. Implemented the “Afghanistan National Strategy for Combatting Corruption” in accordance with associated benchmarks and timelines;
2. Met anti-corruption benchmarks in accordance with the Afghanistan Compact;
3. Addressed key concerns raised by SIGAR in our May 2018 report and by the international community; and
4. Made progress or experienced challenges in furthering its anti-corruption reforms.

To accomplish our objectives, we reviewed documentation from the government of Afghanistan’s Attorney General’s Office (AGO), the Anti-Corruption Justice Center (ACJC), the Special Secretariat of the High Council for Rule of Law and Anti-Corruption (HCLAC); and relevant Afghan legislation. We also reviewed anti-corruption reports from donors and international organizations.⁹ Additionally, we reviewed the “United Nations Convention against Corruption” (UNCAC), to which Afghanistan is a signatory, as well as the “Kuala Lumpur Statement on Anti-Corruption Strategies” and the “Jakarta Statement on Principles for Anti-Corruption Agencies,” which are two sets of best practices related to anti-corruption. We also interviewed officials from the U.S. Agency for International Development (USAID), U.S. Department of State (State), U.S. Department of Justice, U.S. Department of Defense (DOD), and other relevant U.S. agencies; officials from various foreign governments; Afghan governmental officials from the Administrative Office of the President, Ministry of Interior (MOI), Ministry of Defense (MOD), AGO, ACJC, Counternarcotic Justice Center, Supreme Court, Electoral Complaints Commission; and officials from institutions representing Afghan civil society.

Furthermore, we reviewed relevant classified and non-public documents. While this report is unclassified, nothing found in the classified or non-public documents that we reviewed contradicted what we publically reported. This audit did not attempt to identify any individual Afghan or international official whose individual actions limited the fight against corruption, but focused on systemic issues that constrain the Afghan government’s anti-corruption efforts. We conducted our work in Kabul, Afghanistan, and Arlington, VA, from August 2018 through September 2019, in accordance with generally accepted government auditing standards. Appendix I has more details on our objectives, scope, and methodology.

BACKGROUND

Afghanistan attempted to develop its first national anti-corruption strategy in compliance with the UNCAC in February 2008 and released it in July 2008, as part of the Afghan National Development Strategy. In August 2008, the Afghan government ratified the UNCAC. However, in 2014, the UN Development Programme criticized this Afghanistan anti-corruption strategy as a “wish list” and noted that the strategy did not prioritize its actions well.¹⁰ Following the formation of Afghanistan’s National Unity Government in 2014, renewed interest in meeting Afghanistan’s anti-corruption commitments under the UNCAC emerged. In December 2014, the Afghan government and delegations from 59 countries issued a joint communiqué stating that the Afghan government “requires long-term commitments and sustained realistic strategies to root out corruption.”¹¹ During the October 2016 Brussels Conference on Afghanistan, the Afghan government committed to tackling corruption, beginning with Afghanistan’s five largest revenue-generating ministries: the Ministry of Finance (MOF), the Ministry of Mines and Petroleum, the Ministry of Commerce and Industries, the Ministry of Communications and Information Technology, and the Ministry

⁸ 164 Cong. Rec. H2851 (daily ed. March 22, 2018) (explanatory statement of the Consolidated Appropriations Act, 2018).

⁹ We reviewed anti-corruption reports published by the United Nations Assistance Mission to Afghanistan, and surveys published by The Asia Foundation and Transparency International.

¹⁰ United Nations Development Programme, *Anti-Corruption Strategies: Understanding What Works, What Doesn’t and Why? Lessons Learned from the Asia-Pacific Region*, 2014, p. 13.

¹¹ London Conference on Afghanistan, Communiqué, “Afghanistan and International Community: Commitments to Reforms and Renewed Partnership,” December 4, 2014, <https://www.afghanembassy.us/news/afghanistan-and-international-community-commitments-to-reforms-and-renewed-partnership/>.

of Transportation and Civil Aviation. The Afghan government required each of these ministries to produce anti-corruption action plans.

At the Brussels Conference in October 2016, the Afghan government also agreed to an updated set of deliverables related to fighting corruption under the “Self-Reliance through Mutual Accountability Framework.” The updated anti-corruption deliverables included several objectives related to developing and implementing anti-corruption policies, specifically

- The HCLAC would produce and ensure a whole of government anti-corruption strategy in the first half of 2017.
- The Afghan government would initiate this strategy in the second half of 2017.
- The five revenue-generating ministries would publicly report on their progress implementing their September 2016 anti-corruption action plans in 2017.¹²

On October 12, 2017, the Afghan government released an English language version of its anti-corruption strategy, the “Afghanistan National Strategy for Combatting Corruption.” At the direction of Congress, in May 2018, we released our audit report examining the creation and implementation of the Afghan government’s 2017 national anti-corruption strategy.¹³ Our report found

- The Afghan government met its three anti-corruption “Self-Reliance through Mutual Accountability Framework” objectives, but was late on meeting two of them.¹⁴
- The 2017 anti-corruption strategy had weaknesses, such as benchmarks and goals that were not fully aligned, and the writers of the strategy did not fully engage Afghan civil society or ministries in the development of the strategy.
- The Afghan government achieved 14 of the 20 benchmarks due when we published our audit report in May 2018.¹⁵
- Afghanistan encountered five major challenges to combatting corruption.¹⁶

Based on these findings, we issued six matters for the Afghan government to review and consider. To ensure the anti-corruption strategy’s implementation is in accordance with international standards and best practices, we recommended that the Afghan government consider

¹² Prior to the Brussels Conference, the Afghan government and international donors agreed to the July 2012 “Tokyo Mutual Accountability Framework,” which laid out mutually agreed-to goals and indicators, committed donors to channeling more of their aid through Afghanistan’s national budget, and established a Joint Coordination and Monitoring Board to assess progress. In September 2015, the “Tokyo Mutual Accountability Framework” was consolidated with the Afghan National Unity Government’s comprehensive reform agenda, “Realizing Self-Reliance: Commitments to Reforms and Renewed Partnerships,” and renamed the “Self-Reliance through Mutual Accountability Framework” (SMAF). At the Brussels Conference in October 2016, a new set of SMAF goals and indicators was endorsed. See Brussels Conference on Afghanistan, “Self-Reliance through Mutual Accountability Framework,” October 5, 2016.

¹³ SIGAR, Afghanistan’s Anti-Corruption Efforts, SIGAR 18-51-AR, May 2018.

¹⁴ Specifically, the Afghan government did not create its anti-corruption strategy until December 2017, rather than in the first half of 2017. We could not confirm that the ministries had completed their anti-corruption action plans until 2018, rather than in 2017.

¹⁵ As of September 2019, our analysis found that the Afghan government has met 22 of the 38 benchmarks contained in the 2017 anti-corruption strategy. See appendix II of this report for an analysis of the met and unmet benchmarks from the 2017 anti-corruption strategy.

¹⁶ The five major challenges we highlighted in the May 2018 audit report were: (1) a lack of capacity and resources amongst Afghanistan’s key anti-corruption institutions; (2) unclear roles and responsibilities between anti-corruption institutions investigating corruption crimes; (3) the Afghan government’s limited ability to arrest, prosecute, and punish powerful individuals suspected of corruption; (4) the Afghan government’s failure to remove unqualified and potentially corrupt personnel from anti-corruption institutions or to protect reformers; (5) Afghanistan’s Parliament represented a significant institutional roadblock for anti-corruption reforms.

1. Revising the anti-corruption strategy to tie each goal to a precisely-defined benchmark with a realistic deadline, and developing mechanisms to incorporate ministry and civil society feedback during this process; and
2. Establishing independent anti-corruption organizations in accordance with the UNCAC.

Because the MOD accounts for more than 15 percent of Afghanistan's national budget, and to ensure that the MOD continues to implement its anti-corruption commitments, we recommended that the Afghan government consider

3. Adding the MOD to the list of "priority ministries" required to submit an anti-corruption action plan for the HRCLAC's review.¹⁷

To make progress and address challenges to implementing anti-corruption reforms, we recommended the Afghan government consider

4. Clarifying which government entity or entities will take over the High Office of Oversight and Anti-Corruption's education and public awareness responsibilities;
5. Providing the necessary resources and specialized staff, as well as the training that such staff may require to carry out their functions, to key anti-corruption entities in accordance with the UNCAC; and
6. Conducting a second round of polygraph tests, and annual follow-up rounds thereafter, for Anti-Corruption Justice Center and Major Crimes Task Force personnel, and taking appropriate action against individuals who fail their tests.¹⁸

In response to our May 2018 audit report, the Afghan government concurred with matters for consideration 1, 3, 4, and 6; partially concurred with matter for consideration 5; and did not concur with matter for consideration 2.¹⁹ The Afghan government stated that it did not concur with matter for consideration 2 because the High Office of Oversight and Anti-Corruption was not successful and the AGO was an independent entity. We discuss the Afghan government's implementation of our matters for consideration later in this report.

The Afghan Government Has Agreed to International Standards and Anti-Corruption Frameworks

The Afghan government has signed international standards for anti-corruption and has agreed to frameworks that outline its anti-corruption commitments. The Afghan government signed the UNCAC in 2004 and ratified it in 2008. Article 5 of the UNCAC requires member countries to have in place "effective, coordinated anti-corruption polices," and Article 6 requires them to establish an independent, well-resourced anti-corruption body or bodies responsible for implementing and, where appropriate, overseeing and coordinating the implementation of those policies.²⁰ UNCAC signatories collectively understand these articles as a requirement to develop a comprehensive anti-corruption strategy and then empower an independent government entity or entities with responsibility for implementation. Additionally, according to the "Kuala Lumpur Statement on Anti-Corruption Strategies," which states principles of best practice for the creation of anti-corruption agencies and strategies, anti-corruption strategy documents are useful for providing "a comprehensive policy framework for actions to be taken by States in combating and preventing corruption...for mobilising [sic] and coordinating efforts and resources by

¹⁷ The Office of the Undersecretary of Defense for Policy noted in its technical comments to a draft of this report that MOD accounts for 15 percent of the Afghan national budget, excluding international funding.

¹⁸ On March 21, 2017, the NATO Resolute Support Mission and the AGO signed a memorandum of understanding that stipulated AGO and MOI employees assigned to the ACJC would undergo polygraph examinations, with follow-up examinations 6 months later, and yearly polygraph examinations thereafter.

¹⁹ SIGAR, Afghanistan's Anti-Corruption Efforts, SIGAR 18-51-AR, May 2018.

²⁰ Convention Against Corruption, October 31, 2003, *United Nations Treaty Series*, vol. 2349, No. 42146, pp. 41-367.

governments and other stakeholders, for policy development and implementation, and for ensuring monitoring of policy implementation.”²¹

In addition to the UNCAC, the Afghan government also has committed to a framework referred to as the Afghanistan Compact. Although this document does not have the force of a treaty, it is a mutually-agreed-upon document that contains many commitments, including counter- and anti-corruption measures. Our May 2018 audit report noted the Afghan government’s commitments to the Open Government Partnership and the Extractive Industries Transparency Initiative.²²

Since the publication of our May 2018 report, the Afghan government has made two more anti-corruption commitments, in addition to revising its own national anti-corruption strategy. First, at the International Anti-Corruption Conference in Copenhagen in October 2018, the Afghan government issued 12 anti-corruption commitments, including promising increased access to the formal justice system and managing out 5,000 low performing civil servants.²³ Second, in November 2018, the President of Afghanistan attended the Geneva Conference on Afghanistan and agreed to the “Geneva Mutual Accountability Framework” (GMAF). This framework includes four commitments from the Afghan government to (1) formally approve new indicators for the 2017 anti-corruption strategy; (2) increase prosecutions for anti-corruption cases; (3) verify government official’s asset declarations; and (4) improve citizens’ accesses to Afghan government information.²⁴

Afghan Government Anti-Corruption Institutions

In 2010, the Afghan government created the Joint Monitoring and Evaluation Committee on Anti-Corruption (MEC). The MEC is a hybrid organization consisting of Afghan and international officials that conducts oversight of government programs, notably through its Vulnerability to Corruption assessments.²⁵ Apart from the MEC, which is intended to provide independent oversight of Afghan government entities, the Afghan government has four main entities responsible for anti-corruption related policymaking, prevention, and enforcement activities: (1) the HCLAC; (2) the Major Crimes Task Force (MCTF); (3) the AGO; and (4) the ACJC, whose prosecutors also fall under the AGO.

²¹ “Kuala Lumpur Statement on Anti-Corruption Strategies,” Kuala Lumpur, October 21–22, 2013, https://www.unodc.org/documents/southeastasiaandpacific/2013/10/corruption/Kuala_Lumpur_Statement_on_Anti-Corruption_Strategies_Final_21-22_October_2013.pdf.

²² The Open Government Partnership is a multilateral initiative that aims to secure concrete commitments from governments to promote transparency, empower citizens, fight corruption, and harness new technologies to strengthen governance. The Extractive Industries Transparency Initiative is an international initiative to promote the open and accountable management of oil, gas, and mineral resources. For more information, see: SIGAR, Afghanistan’s Anti-Corruption Efforts, SIGAR 18-51-AR, May 2018, p. 18.

²³ International Anti-Corruption Conference, “Afghanistan National Anti-Corruption Statement,” Copenhagen, Denmark, October 22–24, 2018.

²⁴ Geneva Conference on Afghanistan, “Geneva Mutual Accountability Framework,” Geneva, Switzerland, November 27–28, 2018.

²⁵ In addition to these institutions, the Ministry of Justice, Supreme Court, Counternarcotic Justice Center, MOD and MOI Criminal Investigative Divisions, Administrative Office of the President, Supreme Audit Office, Access to Information Commission, Independent Administrative Reform and Civil Service Commission, Open Governance Partnership, and National Procurement Authority all have anti-corruption-related responsibilities. Furthermore, the following Afghan government institutions are tasked with implementing different aspects of the Anti-Corruption Strategy: the Independent Directorate for Local Governance, MOF, MOD, Parliament, National Security Council, MOI, Independent Elections Commission, Central Statistics Office, Ministry of Education, Ministry of Higher Education, Ministry of Foreign Affairs, Ministry of Commerce and Industries, Da Afghanistan Breshna Sherkat, Kabul Bank Receivership, Hydrocarbons Regulatory Authority, Ministry of Mines and Petroleum, and Afghanistan Central Business Authority.

In 2018, the Afghan government created the Special Secretariat under the HCLAC, which is responsible for the monitoring the implementation of the national anti-corruption strategy. The Afghan government also created the Anti-Corruption Commission (ACC) by law in 2018, Afghanistan's independent anti-corruption body.²⁶

The United States Continues to Provide Assistance to the Afghan Government to Combat Corruption

To help combat corruption, the United States government supports the Afghan government in several ways and through various U.S. agencies. State's assistance primarily comes from the Bureau of International Narcotics and Law Enforcement Affairs (INL). In our May 2018 audit findings, INL reported that it had

1. Provided training and mentoring to MCTF, ACJC, and AGO personnel through a variety of efforts;
2. Provided funding for international mentors and support staff for on-site technical assistance to Afghanistan's financial intelligence unit and to two prosecutorial units at the AGO focused on corruption; and
3. Donated a generator and body armor to the ACJC.²⁷

Since that report, INL has funded further training in Indonesia for Afghan justice officials. INL also continued funding the development of the Case Management System (CMS) used by the Afghan government.²⁸

Since May 2018, USAID has continued to provide assistance to the Afghan government primarily through two programs: the Assistance for the Development of Afghan Legal Access and Transparency, and Afghanistan's Measure for Accountability and Transparency. The former works to improve judicial operations, while the latter works with ministries to make administrative and systemic changes to prevent corruption. Additionally, USAID provided support to the MEC for its Vulnerability to Corruption assessments.

DOD has continued to provide advising support to the MOD and the MOI. Specifically, DOD focused on building the capabilities of the MCTF and the Inspectors General of the MOD and the MOI. State and DOD meet regularly with their Afghan government counterparts to assess progress in meeting the benchmarks contained in the Afghanistan Compact.

THE AFGHAN GOVERNMENT HAS IMPLEMENTED ITS REVISED ANTI-CORRUPTION STRATEGY, BUT CONCERNS REMAIN

On December 25, 2018, the Afghan government approved a revised anti-corruption strategy that contained a total of 103 benchmarks with completion deadlines between December 2016 and June 2020, including nearly all of the 38 benchmarks contained in the 2017 strategy. Following the revised strategy's issuance, the Afghan government approved an update to the December 2018 anti-corruption strategy in February 2019. This revision contained 102 of the 103 benchmarks from the December 2018 anti-corruption strategy with 76 of the 102 benchmarks due at the end of June 2019. As of September 2019, we determined that the Afghan government met 57 of 76 updated anti-corruption strategy benchmarks that were due by June 2019. The February 2019 update also contained 2 benchmarks due at the end of August 2019, 23 due at the end of December 2019, and 1 due at the end of June 2020.

The accomplishment of benchmarks contained in the anti-corruption strategy is just one way to measure progress in combatting corruption. While the meeting of any individual benchmark is a positive development, ensuring that the

²⁶ The President of Afghanistan officially abolished Afghanistan's previous anti-corruption agency, the High Office of Oversight and Anti-Corruption, on March 8, 2018.

²⁷ SIGAR, Afghanistan's Anti-Corruption Efforts, SIGAR 18-51-AR, May 2018.

²⁸ CMS is an online database that tracks the status of criminal cases in Afghanistan across all criminal justice institutions, from the moment a case is initiated to end of confinement for the convicted.

broader intent of each benchmark is accomplished, as opposed to simply meeting the output demanded by the benchmark, has been a concern of international donors and Afghan civil society. Multiple stakeholders, including international donors, Afghan civil society, and Afghan government officials expressed concerns about revisions in the anti-corruption strategy and about the need for the Afghan government to follow-through on its anti-corruption efforts once it meets a benchmark. In addition, concerns remain that several of the Afghan government's anti-corruption initiatives are little more than a bureaucratic exercise.

The Afghan Government Revised Its Anti-Corruption Strategy in December 2018 and February 2019, But the Revisions Created Some Concerns

On December 25, 2018, the Afghan government approved a revised anti-corruption strategy, which included 103 benchmarks, as well as 103 identically worded goals. The 2018 anti-corruption strategy also included a sixth pillar, compared to the five pillars of the 2017 anti-corruption strategy, focusing on improving economic institutions.²⁹ Nearly all the benchmarks contained in the 2017 strategy were carried over into the revised 2018 anti-corruption strategy. In addition, the revised strategy also

- extended the deadlines for 22 of the 2017 benchmarks;
- reduced the targets for 9 of the 2017 benchmarks;
- changed the implementer responsible for completing 8 of the 2017 benchmarks;
- divided 6 benchmarks from the 2017 strategy into 14 benchmarks; and
- eliminated 5 benchmarks.

For example, the 2018 anti-corruption strategy extended implementation of the Addis Tax initiative to December 2019, as opposed to the original deadline of December 2017; reduced the number of inductees at the civil service training center from 5,000 to 4,000; and made only the Afghan Supreme Court responsible for broadening the membership of the stage committee, as opposed to both the Ministry of Justice (MOJ) and Supreme Court.³⁰ The revision of the 2017 benchmarks included extending the deadlines on some benchmarks and reducing the target number for one benchmark, which could make the benchmarks more realistic to achieve.

Officials from international donor organizations told us that in February 2019, the Afghan government approved revisions to the 2018 anti-corruption strategy.³¹ In May 2019, Afghanistan's Special Secretariat to the HCLAC provided us with that revised anti-corruption strategy.³² The February 2019 revision removed one benchmark, "restrict appointments outside of the stage process," that was to be completed by the Supreme Court by June 2019.³³ In response to a draft of this report, the Afghan government stated that this benchmark was deemed unnecessary, as Afghan law does not allow for such appointments. Its removal reduced the number of benchmarks

²⁹ The 2017 strategy and the 2018 and 2019 updates followed a sectoral approach to countering corruption. The 2017 strategy named five "pillars" of reform that it called "pre-conditions for a credible anti-corruption program." The five pillars contained in the 2017 strategy were Political Leadership and Empowering Reformers; Ending Corruption in the Security Sector; Replacing Patronage with Merit in the Civil Service; Prosecuting the Corrupt; and Following the Money. The sixth pillar added was Improving Economic Institutions.

³⁰ The Addis Tax Initiative is, "a multi-stakeholder partnership" to enhance partner countries' "reliance on domestic revenue to fund their development agenda..." *Addis Tax Initiative*, 2019, <https://www.addistaxinitiative.net/about>.

³¹ International donor organizations include nation-states, as well as organizations such as the United Nations and the European Union. We are not identifying the individual donors that made various statements in this report to protect anonymity and help ensure the free flow of information related to Afghan government activities.

³² The revision to the December 2018 approved anti-corruption strategy does not list day on which it was approved.

³³ The "stage process" is a professional training course for lawyers which prepares them and then sends them to jobs in the judiciary.

in the February update to 102.³⁴ See appendix III of this report for a comparison of the benchmarks revised from the 2017 anti-corruption strategy to the 2018 anti-corruption strategy, including the February 2019 update.

Although the Afghan government extended the deadlines for some benchmarks, other deadlines remain unrealistic. For example, Afghanistan's ACC, which is Afghanistan's new independent anti-corruption body, is required to issue two reports on its efforts by December 2019, but the ACC Selection Committee had not selected members for the ACC as of July 2019 and, thus, the ACC has not issued any reports. The Afghan government appears to be aware of the ambitious nature of some deadlines; the 2018 anti-corruption strategy states, "We set an ambitious agenda because we want to set stretch targets for government entities, even if we are not able to meet all of them."³⁵ However, as we highlighted in the first matter for consideration in our May 2018 report, the Afghan government may find it more prudent to set realistic deadlines that will enable the government to meet the benchmarks.³⁶ USAID echoed this suggestion in October 2018, and reported to us that the Afghan government had a difficult time setting realistic goals and benchmarks that prevent or mitigate corruption.

In addition to our concerns about establishing realistic benchmarks, international donors expressed other concerns with the content of the 2018 anti-corruption strategy. For example, officials from one international donor expressed concern to us about the difficulty of tracking benchmarks, stating that there was not enough explanation of the new benchmarks, particularly those related to the new pillar focusing on economic institutions. These officials also told us that the 2018 anti-corruption strategy is more of an "action plan" than a strategy. Officials from another donor told us that some of the benchmarks are not well thought out, and that many of the benchmarks are "output" instead of "outcome" focused. Finally, officials from a third donor expressed concerns that some benchmarks in the 2018 anti-corruption strategy conflict with Afghan law, and that the 2018 anti-corruption strategy was set up to be a "box-checking exercise."

The Afghan government's revisions of the anti-corruption strategy show some willingness to adhere to recommendations from SIGAR and international donors, and adapt anti-corruption efforts in hopes of effectively addressing implementation challenges. Revising benchmarks to make them more realistic and measurable may make them more likely to be accomplished. However, keeping ambitious deadlines could mean that the Afghan government will not meet some benchmarks on time.

The Afghan Government Met 57 of 76 Benchmarks Due by June 2019, But Concerns Remain About Unmet Benchmarks and the Need to Take Continuing Action to Achieve Intended Outcomes

We confirmed that the Afghan government met 57 of 76 benchmarks contained in the 2018 anti-corruption strategy that were due by June 2019. See appendix IV of this report for the status of the 76 benchmarks that were due by the end of June 2019.³⁷

However, for some of the 57 benchmarks, meeting a benchmark does not mean that the intended anti-corruption outcomes were achieved; in those cases, even though a benchmark was technically met, the Afghan government must take continuing action to ensure the benchmark achieves its intended outcome. For example, the Afghan government created a plan to reform the Afghan customs services, but the Afghan government must continue to update these plans on an annual basis and actually reform the customs services in order for the benchmark to

³⁴ Other changes in the February 2019 update include adding the MOF as an implementer to one benchmark, shortening the deadline for one benchmark to June 2019 from June 2020, and limiting the publication of court decisions to those that can be made public in accordance with Afghan law.

³⁵ Islamic Republic of Afghanistan, "Afghanistan National Strategy for Combatting Corruption," November 2018, p. 3.

³⁶ SIGAR, Afghanistan's Anti-Corruption Efforts, SIGAR 18-51-AR, May 2018.

³⁷ In comments to a draft of this report, the Afghan government stated that it completed 64 benchmarks. However, we have either not received supporting documentation for those additional benchmarks, are unable to conclude the benchmark is complete based on available supporting documentation, or the Afghan government is counting benchmarks due or completed beyond the June 2019 scope of our report.

have its intended outcome. In another case, the Afghan government enforced asset disclosure requirements for senior officials, which we reported as “complete” during our May 2018 assessment. However, asset disclosure requirements need to be continually enforced to help prevent corruption among senior officials.

Of the 21 benchmarks due by June 2019 that were not met, the Afghan government made progress towards some but has not yet achieved the required threshold for full completion. For example, one benchmark called for 95 percent of all Afghan National Army personnel to be registered in the Afghan biometric registration system, but as of July 2019, 92 percent were registered. In a second example, all Afghans who qualified for government pensions were supposed to be registered in a biometric system, but as of July 2019, 85 percent were registered.

Multiple stakeholders, including officials from international donor, Afghan civil society, and Afghan government organizations expressed a need for the Afghan government to follow through on its anti-corruption efforts once it met a benchmark. Officials from one international donor told us that progress has been made but the Afghan government needs to continue efforts in order to sustain that progress. Officials with the Combined Security Transition Command–Afghanistan (CSTC-A) concluded in a November 2018 meeting with us that Afghan government’s progress in making anti-corruption reforms has been uneven, stating that overall anti-corruption efforts have involved “a mixed bag of qualified, committed, unqualified, and uncommitted” actors. Afghan civil society organization officials told us in December 2018 that the major message concerning Afghanistan’s anti-corruption efforts is that “things have to change;” after 5 years of efforts, there has been minimal progress without any apparent urgency, and many of the efforts instituted are not sustainable because a new administration can undo them. Officials from one international donor stated that the Afghan government is making progress on paper, but that checking off completed benchmarks does not necessarily demonstrate real world reforms. This means that while the Afghan government may meet the stated output of each benchmark, additional work may be required to actually reduce or prevent corruption. An international donor and an Afghan civil society organization identified the following four specific areas of concern:

- 1. The Access to Information Commission.** In March 2018, the Afghan government passed its Access to Information Law and created the Access to Information Commission to oversee its implementation. The law protects the right of Afghan citizens’ access to government documents and information, and the Access to Information Commission is tasked with ensuring this goal. The Commission does this by investigating complaints from citizens who are unable to gain the information they seek from Afghanistan’s public institutions.³⁸ As of March 2019, it had decided all eight access to information cases it had received.³⁹ Although the Afghan government met the benchmark to “amend the access to information law to meet international best practices and strengthen the recently established oversight Commission on Access to Information,” and officials from the U.S. Embassy in Kabul stated that the Access to Information Law is among the most progressive in the world, the Access to Information Commission is currently under resourced.

According to the presidentially-appointed commissioners working at the Access to Information Commission, as of April 2019, the Commission was not included in the fiscal year budgeting process and lacked a permanent office. Because the fiscal year budgeting process did not include the Access to Information Commission, the Commission had to specially request funding from the Office of the President. According to Access to Information commissioners, they requested 60 million afghanis from the Office of the President, and received an allocation of 40 million afghanis, or approximately \$504,000, for this fiscal year. The commissioners told us that the lack of a formal budget impacted their ability to hire qualified staff, and that they are utilizing the 11 staff held over from when civil society organizations managed the Access to Information Commission. However, they said that they need an additional 37 staff to operate properly. Finally, as of April 2019, commissioners stated that more than 75 percent of Afghan government personnel were not aware of the Access to Information Law. Despite these challenges, the commissioners were confident that the Access to Information Commission would be successful in its

³⁸ Islamic Republic of Afghanistan, Access to Information Law, 2018.

³⁹ United Nations Assistance Mission in Afghanistan, *Afghanistan’s Fight...*, p. 72.

mission and that they would receive a formal budget and permanent office space in the next budget cycle. In its comments to a draft of this report, the Afghan government stated that it has responded to resource requests from the Access to Information Commission. The Afghan government also stated that the Commission has been assigned a permanent building, though they have not yet been able to occupy it, and that the Commission has recruited 16 staff members.

2. **Creation of multiple benchmarks for the establishment of the Palace Ombudsman.** The 2018 anti-corruption strategy divided the 2017 anti-corruption strategy benchmark for “establishing an independent palace ombudsman,” for which the President of Afghanistan signed a decree on May 12, 2018, into two separate benchmarks. These two new benchmarks appear as “create an independent Palace Ombudsman” and “appoint Palace Ombudsman.”⁴⁰ The Palace Ombudsman is supposed to hear and register high-level complaints related to activities of the Office of the President, Office of the Chief Executive, high-ranking government officials, and heads of independent institutions.⁴¹ Although the office of the Palace Ombudsman was created in 2018, with the corresponding benchmark being marked as met in our May 2018 report, the 2018 anti-corruption strategy’s benchmark to “appoint a palace ombudsman” did not come due until March 2019. The Afghan government appointed an Ombudsperson in August 2019, and we learned from a meeting with the Ombudsperson that the scope of the office’s responsibilities are still being defined.⁴² The Ombudsperson expects her office to begin operations in December 2019.
3. **The roles and responsibilities of the Deputy Attorney General for Anti-Corruption.** Officials from one international donor told us that they believe that the Deputy Attorney General for Anti-Corruption’s organization and function did not seem well thought out, as it has only added bureaucratic structure, rather than value. U.S. and international donor officials have expressed concern that some of the ACJC prosecutors who failed two polygraphs, as well as many employees from the High Office of Oversight and Anti-Corruption—an institution viewed as being ineffective by SIGAR and international donors—moved to the office of the Deputy Attorney General for Anti-Corruption. In comments on a draft of this report, the Afghan government stated that the employees from the High Office of Oversight and Anti-Corruption are protected by civil service laws, and have been evaluated and given positions based on their skills and qualifications. Additionally, according to officials from the AGO, after international donors raised concerns, all prosecutors who failed two polygraphs had to leave the office of the Deputy Attorney General for Anti-Corruption. In comments on a draft of this report, the Afghan government stated that it agreed to remove the prosecutors from sensitive positions, but did not agree to remove them entirely from the AGO.
4. **The Anti-Corruption Commission.** In September 2018, President Ghani enacted the Anti-Corruption Law through a presidential decree; it contained a provision to create an independent ACC. However, U.S. and Afghan civil society organization officials expressed concerns that the ACC will not be an independent body because the committee that selected the commissioners to oversee the ACC was composed of the Chief Justice of the Supreme Court, the Attorney General, and the Chair of the Independent Administrative Reform and Civil Service Commission, officials all appointed by the President. Following concerns from international donor and Afghan civil society officials about the independence of the selection process, the Afghan government changed the Anti-Corruption Law in March 2019 to expand the selection process.⁴³ According to international donor officials, the revised selection process relieved many of their concerns about the independence of the ACC. However, the civil society organization remains concerned about the

⁴⁰ Islamic Republic of Afghanistan, “Afghanistan National Strategy for Combatting Corruption,”

⁴¹ Islamic Republic of Afghanistan, “Decree on the Establishment of an Ombudsman Office,” 2018.

⁴² In an interview with the Ombudsperson, she stated that she is calling her position “Ombudsperson” in order to keep the title gender-neutral.

⁴³ The ACC commissioner selection process now includes (1) the recommendation of 25 individuals by Afghan civil society, (2) the recommendation of 25 individuals by the Afghan government, (3) the compiling of these recommendations into a list by the Independent Administrative Reform and Civil Service Commission (4) a short listing to 15 individuals by the Independent Administrative Reform and Civil Service Commission, including at least 5 from each the government’s and civil society’s recommendations, and (4) the President then picks the final 5 commissioners.

independence of the commission, given that the President has the final say on the commissioner selection. The Afghan government stated that the delay in the appointment of commissioners resulted from a lack of cooperation by civil society organizations involved in the appointment process. In July 2019, USAID noted that although the Anti-Corruption Law legalized the formation of the ACC, the commissioners had yet to be named, and the ACC was not yet operational. In its comments on a draft of this report, the Afghan government stated that it was “hopeful” that it would appoint the commissioners soon.

While the Afghan government made some progress in completing the benchmarks contained in the 2018 anti-corruption strategy, international donors remain concerned about the difficulty of determining when a benchmark is met, as well as the need for continued efforts by the Afghan government to ensure the desired reforms are made.

THE AFGHAN GOVERNMENT MET SOME OF THE ANTI-CORRUPTION BENCHMARKS CONTAINED IN THE AFGHANISTAN COMPACT BETWEEN JUNE 2018 AND MARCH 2019

In August 2017, the U.S. and Afghan governments agreed to the Afghanistan Compact. The Compact is a mechanism for compiling the Afghan government’s commitments as time-bound benchmarks in one place to assist the U.S. and Afghan governments with monitoring progress and offering more effective recommendations for course correction. The Compact divides the commitments into four priority areas—governance, security, economic growth, and peace and reconciliation—with both the governance and security priority areas containing benchmarks related to anti-corruption. Prior to the Compact, the U.S. government used semi-annual and annual conferences to assess the Afghan government’s progress on anti-corruption reforms; now, the Compact Working Group, co-chaired by members of the Afghan government and the U.S. Embassy in Kabul, oversees the Compact’s implementation and meets at least once per month to record progress and update the benchmarks.

The Compact Working Group requires both Afghan and U.S. representatives to agree in order for a benchmark to be included in the Compact, marked as met, or removed. According to State, there is neither an enforcement mechanism for missed benchmarks nor a specific benefit—apart from taking a step that may help prevent corrupt actors or activities—for met benchmarks. However, the Compact reports Afghan progress toward strategic goals and helps provide some accountability for U.S. taxpayer money because it provides additional oversight on Afghan government efforts to combat corruption.

Because the Compact is not a public document and can be revised from month to month, we do not discuss its specific benchmarks in this report. However, we found that the Compact contains anti-corruption benchmarks addressing legislation, prosecuting corruption cases, and other reforms. Further, our analysis of the Compact benchmarks found that there is substantial overlap between the benchmarks in Afghanistan’s 2018 anti-corruption strategy and the benchmarks in the Compact, though there are anti-corruption benchmarks in each document that are not in the other. Because of this overlap, we found that the concern that the anti-corruption strategy benchmarks are more “output” than “outcome”-focused from international donor officials could also be applicable to Compact benchmarks.

State has acknowledged that it does not keep a running tally of Compact benchmarks that the Afghan government has met, but our analysis shows that between June 2018 and March 2019, the Afghan and U.S. governments removed 13 anti-corruption related benchmarks from the Compact, while 19 anti-corruption related benchmarks remain. According to State officials, benchmarks are removed from the Compact only when the U.S. and Afghan representatives agree that the Afghan government has met the benchmark. For example, State officials said that the Afghan government has passed laws because of the Compact, and that the Compact has been used as a reason to bring corruption cases to court. However, State officials also noted that prosecutors are not pursuing all of the corruption cases mentioned in the Compact and that the Afghan government has not met all Compact benchmarks. In our review of the Compact, we noted that benchmark deadlines often changed, especially as a benchmark deadline drew near.

State officials said that in general, the Compact has proven somewhat effective and that the Afghan government is following through on some Compact benchmarks. Furthermore, one State official said that the Afghan government is invested in the Compact benchmarks because the Afghans developed the benchmarks alongside the U.S. government. However, those State officials and one senior Afghan official also expressed frustration because the Compact created additional workload. The State officials were also frustrated that the Compact does not have any enforcement requirements. Despite this, State officials said the Compact is a useful tool to (1) hold the Afghan government accountable, (2) have the Afghan government hold itself accountable, (3) divide large goals into discrete tasks, (4) provide regular, high-level contact between Afghan and U.S. officials, and (5) monitor anti-corruption commitments. Afghan officials also stated that the Compact continues to be a useful tool.

THE AFGHAN GOVERNMENT HAS MADE PROGRESS TOWARD ADDRESSING SIGAR'S 2018 MATTERS FOR CONSIDERATION, BUT CONCERNS FOUND IN SIGAR'S 2018 AUDIT REPORT REMAIN

Although the Afghan government has made progress with its anti-corruption strategy and overall efforts to combat corruption, many of the concerns highlighted in our May 2018 audit report still remain. Our May 2018 audit report included six matters for consideration. The Afghan government concurred with four of the matters, partially concurred with one, and did not concur with another.⁴⁴ Since May 2018, the Afghan government has taken steps to address all six matters for consideration, including the one matter with which it did not concur. Our May 2018 report also highlighted concerns raised by the U.S. and international donor organizations regarding resources for anti-corruption institutions, capacity shortfalls at anti-corruption institutions, disagreements and institutional conflict among its anti-corruption institutions, and impunity of powerful Afghans who are able to avoid arrest and prosecution within the Afghan justice system. The Afghan government has made some progress addressing these concerns, but significant obstacles remain.

The Afghan Government Has Made Progress on Implementing the Matters for Consideration Contained in Our May 2018 Audit Report

Our May 2018 audit report included six matters for consideration for the Afghan government. The government has made progress in addressing all six, as discussed below:

- 1. Revising the anti-corruption strategy to tie each goal to a precisely-defined benchmark with a realistic deadline, and developing mechanisms to incorporate ministry and civil society feedback during this process.** The Afghan government concurred with this matter and revised its anti-corruption strategy in December 2018 and February 2019. The Afghan government met with representatives from ministries and civil society to discuss changes to the anti-corruption strategy. The Afghan government also received feedback on the strategy from international donor organizations, including the U.S. However, some officials from Afghan civil society and government said that they were not adequately consulted during the strategy's revision.⁴⁵
- 2. Establishing independent anti-corruption organizations in accordance with the UNCAC.** The Afghan government did not concur with this matter, responding to our May 2018 report that "Afghanistan has already attempted to create various independent anti-corruption agencies, including the [HCLAC]."⁴⁶ The Afghan government stressed that "if a new body is not embedded within a strong larger institution...it

⁴⁴ SIGAR, Afghanistan's Anti-Corruption Efforts, SIGAR 18-51-AR, May 2018.

⁴⁵ United Nations Assistance Mission in Afghanistan, *Afghanistan's Fight...*, p. 16.

⁴⁶ SIGAR, Afghanistan's Anti-Corruption Efforts, SIGAR 18-51-AR, May 2018, p 71.

typically will not succeed.”⁴⁷ Furthermore, as of the publication of the May 2018 report, it was the Afghan government’s belief that the “Attorney General’s Office (AGO), as an independent office, is the best location for anti-corruption activities.”⁴⁸ As discussed elsewhere in this report, the Afghan government began efforts to create an independent organization in accordance with the UNCAC through the codification of the Anti-Corruption Commission in its Anti-Corruption Law. The ACC is designated as the lead organization to monitor and report on the implementation of the anti-corruption strategy. However, although the ACC has been legally created, its commissioners have not been selected and it has not issued any reports on the anti-corruption strategy’s implementation. As previously mentioned in this report, the Afghan government stated that the delay in the appointment of commissioners resulted from a lack of cooperation by civil society organizations involved in the appointment process. The Afghan government stated that it is “hopeful” that commissioners would be appointed soon.

3. **Adding the MOD to the list of “priority ministries” required to submit an anti-corruption action plan for the HCLAC’s review.** The Afghan government concurred with this matter and listed the MOD as a “key” ministry on the Special Anti-Corruption Secretariat’s website, subjecting it to the enhanced scrutiny of the priority ministries outlined in the 2017 anti-corruption strategy.
4. **Clarifying which government entity or entities will take over High Office of Oversight and Anti-Corruption’s education and public awareness responsibilities.** The Afghan government concurred with this matter. The Afghan government stated that it resolved this matter on March 6, 2018, when it abolished the High Office of Oversight and Anti-Corruption and transferred some of its functions to the Deputy AGO for Anti-Corruption. As of the issuance of our May 2018 report, the Afghan government had not transferred public education and awareness raising responsibilities to another office. However, the Afghan anti-corruption law stipulates that the ACC, which as of August 2019 was not operational, will take on these responsibilities.
5. **Providing the necessary resources and specialized staff, as well as the training that such staff may require to carry out their functions, to key anti-corruption entities in accordance with the UNCAC.** The Afghan government partially concurred with this matter. The Afghan government stated that while its anti-corruption institutions should be granted the necessary resources and specialized staff they require, it also believes that the institutions are already secure, well-trained, and well-resourced. As discussed later in this report, officials at the ACJC and the MCTF stated that the Afghan government provided additional resources, but ACJC officials acknowledged that resource gaps remain.
6. **Conducting a second round of polygraph tests, and annual follow-up rounds thereafter, for Anti-Corruption Justice Center and Major Crimes Task Force personnel, and taking appropriate action against individuals who fail their tests.** The Afghan government concurred with this matter and conducted a second round of polygraph tests in July and August 2018. Following the second round of polygraph tests, the Afghan government removed 15 ACJC prosecutors and 8 MCTF personnel as a result of the failed polygraphs. Furthermore, in December 2018 officials from the AGO stated that they would like additional rounds of polygraphs to be conducted, but that they needed U.S. assistance to do so.

Taken together, the Afghan government has made progress in addressing all six matters for consideration. Our work shows that the Afghan government has taken steps that met the intent of five of the six matters for consideration contained in our prior audit. Specifically, as is detailed later in this report, the Afghan government has not yet fully provided the necessary resource and specialized staff to key anti-corruption entities. While we consider matters for consideration 2 and 4 to be met, the Afghan government must ensure that the ACC is operational before it can take over the responsibilities highlighted in those matters. Additionally, while we consider matter for consideration 6 to be met, the Afghan government must continue regular polygraphs of ACJC and MCTF officials in the future. The Afghan government has demonstrated progress in addressing several of the issues we

⁴⁷ SIGAR, Afghanistan’s Anti-Corruption Efforts, SIGAR 18-51-AR, May 2018, p 71.

⁴⁸ SIGAR, Afghanistan’s Anti-Corruption Efforts, SIGAR 18-51-AR, May 2018, p 74.

raised in our May 2018 audit report, but other U.S. and international donor concerns highlighted in that report remain unaddressed; those ongoing concerns from our May 2018 report are discussed later in this report.

Afghanistan's Key Anti-Corruption Institutions Continue to Experience Resource Shortfalls

Although the Afghan government and international donors have provided some additional resources since our May 2018 audit report, resource constraints continued to hinder operations at the MCTF, the ACJC, and the Special Secretariat. A senior MOI official told us that although the MCTF received sufficient funding from the Afghan government for its current operations, it does not have an adequate building for operations. CSTC-A officials concurred, stating that the MCTF worked in Soviet-era bunkers in Kabul, and that basic utilities at the facility are a major problem. While the official said that the task force has the support of the MOI's leadership to move to a new building soon, the official also told us about previous instances when the MOI's leadership pledged resources, but failed to deliver. For example, according to the official, the MCTF requested its own computer server from two Ministers of Interior and one Deputy Minister, who all concurred with the requests. However, those individual leaders all moved to other positions without fulfilling the requests.

MCTF operations also continued to be hindered by a lack of other resources it deemed necessary—an issue we raised in our May 2018 audit report. In February 2019, a senior MOI official said that despite additional training provided by CSTC-A regarding searching for and arresting individuals, the MCTF's personnel and weapons capacity remained the same as last year, putting the MCTF in position to perform the same as before. The official also said that the MCTF's 291-person staff (as of January 2019) was not a sufficient number to execute arrest warrants outside of Kabul. CSTC-A officials confirmed that the MCTF requested additional resources because the MCTF continues to be tasked with executing arrest warrants throughout Afghanistan. The senior MOI official also raised resource concerns related to MCTF's vehicle fleet, stating that the lack of functioning vehicles forces staff to wait until operating vehicles return from missions, hampering the institution's overall productivity. CSTC-A officials echoed this concern, stating that the number of inoperable vehicles requiring repair outnumbers the MCTF's total number of operating vehicles and that the MCTF has requested vehicles from donor nations in the past. In order to address resource issues, CSTC-A officials said that the MCTF hired new procurement staff who are recording inventory of the MCTF's assets and planning to request additional resources.

The Afghan government has made some progress in remedying resource constraints since May 2018. However, in some cases, additional resources provided by the Afghan government and international donors have raised new concerns. For example, an ACJC judge confirmed that international donors have provided armored vehicles to the ACJC to help protect prosecutors traveling between locations—a positive step.⁴⁹ However, since the donation, ACJC officials have raised concerns that a lack of fuel and maintenance for the vehicles have reduced the vehicles' utility. While ACJC officials reported continuing requests for fuel and maintenance for its fleet of donated vehicles, CSTC-A officials confirmed concerns about the allocation and use of vehicles for the MCTF. In another example, the Afghan government took the positive step of increasing the numbers of prosecutors at the ACJC and removed prosecutors who failed the two polygraphs.⁵⁰ However, these new prosecutors lack institutional knowledge, and the ACJC had a lower case output in 2018 than in 2017, as is discussed later in this report.

Finally, officials from the Special Secretariat to the HCLAC stated that it helped Afghan government ministries ensure the implementation of their anti-corruption action plans. However, these officials stated that ministries don't prioritize or pay attention to the fight against corruption and that the Special Secretariat itself doesn't have the capacity to independently verify the evidence provided by various Afghan government ministries.

⁴⁹ While it is a positive step that the ACJC personnel received the donated armored vehicles, it took more than a year from donation to delivery, an issue highlighted in our May 2018 audit report. This need was further reinforced by the July 2019 murder of an ACJC prosecutor who was using an unarmored vehicle to commute to the ACJC compound.

⁵⁰ As agreed to in the March 21, 2017, memorandum of understanding between NATO Resolute Support Mission and the AGO, if an employee fails two polygraph examinations, they will face administrative action.

Capacity Issues Cause Cases to Be Remanded for Further Investigation

International donor officials and ACJC officials both stated that ACJC judges sent back nearly all of the cases submitted to them for further investigation between May and November 2018. Specifically, ACJC judges returned 41 out of 47 cases brought before them for additional investigation during this time period. One senior ACJC official told us that the judges rejected the 41 cases without a clear reason or justification, apart from stating that there were “gaps” or “errors” in the information provided. He said that this lack of justification hampered the ACJC prosecutors’ ability to respond to the judges’ concerns. Additionally, the official told us that sometimes the judges requested information that would be difficult or impossible for the prosecutors to retrieve, such as fingerprints of individuals who live in areas outside of government control. An international donor official said that in each of the 41 returned cases, the judges should have issued a judicial order containing the reason for remanding the case. The ACJC judges, for their part, have said that insufficient evidence is the most common reason they return cases to prosecutors.

The Afghan constitution states that courts must explain the reason for every verdict and that every decision shall be made public. Additionally, the 2018 anti-corruption strategy contained two benchmarks: “publish all anti-corruption court decisions, except those decisions which are stated to not be published in the law,” and “publish online all ACJC court decisions in accordance with the provisions of the law.” The Dari version of the latter benchmark uses the Dari word “*faisala*,” which an international anti-corruption expert told us means written judgments with legal rationale. Both the Afghan Supreme Court and the AGO have published verdicts of anti-corruption cases online. However, the AGO has not published the ACJC *faisalas* online. Therefore, we conclude that the former benchmark has been met, but not the latter because the published decisions did not include complete written judgments with legal rationale. Additionally, the United Nations Assistance Mission in Afghanistan reported that the ACJC did not publish the full decisions.⁵¹

The Afghan government stated in its response to a draft of this report that it has committed to publish court verdicts in accordance with the law, and that “there is no disagreement in the legal community on this issue.” However, the Afghan government did not commit to publishing full court decisions with legal reasoning. Publication of these court decisions would bring further transparency to court cases and enable international donors to target areas in need of improvement in the legal system. Officials from an international donor stated that they attempted to obtain judges’ decisions from the Supreme Court for the ACJC, but were unable to obtain them.⁵² Without copies of the judges’ decisions, neither we nor international donor officials could determine why ACJC judges returned any individual case to the prosecutors or to the MCTF. An international anti-corruption expert noted that a comprehensive trend analysis has not been done, and without this analysis, it is not possible to advise prosecutors or investigators to correct any documentary deficiencies prior to submitting the cases to the court. The expert also stated that in a civil law system such as Afghanistan’s, judges remanding cases to prosecutors is common because judges can be more involved in the investigative process. However, international donor officials pointed to a lack of capacity and a lack of experience within Afghan anti-corruption agencies as a contributing factor. MOI officials also cited a lack of experience among investigators and insecurity while gathering information as contributing to deficiencies in cases brought before judges.

Additionally, this expert said that there is disagreement within the Afghan legal community as to whether publishing the judges’ decisions would constitute a secondary punishment as a form a public shaming. This expert told us that if the international donors pledged not to publish the judges’ decisions, it might increase the probability of donors gaining access to them. The expert was able to obtain a limited number of judicial decisions, and said that these contained sound decisions based on Afghan law. However, the expert also stated that the

⁵¹ United Nations Assistance Mission in Afghanistan, *Afghanistan’s Fight...*, p. 11

⁵² As of the conclusion of fieldwork for this report, international donors did not have access to the judicial decisions with reasoning, referred to as “*faisalas*.”

judicial decisions from the ACJC Primary Court and the ACJC Appeals Court often cited different portions of the Afghan penal code, leading to different sentencing decisions.

The U.S. Department of Justice's December 2018 report to INL provided a detailed description of problems with the Afghan justice system, stating that ACJC prosecutors blame ACJC judges for rejecting valid cases, while the judges blame the prosecutors for failing to develop the cases properly before submitting them for consideration.⁵³ The report further stated that investigators and prosecutors have been unable to finalize priority investigations, and many important corruption cases are languishing or are not pursued at all because of a lack of capacity, hyper-technical treatment of submitted cases by the courts, failure of will, inefficient bureaucracy, security concerns, and corruption.⁵⁴ Likewise, both the judges and prosecutors often blame the MCTF investigators for not providing enough evidence to prove a winnable case.⁵⁵

AGO officials said that the MCTF sometimes provided incomplete casework when concluding investigations and referring the cases to the AGO for prosecution. According to AGO officials, about half of the cases that the MCTF refers are not sufficiently researched and sometimes contain remarkable deficiencies, causing the AGO and ACJC to return cases for completion. These officials said this problem results from a lack of skill and capacity at the MCTF.⁵⁶ The AGO identified the following reasons for why it referred cases back to the MCTF:

- Many older cases from years ago have exceeded the Afghan statute of limitations.
- Collection of new documents and evidence is difficult in cases from previous years.
- Lack of communication and coordination within and between anti-corruption agencies results in cases being submitted without sufficient evidence.
- Evidence has been destroyed due to war or natural disasters.
- Insecurity in the areas where incidents took place prevents investigation.
- The accused has died or disappeared.
- Suspects have fled to insecure provinces.

AGO officials said if the MCTF increased its capacity, then the MCTF could provide better quality work to prosecutors, a statement with which the senior MOI official agreed. Despite the capacity issues, CSTC-A officials said that the investigative skills of MCTF's employees has improved over time. CSTC-A officials said the MCTF completed and handed over the investigators' evidence packets to the ACJC or AGO, and that the packets are sufficient to prosecute suspects. However, without adequate capacity, the Afghan anti-corruption and law enforcement institutions have difficulty building and prosecuting cases. Without successful prosecutions, corrupt and criminal persons remain free.

Afghanistan's Anti-Corruption Institutions Continue to Experience Conflict and Disagreement

Similar to our findings in May 2018, we once again found that Afghanistan's anti-corruption institutions continue to disagree over important functions.⁵⁷ For example, the ACJC and the MCTF have argued over which entity is responsible for inputting cases into CMS, the database used by the Afghan government to track criminal proceedings. An ACJC official told us that its prosecutors should not register cases into CMS on the MCTF's behalf. As mentioned elsewhere in this report, the Afghan government stated that prosecutors will not take cases unless they have been entered into CMS by investigative agencies. In its comments on a draft of this report, the Afghan

⁵³ U.S. Department of Justice, *Quarterly Report to INL: Fourth Quarter FY 2018* (October 2018–December 2018), p. 10.

⁵⁴ U.S. Department of Justice, *Quarterly Report to INL*, p. 10.

⁵⁵ U.S. Department of Justice, *Quarterly Report to INL*, p. 10.

⁵⁶ Article 80 of Afghanistan's Criminal Proceeding Law states what data the detecting agencies must collect. Article 89 of Afghanistan's Criminal Proceeding Law states that if all data points are not collected, the investigating agency should return the case to the detecting agency.

⁵⁷ SIGAR, Afghanistan's Anti-Corruption Efforts, SIGAR 18-51-AR, May 2018.

government acknowledged that “this problem [ACJC prosecutors taking cases not entered into CMS] may have existed before the recent reforms of MCTF as capacity to input within MCTF was low.” Also in response to our draft report, CSTC-A noted that it has seen improved consistency in the use of CMS.

Similarly, officials from the ACJC and MCTF disagreed over the apportionment of human resources between the two institutions. ACJC officials told us that MCTF investigators should be assigned to be physically present at the ACJC. CSTC-A officials said that MCTF investigators were previously assigned to the ACJC, but ACJC management gave them administrative tasks to perform instead of tasks to assist with investigations. According to CSTC-A officials, as a result, the MCTF Executive Director recalled the MCTF investigators who were assigned to the ACJC. As of February 2019, CSTC-A officials reported that no MCTF investigators were assigned to work exclusively at the ACJC.

We also found that the AGO and the MOI continue to experience institutional conflict over important functions, as reported in our May 2018 audit report. Although AGO officials told us that the AGO and the MOI stood up a coordinating committee to increase their cooperation in executing arrest warrants, the AGO continues to blame the MOI for unexecuted warrants. AGO officials stated that the fault for not executing arrest warrants signed by the AGO lies with the detection agencies, which the officials described to us as the MOI, MCTF and the National Directorate of Security. The officials referenced Articles 92 and 98 of the Afghan Criminal Processing Law, which state that the arrest of a suspect in a criminal case is one of the legal obligations of the police force.⁵⁸

The MCTF disputes its responsibility in executing some arrest warrants. Specifically, a senior MOI official told us that the MCTF should not be responsible for executing arrest warrants that come to the ACJC from other MOI law enforcement agencies and that executing arrest warrants are not explicit in MCTF’s mandate. The official said that the MOD or MOI’s Criminal Investigative Division or the Afghan National Police should execute their own arrest warrants, not the MCTF, because the MCTF has other responsibilities, such as combatting anti-government forces. CSTC-A officials added that some signed warrants concern individuals who reside in areas not controlled by the Afghan government or that some signed arrest warrants lack the necessary detail to be acted upon. According to the senior MOI official, the resistance to executing other agencies’ arrest warrants stems from MCTF’s limited capacity, including the resource limitations previously discussed. CSTC-A officials said that no one at the MCTF is assigned to executing arrest warrants full time. Additionally, the official stated that the AGO sometimes refuses to sign warrants. When we asked if arrest warrants were unsigned or if there was a lack of capacity to execute signed warrants, CSTC-A officials said “there are deficiencies at both ends of the chain.” AGO and CSTC-A officials also acknowledged that the MCTF and the MOI have many responsibilities beyond executing arrest warrants, particularly fighting the war against insurgents.

Regardless of the cause of the institutional conflict, international donors have raised concerns about the lack of execution of arrest warrants. As of January 2019, the AGO told us that there is a list of 6,586 people with outstanding arrest warrants from the past two years, including 126 warrants or summonses from the ACJC.⁵⁹ An official at the ACJC said that the MOI is reviewing the list to determine who it will be able to arrest, and that he believes that because the ACJC and MOI have the support and assistance of the U.S. government and the international donors, they will be able to arrest all 6,586 individuals. However, the ACJC official could not provide a deadline for completing all of these arrests. In response to a draft of this report, the Afghan government stated that the MOI has arrested over 1,500 people “on the basis of these lists.”

⁵⁸ Government of the Islamic Republic of Afghanistan, Criminal Procedures Code, Presidential Decree Number 137, February 23, 2014.

⁵⁹ The AGO originally released a press statement in November 2018 stating that the number of outstanding warrants was 7,731. In a follow-up response to SIGAR, the AGO stated that the number was 6,586. In their response to this report, the Afghan government stated that 6,586 was the number of individuals with outstanding warrants, and 4,775 was the number of warrants outstanding.

Impunity of Powerful Afghans Remains a Concern

Since our May 2018 audit report, officials from the U.S. Embassy in Kabul, CSTC-A, and international donors have told us concerns about the seeming impunity of powerful actors in Afghanistan. The Afghan government has often lacked the resources and political will to arrest and prosecute powerful Afghans, and has largely focused on low-level offenders. For example, the U.S. Department of Justice's December 2018 report to INL stated that the Afghan government is slow to respond to U.S. Department of Justice and U.S. Embassy in Kabul urging to prosecute stalled corruption cases and has a poor record of prosecuting powerful and influential corrupt actors.⁶⁰ That report also stated that MOI officials said that high-ranking officials interfered with many high-level arrest warrants.⁶¹

The ACJC Prosecuted Fewer Corrupt Powerful Individuals in 2018

As stated in our May 2018 report, the nature of the crime determines whether the AGO or the ACJC handles the prosecution.⁶² Two AGO units, the Anti-Corruption Unit and the Military Anti-Corruption Unit, prosecute corruption cases valued at less than 5 million afghanis through the regular Afghan judicial system. The Afghan government refers cases valued at more than 5 million afghanis or those involving high-level officials, as defined under Afghan law, to the ACJC.⁶³ Typically, the ACJC Primary Court tries the case first; then, a case may be appealed. The Afghan judicial system allows public corruption cases to be appealed twice, first to the ACJC appeals court, then to the Afghan Supreme Court. The ACJC adjudicates cases involving high level Afghan officials, and Article 78 of the Afghan constitution states that a Special Court convenes to try a minister accused of a crime. Additionally, AGO officials told us that a joint committee of four senior officials—two from ACJC and two from the AGO—investigates any ministers accused of criminal offenses.

Although AGO officials told us that the first three months of 2019 were the most successful in the history of the ACJC, in terms of individuals prosecuted, the ACJC's output for 2018 was lower than prior years. Following the increase in individuals prosecuted in the first quarter of 2019 (when compared to the number of individuals prosecuted during the first quarter of 2018), the output of the ACJC primary court decreased. In September 2019, the United Nations reported that output of the ACJC has decreased since June 2019.⁶⁴ Our analysis of the ACJC case tracker shows that the ACJC primary court prosecuted 11 individuals in 2016, 91 individuals in 2017, 71 individuals in 2018, and 35 in the first 3 months of 2019. This is a decline of 22 percent in the number of people prosecuted at the ACJC primary court from 2017 to 2018. Additionally, the conviction rate at the ACJC primary court dropped from 86 percent in 2017 to 75 percent in 2018, before increasing to 91 percent in the first 3 months of 2019.

The U.S. Department of Justice's December 2018 report to INL noted prosecutions by the ACJC are slow in coming.⁶⁵ Furthermore, State officials told us that the ACJC is trying more cases involving low-level individuals, rather than high-level officials. As previously noted, the purpose of the ACJC is to try major corruption cases.

The Afghan Government Struggles to Arrest Powerful Afghans

Afghanistan continues failing to arrest powerful individuals. As highlighted earlier, institutional conflict between Afghanistan's law enforcement institutions can lead to unexecuted arrest warrants. In addition, CSTC-A and AGO officials told us that anti-corruption institutions often lack the political will to arrest powerful Afghans. As an

⁶⁰ U.S. Department of Justice, *Quarterly Report to INL*, p. 8.

⁶¹ U.S. Department of Justice, *Quarterly Report to INL*, p. 10.

⁶² SIGAR, Afghanistan's Anti-Corruption Efforts, SIGAR 18-51-AR, May 2018.

⁶³ Afghan law defines the commission of corruption crimes by high ranking government officials, military generals, heads of administrations and ministries in grade 1 posts, and legal persons. Islamic Republic of Afghanistan, Anti-Corruption Law, September 5, 2018.

⁶⁴ United Nations General Assembly Security Council, *The Situation in Afghanistan and its Implications for International Peace and Security*, A/73/990-S/2019/703, September 3, 2019, p. 10.

⁶⁵ U.S. Department of Justice, *Quarterly Report to INL*, p. 9.

example of this lack of interest or will in arresting high-level Afghans, the ACJC convicted Major General Paikan, a prominent police commander, of complicity in murder and misuse of authority. He was sentenced to 8 years in prison. CSTC-A personnel said that Afghan officials publically spoke of arresting Major General Paikan, such as at the Geneva Conference of November 2018, but the MOI still had not arrested him as of the date of this report. According to officials at the AGO, the AGO has sent multiple requests for updates to the MOI, but the MOI has not yet formally responded.

Additionally, prior to the Geneva Conference in 2018, the Afghan government released a list of 127 warrants and summonses to the ACJC. In April 2019, the AGO told us that only 48 were arrest warrants for individuals accused or convicted of crimes, with the remaining 79 being summonses to appear before the ACJC.⁶⁶ The Afghan government executed only 14 of the 48 warrants, and only 41 of the 79 summonses resulted in individuals appearing before the ACJC.⁶⁷ AGO, CSTC-A, and international donor officials have told us that in some cases, Afghan law enforcement agencies selectively enforce arrest warrants. International donor officials stated that the MCTF was particularly hesitant to arrest individuals who control private militias and that these cases usually required help from international organizations to plan the execution of arrest warrants with units of the specially trained General Command of Police Special Units.⁶⁸ Even with international donor assistance, the Afghan government still has difficulty executing warrants. In one example from an international donor official, the MOI attempted to execute a warrant for an individual with his own militia, but when police arrived, local villagers surrounded the police. To defuse the situation, the police did not execute the warrant.

Furthermore, officials at the AGO stated that the MOI is required to conduct its operations pursuant to the law and instructions from the AGO, but that the MOI conducts its duties and responsibilities selectively. This issue closely mirrors our May 2018 finding and ongoing concerns about interference and prosecutorial discretion at the AGO. State reported in September 2018 that

Trepidation over upsetting influential Afghan actors has significantly limited the effectiveness of the criminal justice system. The government's unwillingness to prosecute high-profile individuals and carry out arrest warrants against individuals with influence is public and obvious.⁶⁹

An Afghan official concurred, stating that the AGO has asked for the release of high-ranking defendants before the completion of the judicial process. CSTC-A officials stated that the AGO was still a "black hole" where some cases were referred, only to never be prosecuted.

AGO officials added that the lack of a sufficient national identity system, especially lack of street addresses, makes it difficult to find individual suspects in Afghanistan. CSTC-A said the Afghan government is somewhat capable of executing warrants, but noted the difficulties of serving warrants in areas of the country controlled or challenged by the Taliban. State officials agreed, and said that all MOI institutions attempt to avoid executing high-risk arrest warrants because they do not want to lose assets required to execute other responsibilities.

Immunity Practices Raise Concerns

In addition to the issues associated with arrest and prosecution, other aspects of Afghanistan's judicial system raise concerns. International donor officials told us that some high-ranking officials are investigated for corruption, only to be appointed to various governmental positions where they are effectively immune to arrest, and an MCTF

⁶⁶ According to officials at the AGO, an individual has 180 days to appear once a summons has been issued, and a summons can be re-issued three times. After 180 days, an arrest warrant can be issued for failure to appear to the summons.

⁶⁷ For the remaining arrest warrants, 17 were undergoing additional work prior to execution, and 17 were sent for extradition, as the accused was not in Afghanistan. For the remaining summonses, 2 applied to people who have died, 4 applied to people who live outside of Afghanistan, 21 have not appeared before the ACJC, 8 have had a warrant sent to their offices urging the individual to appear, and 3 are undergoing additional investigation.

⁶⁸ The General Command of Police Special Units are an elite Afghan police unit responsible for responding to high-profile attacks, conducting high-risk arrests, and crisis responses. International mentors are international experts assigned to train and work alongside Afghan officials at Afghan government institutions.

⁶⁹ State, written response to SIGAR data call, September 12, 2018.

official told us that pursuing powerful individuals in Afghanistan could cause “fractures” within society. CSTC-A officials highlighted to us the case of Mr. Ahmad Yousuf Nuristani, the former Governor of Herat and a former Chairman of the Independent Election Commission, who was accused of misuse of authority and embezzlement. He was appointed to the Meshrano Jirga, or upper house of Afghan Parliament. According to CSTC-A officials, after MCTF officers attempted to arrest Mr. Nuristani, he turned himself in to the MCTF, but was subsequently released. However, Parliament called on the Executive Director of the MCTF to issue an apology for arresting Mr. Nuristani. According to CSTC-A officials, this resulted in the MCTF’s decreased willingness to execute warrants against powerful Afghans. In May 2019, Mr. Nuristani was convicted and sentenced to 13 months in prison by the ACJC primary court *in absentia*, meaning that he did not appear for trial. While he was found guilty, he has asserted his immunity from arrest due to his appointment in the upper house of Parliament.⁷⁰

The Afghan Government Has Made Some Progress in Corruption Cases Against High-Level Afghan Officials

Despite the ongoing issues related to the arrest, prosecution, and incarceration of powerful Afghans, the U.S. Department of Justice’s December 2018 report to INL concluded that the Afghan government has made some progress in investigating and prosecuting corruption cases. The report noted that AGO officials do not appear to have caused many of the impediments to the ACJC’s effectiveness discussed previously, such as institutional disagreements and capacity issues. Rather, the report notes that other high-level officials, or the Afghan government’s failure to provide support to anti-corruption institutions, caused the impediments.⁷¹ AGO and ACJC officials agreed that the Afghan government made progress in prosecuting and convicting powerful Afghans. For example, as of April 2019, AGO officials stated that they have sent cases for five cabinet ministers to the Supreme Court.⁷² AGO officials also specifically cited the arrest and conviction of high-ranking generals and former ministers and deputy ministers as a success in their anti-corruption efforts, including the prosecution and conviction of former Minister of Communications and Information Technology Abdul Razaq Wahidi. Mr. Wahidi was accused of nepotism and embezzlement, found guilty *in absentia* by the ACJC primary court, and imprisoned in April 2019 for a 3-year prison sentence. Highlighting the challenge of prosecuting powerful Afghans, the ACJC appeals court acquitted Mr. Wahidi in July 2019.

When asked what additional help international donors could provide to the Afghan government, CSTC-A officials said that the Afghan government needs help bolstering its political will, which would be a difficult challenge. An international donor official concurred, saying that further training in roles and responsibilities could increase political will for executing warrants.

THE AFGHAN GOVERNMENT HAS MADE ADDITIONAL ANTI-CORRUPTION REFORMS, BUT CHALLENGES REMAIN

The Afghan government has advanced its anti-corruption reforms by the completion of 57 benchmarks contained in the 2018 anti-corruption strategy, increasing coordination among Afghan law enforcement institutions, increasing coordination with international law enforcement organizations, seizing illicit assets, removing ACJC and MCTF personnel who failed two polygraph examinations, and expanding the use of CMS. The U.S. Department of Justice’s December 2018 report to INL found that the impact of the Geneva donor conference and our May 2018 audit report, coupled with recent action and attention to corruption issues taken by the AGO, indicate that the Afghanistan Compact and the anti-corruption strategy may be achieving results.⁷³ Although the Afghan government has made progress in these areas, it continues to face challenges in combatting corruption. Similarly, although the Afghan government has met many benchmarks that have come due since its 2018 anti-corruption

⁷⁰ United Nations Assistance Mission in Afghanistan, *Afghanistan’s Fight...*, p. 64.

⁷¹ U.S. Department of Justice, *Quarterly Report to INL*, p. 11.

⁷² These cases involve ministers from the Ministry of Information Technology, Ministry of Mines and Petroleum, Ministry of Transport, and Ministry of Commerce and Industries.

⁷³ U.S. Department of Justice, *Quarterly Report to INL*, p. 8

strategy, the Afghan government does not have reasonable assurance that the reforms it started are lasting without continuing its anti-corruption efforts.

The Afghan Government Created the Warrant Action Group to Increase Law Enforcement Coordination, but Had Yet to See an Increase in Warrant Execution

Since our May 2018 audit report, officials from both the U.S. government and international donor officials have confirmed an increase in coordination between key Afghan anti-corruption agencies. According to CSTC-A officials, in the summer of 2018, CSTC-A, the Afghan National Police, the ACJC, and the MCTF formed the Warrant Action Group to increase coordination between Afghan law enforcement organizations and increase the pace of the execution of arrest warrants. CSTC-A officials told us that the Warrant Action Group's creation helped coordination between its members, specifically the sharing of investigative information between ACJC prosecutors and the MCTF. Separately, an international donor official who works on rule of law issues told us that the Warrant Action Group is a good example of growing coordination on anti-corruption efforts.

Although an increase in coordination among Afghan law enforcement organizations is a positive step, CSTC-A officials told us that the Warrant Action Group had not yet achieved its ultimate goal of increased execution of warrants. Despite stagnant warrant enforcement, the Warrant Action Group may be encouraging other Afghan anti-corruption organizations to better coordinate their efforts. For example, the AGO told us that it stood up a coordination committee with the MOI regarding their roles and responsibilities for executing arrest warrants. It also told us that leadership from the AGO, the MOI, and Afghanistan's judiciary meet every 15 days to coordinate and share information about arrest warrants, to complete investigations as part of the discovery process, and to address other matters involving investigations of corruption. Regardless of increased coordination amongst Afghan law enforcement agencies, according to the AGO, more than 6,500 criminal arrest warrants remained outstanding as of January 2019.

The Afghan Government Increased Coordination with International Law Enforcement Organizations, but Has Yet to Extradite Any Suspects

Since our May 2018 audit report, coordination among Afghan law enforcement organizations increased, as has coordination among Afghan law enforcement organizations and international law enforcement organizations has also increased. For example, the Afghan government has increased its cooperation with the International Criminal Police Organization (INTERPOL), working towards recovering stolen assets hidden overseas, and is working to implement mutual legal assistance treaties.

Although the increased cooperation is a positive step, many of the Afghan government's efforts are just beginning. For example, according to CSTC-A, CSTC-A has assigned one full-time advisor to mentor Afghan anti-corruption institutions on how to use INTERPOL. However, CSTC-A officials noted that Afghanistan has very few extradition treaties with other nations, and that Afghan law enforcement needs more experience and assistance in properly packaging and tracking INTERPOL referral requests. CSTC-A officials said that, none of the ACJC's INTERPOL requests have resulted in a successful extradition of suspects back to Afghanistan as of February 2019. CSTC-A officials also said that CSTC-A's INTERPOL advisor must follow-up on the ACJC's referrals to INTERPOL, because ACJC officials act as though a referral to INTERPOL is enough to close those cases.

In addition to working with INTERPOL, the Afghan government is also working on mutual legal assistance treaties with individual nations that may help Afghanistan recover stolen assets located in foreign nations. In at least one instance, the AGO is attempting to utilize mutual legal assistance treaties to recover corruption-derived assets currently located in the United Arab Emirates. International donor officials told us that these treaties could assist the Afghan government in creating extradition treaties for suspected criminals. However, one international donor official told us that international assistance may be necessary to build sufficient institutional capacity within Afghan organizations to implement the provisions of any approved treaty, such as actually recovering stolen assets or facilitating the return of suspected criminals. As an example, this official told us that some partner nations were

receiving extradition requests from the Afghan government that were written in Dari instead of the language of the recipient nation, which slowed down coordination efforts.

The Afghan Government Made Progress Recovering Stolen Assets, but Cannot Distribute the Recovered Funds

Since our May 2018 audit report, the Afghan government has continued to recover stolen assets. The Kabul Bank Receivership, the Afghan government-created entity tasked to separate the bank's deposits and performing loans from Kabul Bank, recovered \$6.62 million in cash from June 10, 2018, through June 20, 2019.⁷⁴ In 2018, State and U.S. Department of Justice officials told us about increased intra- and inter-governmental cooperation within the Afghan government and among the Afghan government and other governments, and the Afghan government reported small but concrete successes in prosecutions in the Kabul Bank case. In addition, international pressure appears to have resulted in the AGO taking steps to recover some of the stolen money. The AGO ordered the seizure of identified assets of some of the Kabul Bank debtors who have not complied with their "payback agreement," and satisfied their debt.⁷⁵ Furthermore, the Afghan government and Kabul Bank debtors have recently entered into a variety of payback agreements. Funds that are recovered are returned to Afghanistan's central bank, which had stepped in as a lender of last resort when the Kabul Bank collapsed. According to the Kabul Bank Receivership, as of June 20, 2019, the Afghan government had recovered 40 percent of the \$987 million stolen from Kabul Bank.⁷⁶

Separate from efforts to recover the assets stolen from Kabul Bank, the Afghan government established the Office of Asset Recovery under the Deputy Attorney General for Anti-Corruption in 2018. In August 2018, the Asset Recovery Working Group met for the first time at the U.S. Embassy in Kabul to discuss solutions for the legal and practical impediments to recovering stolen or criminally derived assets, and using them for law enforcement purposes.⁷⁷ This first meeting confirmed that there is no Afghan constitutional prohibition to law enforcement organizations seizing and redistributing criminally-derived assets for law enforcement use, but also found that Afghanistan does not have regulations or procedures in place for law enforcement entities to request the disbursement of recovered assets. Although both Afghan law enforcement and Asset Recovery Working Group officials acknowledge that Afghanistan does not have the regulations or procedures for law enforcement agencies to request confiscated assets, current Afghan law does allow for the seizure of criminally-derived assets. An official from the U.S. Department of Justice stated that Afghanistan's Anti-Money Laundering and Counter-Narcotics laws both contain provisions for asset forfeiture. According to U.S. Department of Justice officials, when Afghan law enforcement organizations confiscate assets, the officials deposit them into the MOF's general government account, with little or no accountability afterward by the MOF. The U.S. Department of Justice reported that the Afghan government has not found a way to redistribute assets legally within the Afghan government because current Afghan law authorizes only the seizure of assets.

In addition, international donor officials confirmed that the ACJC is beginning to utilize its asset seizure capability and has frozen bank accounts and confiscated cash following ACJC verdicts. However, these officials noted that the ACJC lacks the confidence to freeze a defendant's bank accounts before a trial. They stated that some initial bank freezing attempts could be a mentoring and training opportunity. These officials emphasized that the ACJC already has the technical capacity to seize non-cash assets, such as real estate.

⁷⁴ Fraud and embezzlement by a handful of politically connected individuals and entities nearly led to the collapse of Kabul Bank—then the country's largest commercial bank—in September 2010. The fallout from the scam necessitated an \$825 million bailout from the Afghan government (an amount equivalent to between five percent and six percent of the country's gross domestic product at the time), and was one of the largest bank thefts in the world, relative to the size of Afghanistan's economy. SIGAR, *Quarterly Report to the United States Congress*, July 31, 2019, p. 149.

⁷⁵ U.S. Department of Justice, *Quarterly Report to INL*, p. 9

⁷⁶ Kabul Bank Receivership, *Kabul Bank Recovery and Loan Portfolio Dated 20 June 2019*, p. 1.

⁷⁷ DOJ reported that members of the Afghan government, Resolute Support, international donors, and U.S. were invited to the Asset Recovery's Working Group's meetings.

U.S. Department of Justice officials stated that the Afghan government should establish a structure that allows law enforcement entities to financially benefit from seized criminally-derived assets. These officials said that if handled properly, an asset seizure program can provide substantial financial support for those entities. However, department officials cautioned that in Afghanistan's corrupt environment, safeguards for transparency and accountability need to be included in the design of asset recovery regulations. As of March 2019, the U.S. Department of Justice said that the draft asset recovery regulations are under review at the Asset Recovery Working Group and the MOJ.

The Afghan Government Removed ACJC Prosecutors and MCTF Employees Who Failed Two Polygraph Examinations

The March 21, 2017, memorandum of understanding between the AGO and the NATO Resolute Support Mission states that ACJC personnel, excluding judges, will be polygraphed to detect whether an employee has participated in illegal activity related to the disposition of cases within 6 months of their arrival at the ACJC, and again on an annual basis. As a result of the concerns we highlighted in our May 2018 audit report and our matter for consideration, Afghan and U.S. government officials confirmed that a second round of polygraph examinations tested ACJC prosecutors and MCTF investigators, and that personnel who failed the polygraph examinations for a second time had to leave the ACJC and the MCTF.⁷⁸

From July 19, 2018, to August 9, 2018, personnel from the U.S. Federal Bureau of Investigation conducted the second round of polygraph examinations on ACJC and MCTF employees. As of November 2018, CSTC-A officials stated that the MCTF personnel who failed two polygraphs were being removed in a series of tranches in order to reduce the impact of removing so many personnel. Following the polygraph examinations, Afghan government officials stated that 17 ACJC prosecutors and 35 MCTF investigators had failed a second round of polygraph examinations. In January 2019, AGO officials stated that some of the prosecutors removed from the ACJC moved to the office of the Deputy Attorney General for Anti-Corruption and to other prosecutor roles. Additionally, AGO officials stated that some of the personnel removed from the ACJC were allowed to retain their status as prosecutors and retire, as a way to preserve their retirement benefits. As of April 2019, AGO officials stated that none of the prosecutors removed from the ACJC were still with the office of the Deputy Attorney General for Anti-Corruption. The AGO official stated that the prosecutors were removed because of continued concern from international donors. However, in comments to a draft of this report, the Afghan government stated that it agreed to remove the prosecutors that failed polygraph tests from sensitive positions; it did not agree to remove those individuals entirely from the Attorney General's Office.

Since the removal of the personnel who failed both polygraph examinations, Afghan officials have said that the ACJC and the MCTF have been working to hire replacements. However, the removal of personnel who failed both polygraphs has had an unintended detrimental impact on the operations of the ACJC and MCTF. Specifically, officials at the ACJC and CSTC-A reported that the removal of so many staff from the ACJC and the MCTF had a negative impact on the capacity of the organizations. An Afghan government official told us that the removal of prosecutors impacted the ACJC's ability to prosecute cases. One international donor official stated that two of the prosecutors removed from the ACJC were among the better prosecutors at the ACJC and had been successful at prosecuting high-ranking officials. According to a United Nations Assistance Mission to Afghanistan report and U.S. Embassy officials in Kabul, the ACJC slowed its output of criminal prosecutions in the summer of 2018. Additionally, according to the AGO, the MCTF is producing inadequate work due to low capacity. CSTC-A officials confirmed that the actions against those who failed both polygraph examinations impacted the morale at the ACJC and the MCTF. The U.S. Department of Justice's December 2018 report to INL stated that the MCTF is in a state of disarray due to the removals, and that its already limited capacity is at a "low ebb."⁷⁹

⁷⁸ SIGAR, Afghanistan's Anti-Corruption Efforts, SIGAR 18-51-AR, May 2018.

⁷⁹ U.S. Department of Justice, *Quarterly Report to INL*, p. 10.

Despite the dismissal of some personnel, CSTC-A officials told us that the MCTF was able to continue its operations and improve its investigative products, but at a slower rate than if personnel had not been dismissed. Officials at the AGO stated that it recruited new staff from provincial offices based on their performance evaluations and the local office staff's recommendations, while the Independent Administrative Reform and Civil Service Commission selected personnel for other positions, such as the AGO's Director of Human Resources.

In addition, the AGO reported that in December 2018, the Executive Director of the ACJC proposed that newly appointed prosecutors be polygraphed at the beginning of their employment, thereby reducing the capacity loss if experienced prosecutors fail the polygraphs. International donor officials said that personnel at the Counter-Narcotics Justice Center, an Afghan institution tasked with investigating and prosecuting drug crimes, are polygraphed annually. The officials said that the Counter-Narcotics Justice Center polygraphs its personnel annually and experiences a much lower rate of polygraph failure among its experienced personnel than the ACJC exhibited. In April 2019, an AGO official stated that the chief prosecutor at the Counter-Narcotics Justice Center refused to be polygraphed and, as a result, was re-assigned to the ACJC, demonstrating the difficulty of implementing a consistent polygraph policy throughout the ACJC.

The Afghan Government Expanded Its Use of the Case Management System, but Implementation Remains Uneven

Since our May 2018 audit report, the U.S. Department of Justice reported that Afghan law enforcement agencies have expanded their use of CMS. In response to a draft of this report, CSTC-A stated that it has seen improved consistency in the use of CMS. Our May 2018 report noted that the inconsistent use of CMS hindered Afghan law enforcement institutions' abilities to track cases from discovery through prosecution. Officials at the AGO and the ACJC stated that they have expanded the use of CMS, and that each institution has its own terminal stations from which to operate CMS. The U.S. Department of Justice's December 2018 report to INL supported this conclusion, stating that due to pressure from the U.S. Embassy in Kabul, the U.S. Department of Justice saw a change in "tone" that appears to favor the AGO's acceptance of usage of CMS.⁸⁰ In April 2019, AGO officials stated that they were working with the Afghanistan Justice Sector Support Program to create an improved CMS, taking into account Afghan suggestions.⁸¹ In addition, the AGO holds meetings with the program and the Supreme Court on a regular basis to identify problems and ensure efficient implementation of CMS. The AGO told SIGAR that it has instructed central and provincial AGO offices not to process any cases without recording them in CMS since May 2016. The AGO stated that it does not accept cases from regional investigative agencies that are not registered in CMS. Courts also do not accept unregistered cases. The Afghan government reiterated these points in response to a draft of this report, but acknowledged that the inconsistent use of CMS by the MCTF may have been an issue in the past due to limited capacity within the MCTF. The AGO told us that it has registered 439,000 criminal cases in CMS.

Despite this progress, we found that each agency displayed various levels of CMS familiarity and utilization. For example, officials from the ACJC said that their prosecutors register cases into CMS on behalf of the MCTF. ACJC officials said that because the MCTF does not enter any of its corruption cases into CMS, the ACJC is doing the MCTF's work by entering its data into CMS. These same officials said that INL gave the ACJC training on CMS, and these officials suggested the MCTF also needs this training. AGO officials stated that the AGO is the only institution with staff dedicated to operating CMS, as its Kabul and provincial offices hired 101 CMS data entry staff during 2018. However, INL told us that both the Afghan Supreme Court and the MOJ also have personnel dedicated to operating CMS.

⁸⁰ U.S. Department of Justice, *Quarterly Report to INL*, p. 9.

⁸¹ The Justice Sector Support Program is a State funded program to support organizational capacity building, legislative drafting, and case management development for Afghan justice institutions, and works with the Ministry of Justice, Supreme Court, AGO, and Ministry of Women's Affairs, as well as other groups on criminal law reform. See Tetra Tech, *Afghanistan Justice Sector Support Program*, accessed May 2019, <https://www.tetratech.com/en/projects/afghanistan-justice-sector-support-program>.

The Afghan Parliament Passed Two Anti-Corruption Plans, but Both Were Criticized for Their Limited Scope

As noted in our May 2018 audit report, U.S., international donor, and Afghan officials all expressed concern about the Afghan Parliament's willingness to pass new laws or amend existing laws to enable anti-corruption reforms.⁸² International donor officials also stated that Parliament hindered reforms because individual members have or are engaged in varying levels of corrupt activities. In 2018, the Anti-Corruption Strategy included benchmarks for both the Wolesi Jirga and Meshrano Jirga—the lower and upper houses of Afghan Parliament, respectively—to submit anti-corruption plans. In response, both houses created anti-corruption plans that year. However, according to the United Nations Assistance Mission in Afghanistan's May 2019 anti-corruption report, the limited scope and single year timeframe of the anti-corruption plans diminished their impact.⁸³ The report also noted Parliament had not produced much anti-corruption related legislation.⁸⁴

CONCLUSION

We found that the Afghan government has made progress in meeting its anti-corruption strategy benchmarks since May 2018, but that serious challenges remain to fighting corruption including resource shortfalls at anti-corruption institutions, the impunity of powerful individuals, and declining activity at the corruption courts. The Afghan government made commitments to both the international donor community and to its own people to fight corruption; to date it has delivered on some of these commitments. Although the Afghan government has met many benchmarks that have come due in its 2018 anti-corruption strategy, the government does not have reasonable assurance that the reforms it started are sustained without demonstrating stronger political will.

While the use of benchmarks in the Afghan anti-corruption strategy and the Afghanistan Compact are one tool for measuring the Afghan government's efforts to combat corruption, simply meeting one of these benchmarks does not necessarily mean a corresponding reduction in corrupt activities. Too often, the work to meet anti-corruption commitments stops once a benchmark has been met, and the necessary follow through to achieve long-lasting reforms is lacking, often due to the limited financial and human capital resourcing, an absence of political will, and unclear jurisdictional responsibilities among Afghanistan's anti-corruption institutions.

The Afghan government can demonstrate a powerful commitment to combatting corruption by providing additional resources to its anti-corruption law enforcement agencies and reducing the legal and de facto immunity of powerful individuals, allowing them to increase the arrests and prosecutions of corrupt individuals. Similarly, by continuing the polygraphs of personnel at the ACJC and MCTF, and publishing all anti-corruption court decisions in accordance with Afghan law, the Afghan government can demonstrate to the Afghan people that the judicial system is working to reduce corruption within its own ranks and increase its transparency. Better coordination between Afghan law enforcement organizations and international law enforcement can increase the number of extraditions to Afghanistan and increase the recovery of funds stolen from Kabul Bank. Together, this would demonstrate that even those who flee Afghanistan will face Afghan justice. The Afghan government can also demonstrate institutional political will by taking action to allow for the distribution of seized criminally-derived assets and continuing the implementation of the Case Management System. These efforts would help demonstrate that Afghanistan's government institutions are responsive to the needs of a changing environment and international best practices.

With increased resources and political backing, Afghanistan's anti-corruption institutions can move beyond simply meeting benchmarks to making transformative anti-corruption changes, increased arrests and prosecution, and an

⁸² SIGAR, Afghanistan's Anti-Corruption Efforts, SIGAR 18-51-AR, May 2018.

⁸³ United Nations Assistance Mission in Afghanistan, *Afghanistan's Fight ...*, p. 63.

⁸⁴ United Nations Assistance Mission in Afghanistan, *Afghanistan's Fight ...*, p. 61.

end to the impunity of powerful individuals. Until the Afghan government can sustain comprehensive anti-corruption efforts, Afghans will continue to view their country as corrupt, and nefarious, powerful Afghans will remain free.

MATTERS FOR CONSIDERATION FOR THE AFGHAN GOVERNMENT

To improve its implementation of the “Afghanistan National Strategy for Combatting Corruption” and other anti-corruption efforts, the Afghan government should consider

- 1. Increasing the resources provided to anti-corruption law enforcement organizations such as the AGO, ACJC, and MCTF, to provide them with the ability to increase the number of arrests and prosecutions of corrupt individuals;**
- 2. Taking action to reduce the legal and de facto immunity of powerful individuals;**
- 3. Continuing to polygraph personnel at the ACJC and the MCTF on a regular basis and increasing efforts to eliminate lost productivity from the dismissal of personnel who fail the polygraph examinations.**
- 4. Making public all anti-corruption court decisions in accordance with Afghan law.**
- 5. Increasing coordination and cooperation between Afghan law enforcement organizations and international law enforcement organizations.**
- 6. Increasing efforts to recover assets stolen from Kabul Bank and returning the funds to the Afghan Central Bank.**
- 7. Taking actions that allow for the distribution of criminally derived assets to government organizations.**
- 8. Continuing to implement the Case Management System and ensuring its systematic use among Afghan law enforcement organizations.**

AFGHAN GOVERNMENT AND U.S. AGENCY COMMENTS

We received written comments on a draft of this report from the Afghan government, the U.S. Embassy in Kabul and USAID, as well as from CSTC-A. Those comments from are reproduced as appendices V, VI, and VII, respectively. Additionally, we received technical comments from the Office of the Undersecretary of Defense for Policy, which we incorporated into the report as appropriate. The U.S. Embassy in Kabul, USAID, and CSTC-A did not comment on the matters for consideration. The Afghan government generally concurred with all eight matters for consideration. The Afghan government also raised nine points of disagreement with the report. We considered the Afghan government's responses and updated the report, as appropriate.

In its comments, the Afghan government raised nine points of disagreement with the report and generally concurred with each of the eight matters for consideration. These points of disagreement included concerns with the revision of the anti-corruption strategy, the resourcing of the Anti-Corruption Commission, the appointment of a Palace Ombudsman, concerns with the office of the Deputy Attorney General for Anti-Corruption, the publication of court verdicts, the use of the Case Management System, the number of arrest warrants compared to the number of people to be arrested, the use of Dari in extradition requests, and the number of completed anti-corruption strategy benchmarks. Regarding the nine points of disagreement from the Afghan government, we considered and updated the report as appropriate. Additionally, we provide a response to each point of disagreement in appendix V.

Regarding the first matter for consideration, the Afghan government concurred and stated that the Special Secretariat of the HCLAC would review the "Plan of Action to Improve Prosecution and Detection," adopted in July 2019, and include specific measures to increase the number of arrests and prosecution of corrupt individuals.

Regarding the second matter for consideration, the Afghan government concurred "in principle." It asserted that "legal immunity is defined in generic terms in the report, without any specific reference to a legislative document or any detailed legal discussion." However, the Afghan government did not fully address our report's discussion of an Afghan culture of impunity, as evidenced in the decreasing prosecution numbers for the ACJC primary court, as well as various examples of powerful Afghan individuals who have avoided arrest and prosecution, such as General Paikan. Our report also cites expert analysis from partner organization such as the United Nation's Assistant Mission to Afghanistan. The operational concerns described in the United Nations Assistance Mission in Afghanistan report were clearly seen in the case of Mr. Nuristani, whose story is detailed in this report. We welcome the Afghan government's pledge to take concrete steps by March 2020 to develop standards intended to reduce legal and operational ambiguities that allow corrupt behavior to remain unaddressed. Specifically, the Afghan government committed to the following: (1) requiring the Ministry of Justice to consult with stakeholders and review laws to identify and close legal loopholes exploited by powerful individuals; (2) fully resourcing the Office of the Palace Ombudsman; and (3) ensuring the Supreme Court completes the trials of former government ministers and former election commissioners accused of corrupt behavior.

Regarding the third matter for consideration, the Afghan government concurred and stated that, in addition to regular polygraph testing of MCTF and ACJC staff, the MOI and AGO will develop a roster of prequalified staff who can replace future personnel who fail polygraph testing.

Regarding the fourth matter for consideration, the Afghan government concurred and stated that it will engage the Afghan judiciary to develop a law requiring the publication of court decisions. In addition, the Afghan government pledged that Ministry of Justice will amend the penal code to make publication of court verdicts in corruption cases mandatory. However, the Afghan government did not state whether the full court decisions, including legal reasoning, would also be made public.

Regarding the fifth matter for consideration, the Afghan government concurred and identified specific goals for the Ministry of Interior to meet by March 2020. These goals include the development of (1) a standard procedure governing how the ACJC conducts follow up for assistance requests made to INTERPOL, and (2) an internal capacity-building plan with the explicit goal of improving the submission and tracking of referrals made to INTERPOL.

Regarding the sixth matter for consideration, the Afghan government concurred and stated that it was “able to speed up the [asset] recovery process during October 2019.” However, the Afghan government did not present any new evidence to substantiate its claim. In addition, the Afghan government stated that they would “increase efforts to recover [ill-gotten gains] from other debtors and convicted individuals.” SIGAR would welcome additional concrete steps and a deadline for what the Afghan government considers as “increased efforts.”

Regarding the seventh matter for consideration, the Afghan government concurred and stated that the Afghan President’s Cabinet would pass regulations governing the disposition and distribution of recovered assets by the end of 2019. President Ghani also pledged that by June 2020, the AGO would develop standard procedures for distributing recovered assets to government agencies.

Regarding the eighth matter for consideration, the Afghan government concurred and stated that the Afghan President’s Cabinet would approve additional regulations regarding the Case Management System. In addition, the HCLAC will be responsible for monitoring the use of CMS on a quarterly basis.

The U.S. Embassy in Kabul and USAID provided joint comments to our report. The joint comments stated that the Afghan government recently introduced the Anti-Corruption Reform Accelerating Plan—a set of new anti-corruption benchmarks aimed at institutional deficiencies and transparency issues in the Afghan government. However, the Embassy and USAID stated that “the [Afghan] government’s past anti-corruption efforts have fallen short due to a lack of sustained commitment and political will.” The Embassy and USAID further stated that “this is a pivotal moment in Afghanistan’s trajectory that cannot be lost to another decade of empty promises.”

In its comments, CSTC-A stated that it “agrees with the report findings that improvements have occurred and provides additional confirmation of anti-corruption achievements.” For example, CSTC-A confirmed that the Afghan government improved consistency in the use of CMS—an issue we addressed in the report and in our eighth matter for consideration. CSTC-A also cited a purported quote from Special Inspector General Sopko’s meeting with Afghan President Ashraf Ghani in October 2019. Although, the purported quote was reported by the presidential palace and in the Afghan press, we feel it is important to clarify our position that progress thus far, while important, has not yet achieved intended outcomes. The Afghan government must continue taking meaningful action and demonstrating the political will to prevent and eliminate corruption.

APPENDIX I - SCOPE AND METHODOLOGY

This audit examined the government of Afghanistan's efforts to implement a national anti-corruption strategy, finalized in December 2017, and revised in December 2018 and February 2019. Specifically, the audit's objectives were to assess the extent to which the Afghan government (1) implemented the "Afghanistan National Strategy for Combatting Corruption" in accordance with associated benchmarks and timelines; (2) met anti-corruption benchmarks in accordance with the Afghanistan Compact; (3) addressed key concerns raised by SIGAR in its May 2018 audit report and by the international community; and (4) made progress or experienced challenges in furthering its anti-corruption reforms.

For all objectives, we interviewed officials from the Afghan government, Afghan civil society, international donor organizations, the U.S. government, and the Resolute Support Mission. We interviewed officials from Afghan government institutions, including the Supreme Court; the Anti-Corruption Justice Center; the Counternarcotic Justice Center; the Major Crimes Task Force; the Attorney General's Office; the Ministry of Justice; the Ministry of Interior Affairs; the Ministry of Defense; the Presidential Palace; and the Access to Information Commission. We also observed a meeting of the Afghan government's High Council on the Rule of Law and Anti-Corruption. We also interviewed officials from Afghan civil society organizations, specifically from Integrity Watch Afghanistan and the Afghan Independent Bar Association.

We spoke with officials from international donor organizations including the United Kingdom's Department for International Development and National Crime Agency, the Mission of the European Union, and Embassy of the Kingdom of Denmark, as well as the United Nations Assistance Mission to Afghanistan and the United Nations Office on Drugs and Crime. We also observed meetings of the United Nations Assistance Mission to Afghanistan Anti-Corruption Working Group. We interviewed officials from U.S. government institutions including the Department of State, including from the Bureau for International Law Enforcement and Narcotics; Department of Defense; United States Agency for International Development (USAID); Department of Justice; Department of the Treasury; and Combined Security Transition Command-Afghanistan.

To determine the extent to which the Afghan government implemented the "Afghanistan National Strategy for Combatting Corruption" in accordance with associated benchmarks and timelines, we reviewed documentary evidence of anti-corruption deliverables given to us by Afghan government officials. To assess the Afghan government's progress, we reviewed the government's interim and final progress reports, minutes of High Council of Rule of Law and Anti-Corruption meetings, relevant Afghan laws and decrees, and Afghan government documents published online. Finally, we interviewed officials from the organizations listed above and reviewed documents from them on the Afghan government's progress in fighting corruption. We also used information we gathered during the course of our first audit on Afghanistan's anti-corruption strategy, reviewed our May 2018 report, and built upon this information.

To determine the extent to which the Afghan government met anti-corruption benchmarks in accordance with the Afghanistan Compact, we reviewed four quarterly benchmark tracking reports written by the U.S. Embassy in Kabul's Anti-Corruption Working Group. We compared benchmarks recorded in the tracking documents with similar benchmarks from the December 2018 "Afghanistan National Strategy for Combatting Corruption." Finally, we interviewed officials from the organizations listed above to obtain their views about the Compact's design and efficacy.⁸⁵

To determine the extent to which the Afghan government addressed key concerns our May 2018 audit report and by the international community, we interviewed officials from the organizations listed above to determine the achievements and progress made by the Afghan government in implementing the matters for consideration from our May 2018 audit report. We also reviewed documents provided by the international donor organizations and the Afghan government which describe the Afghan government's progress in addressing our matters for consideration.

⁸⁵ As the Compact benchmarks are not public, we do not discuss them in this report.

To determine the extent to which the Afghan government has made progress or experienced challenges implementing anti-corruption reforms, we reviewed documentation demonstrating the achievement of anti-corruption reforms through June 2019, prosecutions and convictions achieved by the anti-corruption justice system, and roadblocks to reform. We also analyzed statistics from the Anti-Corruption Justice Center regarding anti-corruption cases and appeals. Furthermore, we received updates and reviewed documents from the Afghan government on the operating statuses of the High Council on Rule of Law and Anti-Corruption, the Attorney General's Office, the Anti-Corruption Justice Center, and the Major Crimes Task Force, and conducted with interviews with officials and stakeholders from within and outside the Afghan government, including international donors.

We relied on computer-processed data from the Afghan government to address the extent to which the Afghan government implemented the "Afghanistan National Strategy for Combatting Corruption" in accordance with associated benchmarks and timelines and the extent to which the Afghan government has made progress or experienced challenges implementing anti-corruption reforms. We assessed the reliability of the output of the ACJC data by (1) comparing it with other available supporting documents to determine data consistency and reasonableness, and (2) interviewing officials from the U.S. as well as international donors knowledgeable about the data. We determined that the data were sufficiently reliable for the purposes of this report. To assess internal controls, we analyzed the Afghan government's reporting on its achievement of anti-corruption reforms and corruption prosecutions. The results of our assessment are included in the body of the report.

This audit was conducted in accordance with the explanatory statement for the Consolidated Appropriations Act, 2018, which directed that SIGAR

in consultation with the offices of the Inspectors General of the Department of State and USAID, shall update the assessment required by the explanatory statement accompanying division J of Public Law 115-31 of the Government of Afghanistan's implementation of the "Afghanistan National Strategy for Combatting Corruption," including whether such government is making progress toward achieving its anti-corruption objectives.⁸⁶

We conducted our work in Kabul, Afghanistan, and Arlington, VA, from August 2018 through September 2019 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides that reasonable basis for our findings and conclusions based on our audit objectives. This audit was performed by SIGAR under the authority of Public Law No. 110-181, as amended, and the Inspector General Act of 1978, as amended.

⁸⁶ 164 Cong. Rec. H2851 (daily ed. March 22, 2018) (explanatory statement of the Consolidated Appropriations Act, 2018).

APPENDIX II - STATUS OF 2017 ANTI-CORRUPTION STRATEGY BENCHMARKS

In December 2017, the Afghan government approved a whole-of-government anti-corruption strategy that contained 38 benchmarks. The status of the 38 benchmarks is found in table 1.

Table 1 - Status of 2017 Anti-Corruption Strategy Benchmarks

Benchmark	Implementer	Deadline	Status (as of June 2019)
Enforce full 100 percent compliance with asset disclosures for senior officials	Office of the President	February 2018	Met
National leadership consultation of the President on anti-corruption efforts	Offices of the President and Chief Executive Officer	December 2017	Met
Empowering Laws: (1) enact a whistleblower protection law, (2) amend the access to information law to meet international best practices and strengthen the recently established Oversight Commission on Access to Information; (3) revise civil and criminal codes to seize illegally obtained assets and exclude those convicted of corruption from political office	Ministry of Justice	December 2017	Unmet
Introduce an awards program for civil servant individual and team achievements in fighting corruption	Independent Administrative Reform and Civil Service Commission	December 2017	Met
Establish an independent palace Ombudsman	Office of the President	December 2017	Met
Pass a consolidated subnational governance policy	Independent Directorate of Local Governance	February 2018	Met
Establish independent judiciary: (1) open trials, (2) community engagement, (3) independent judicial services commission	Supreme Court and Office of the President	June 2018	Unmet
Appoint a High Oversight Board to provide guidelines and audits of senior security-related appointments and promotions	National Security Council	December 2017	Met
Prepare guidelines for pilot program on public commentary on senior appointments	Ministry of Interior	June 2018	Met
Transfer Afghan National Civil Order Police and the border guards from Ministry of Interior, Ministry of Defense, with all senior commanders to undergo a full review	Ministry of Defense and Ministry of Interior	June 2018	Unmet
Expand electronic payroll to all accessible districts	Ministry of Interior	June 2018	Unmet
Defense planning, budget, and strategy: (1) publish unconditional defense strategy and a detailed defense budget, (2) publish an anti-corruption action plan for this sector	National Security Council	December 2017	Met
Complete a security sector fiduciary risk assessment	Ministry of Finance, Ministry of Interior, and Ministry of Defense	June 2018	Unmet

Include civil society inputs in the development of new governance or anti-corruption legislation and policies	Office of the President	December 2017	Met
Ghost soldiers/police: (1) develop a verification plan detailing personnel and payroll procedures, (2) develop daily attendance sign in procedures using identification numbers, (3) ensure use of fully operational electronic system to track payroll data, (4) training for internal audit and investigative powers	National Security Council	December 2017	Unmet
Oversight on secret procurement: (1) publish oversight mechanisms for confidential procurement, (2) provide parliament with detailed audit reports related to defense and security sectors	National Security Council	December 2017	Met
Revitalization of the civil service training center and curriculum, with at least 5,000 inductees taking core courses in public administration and anti-corruption	Independent Administrative Reform and Civil Service Commission	December 2018	Met
Public advertising and competitive selection for all positions	Independent Administrative Reform and Civil Service Commission	December 2017	Met
At least 5,000 superannuated or non-performing civil servants managed out or given education option packages after which they either meet performance criteria or leave the civil service	Ministry of Labor, Social Affairs, Martyrs, and the Disabled and Ministry of Higher Education	December 2018	Met
Appointments and the Stage Examinations (<i>Setazh-e-Qazaye</i>): (1) broaden the membership of the Stage committee to include vetted and independent representatives from the Legislative, Judiciary, Executive and relevant Civil Society organizations, including members of academia and foreign experts, (2) restrict appointments outside of the Stage process and ensure a transparent and competitive process	Ministry of Justice and Supreme Court	June 2018	Removed
Review anti-corruption laws and regulations	Ministry of Justice	February 2018	Met
Create an independent judicial commission to oversee and audit appointments	Office of the President	June 2018	Unmet
Consolidate all anti-corruption bodies except the Independent Joint Anti-Corruption and Evaluation Committee under the Attorney General's Office	Office of the President	December 2017	Met
Reform the offices of <i>Taqnin</i> (Legislative Drafting), <i>Huquq</i> (Legal Affairs), and <i>Qaza-e Dawlat</i> (Government Cases in the Ministry of Justice)	Ministry of Justice	June 2018	Met
Advance discussions and agreements on extradition, cross-border crime, and recovery of stolen assets.	Office of the President, Ministry of Foreign Affairs, and Attorney General's Office	June 2018	Met
Introduce at least 50 prosecutors into secure districts	Ministry of Justice	September 2018	Met
Access to Justice: (1) Improve citizen's access to justice across the country, (2) strengthen Case Management Systems in courts, including implementing safe archiving, (3) strengthening coordination within the judiciary and law enforcement organs.	Supreme Court, Attorney General's Office, Ministry of Justice, Ministry of Justice, and Police	December 2018	Met

Open trials: (1) ensure all trials are open to the public in accordance with the law, (2) Issue and enforce clear directives requiring open trials, (3) encourage community monitoring, and ensure court verdicts are made public at the local level	Supreme Court	December 2018	Unmet
Create a channel for citizens to report corrupt officials without fear of reprisals: (1) monitor complaints through a public channel and ensure that those who report corruption can see the progress of their case, and receive feedback, (2) an audits of complaints system should be publically available, (3) establish an ombudsman system (An effective complaints management system would need an ombudsman to ensure that the process was secure, transparent, and effective).	Supreme Court	December 2018	Unmet
Propose an accounting law that would set national standards for all public agencies and license auditors and accounting firms	Ministry of Finance	February 2018	Met
Full implementation of the Financial Performance Improvement Program	Ministry of Finance	December 2019	Unmet
Move the financial task force to the Attorney General's Office	Attorney General's Office	December 2017	Deemed No Longer Necessary
Amend Afghan law to require that the full text of government awards, contracts, and contract alterations must be published as a condition of their coming into force	National Procurement Authority	December 2017	Unmet
Strengthening the supreme audit office through a revision to the supreme audit law	Supreme Audit Office	June 2018	Met
Secure the required capacity and resources to build capacities of relevant officials for collecting, publishing, storing, accessing, and sharing contract data and execution of a transparent public procurement system	National Procurement Authority	December 2017	Met
Implement the Addis Tax Initiative and the Common Reporting Standard, to ensure better tax revenue transparency and accountability	Ministry of Finance	December 2017	Unmet
Customs Reform and Transparency: (1) reform the customs services in line with principles of the Arusha Declaration of the World Customs Organization, (2) advertise the rates and procedures at the borders and inland custom depots, on website or through public service.	Ministry of Finance	February 2018	Unmet
Fulfill the World Trade Organization transparency by enacting and implementing legislation, regulations, and practices mandated in the World Trade Organization Accession Package	Ministry of Commerce and Industries	December 2018	Unmet

Source: SIGAR analysis of documents provided by the Special Secretariat to the High Council on Rule of Law and Anti-Corruption

APPENDIX III - COMPARISON OF 2017 ANTI-CORRUPTION STRATEGY BENCHMARKS TO UPDATED ANTI-CORRUPTION STRATEGY BENCHMARKS

In December 2018 and again in February 2019, the Afghan government updated the 2017 anti-corruption strategy. In doing so, the Afghan government modified many of the benchmarks in the 2017 anti-corruption strategy. A comparison of the changes to the 2017 anti-corruption strategy benchmarks is presented in table 2.

Table 2 - Comparison of 2017 Anti-Corruption Strategy Benchmarks to Updated Anti-Corruption Strategy Benchmarks

2017 Benchmark	2018 Benchmark	Change in Benchmark	Change in Implementer	Change in Deadline
National leadership consultation of the President on anti-corruption efforts	National leadership consultation of the President on anti-corruption efforts	None	None	None
Empowering Laws: (1) Enact a Whistle-blower Protection Law, (2) Amend the access to information law to meet international best practices and strengthen the recently established Oversight Commission on Access to Information; (3) Revise civil and criminal codes to seize illegally obtained assets and exclude those convicted of corruption from political office	Enact Whistle Blower Protection Law	Separated into three benchmarks	None	Deadline extended 1 year
	Amend the Access to Information Law to meet international best practices and strengthen the recently established Oversight Commission on Access to Information	Separated into three benchmarks	None	Deadline extended 1 year
	Revise civil and criminal codes to seize illegally obtained assets and exclude those convicted of corruption from public office	Separated into three benchmarks	None	Deadline extended 1.5 years
Introduce an awards program for civil servant individual and team achievements in fighting corruption	Introduce an awards program for civil servant individual and team achievements in fighting corruption	None	None	None
Establish an independent palace Ombudsmen	Create an independent palace ombudsman (hearing/registering high-level complaints)	Separated into two benchmarks	None	None
	Appoint palace ombudsman	Separated into two benchmarks	None	Deadline extended 1.25 years
Appoint a High Oversight Board to provide guidelines and audits of senior security-related appointments and promotions	Appoint a High Oversight Board to provide guidance and audits of senior security-related appointments and promotions	None	None	None
Defense Planning, Budget and Strategy: (1) publish unconditional defense strategy and a detailed defense budget, (2) publish an anti-corruption action plan for this sector	Defense planning, budget, and strategy: (1) publish unconditional defense strategy and a detailed defense budget, (2) publish an anti-corruption action plan for this sector	None	None	None
Include civil society inputs in the development of new governance or anti-corruption legislation and policies	Include civil society inputs in the development of new governance or anti-corruption legislation and policies	None	None	None

Ghost Soldiers/Police: (1) develop a verification plan detailing personnel and payroll procedures, (2) develop daily attendance sign in procedures using identification numbers, (3) ensure use of fully operational electronic system to track payroll data, (4) training for internal audit and investigative powers	All army personnel will be recorded in the biometric registration system Afghan Personnel and Payroll System to at least the 95 percent confidence level	Benchmark reduced to only include biometric registration in the Afghan Personnel and Payroll System	Changed to Ministry of Defense	Deadline extended 1.25 years
	All police personnel will be recorded in the biometric registration system Afghan Personnel and Payroll System to at least the 95 percent confidence level	Benchmark reduced to only include biometric registration in the Afghan Personnel and Payroll System	Changed to Ministry of Interior	Deadline extended 1.5 years
Oversight on Secret Procurement: (1) publish current oversight mechanisms for confidential procurement, (2) provide parliament with detailed audit reports related to defense and security sectors	Oversight on secret procurement: (1) publish oversight mechanisms for confidential procurement, (2) provide parliament with detailed audit reports related to defense and security sectors	None	None	None
Public advertising and competitive selection for all positions	Public advertising and competitive selection for all positions	None	None	None
Consolidate all anti-corruption bodies except the Independent Joint Anti-Corruption Monitoring and Evaluation Committee (MEC) under the Attorney General's Office	Consolidate all anti-corruption bodies - except the Independent Joint Anti-Corruption and Evaluation committee (MEC) - under the Attorney General's Office	None	None	None
Move the financial crimes task force to the Attorney General's Office	Move the financial task force to the Attorney General's Office	None	None	None
Amend Afghan law to require that the full text of government awards, contracts, and contract alterations must be published as a condition of their coming into force	Amend National Procurement Authority regulations to require that the full text of government awards, contracts, and contract alterations must be published as a condition of their coming into force	Reduced to amending National Procurement Authority regulations	None	None
Secure the required capacity and resources to build capacities of relevant officials for collecting, publishing, storing, accessing, and sharing contract data and execution of a transparent public procurement system	Secure the required capacity and resources to build capacities of relevant officials for collecting, publishing, storing, accessing, and sharing contract data and execution of a transparent public procurement system	None	None	None
Implement the Addis Tax Initiative and the Common Reporting Standard, to ensure better tax revenue transparency and accountability	Obtain Addis Tax Initiative membership	Reduced to obtaining Addis Tax Initiative membership	None	Deadline extended 1 year
Enforce full 100 percent compliance with asset disclosure requirements for senior officials	Enforce full 100 percent compliance with asset disclosure requirements for senior officials	None	None	None
Pass a consolidated subnational governance policy	Pass a consolidated subnational governance policy	None	None	None

Review anti-corruption laws and regulations	Review anti-corruption laws and regulations	None	None	None
Propose an accounting law that would set national standards for all public agencies and license auditors and accounting firms	Propose an accounting law that would set national standards for all public agencies and license auditors and accounting firms	None	None	None
Customs Reform and Transparency: (1) reform the customs services in line with principles of the Arusha Declaration of the World Customs Organization, (2) advertise the rates and procedures at the borders and inland custom depots, on website or through public service	Make annual implementation plans to reform the custom services in line with principles of the Arusha Declaration of the World Customs Organization	Separated into two benchmarks	None	Deadline extended 10 months
	Advertise the rates and procedures at the borders and inland custom depots on website	Separated into two benchmarks	None	Deadline extended 10 months
Establish Independent Judiciary: (1) open trials, (2) community engagement, (3) independent judicial services commission	No comparable benchmark	No comparable benchmark	No comparable benchmark	No comparable benchmark
Prepare guidelines for pilot program on public commentary on senior appointments	No comparable benchmark	No comparable benchmark	No comparable benchmark	No comparable benchmark
Transfer Afghan National Civil Order Police and the border guards from Interior to the Defense Ministry, with all senior commanders to undergo full review	Transfer Afghan National Civil Order Police and the border guards from Ministry of Interior to Ministry of Defense, with all senior commanders to undergo a full review	None	Expanded to include MOI	None
Expand electronic payroll to all accessible districts	MOD and MOI personnel must be paid through the banking system or through mobile money (to 90 percent confidence level)	Benchmark made more specific	Expanded to include MOD	Deadline extended 1.5 years
Complete a security sector fiduciary risk assessment	No comparable benchmark	No comparable benchmark	No comparable benchmark	No comparable benchmark
Appointments and the Stage Examinations (<i>Setazh-e-Qazaye</i>): (1) broaden the membership of the Stage Committee to include vetted and independent representatives from the Legislative, Judiciary, Executive and relevant civil society organizations, including members of academia and foreign experts, (2) restrict appointments outside of the Stage process and ensure a transparent and competitive process	Broaden the membership of the stage committee to include vetted and independent representatives from Legislative, Judiciary, Executive and relevant civil society organizations, including member of academia and foreign experts	Part 2 of benchmark was removed in February 2019 anti-corruption strategy update	Transferred to Supreme Court	Deadline extended 11 months
Create an independent judicial commission to oversee and audit appointments	No comparable benchmark	No comparable benchmark	No comparable benchmark	No comparable benchmark
Reform the offices of <i>Taqnin</i> (Legislative Drafting), <i>Huquq</i> (Legal Affairs), and	Prepare a plan of action to reform the office of <i>Taqnin</i> (Legislative Drafting)	Separated into three benchmarks	None	Deadline extended 8 months

Qaza-e Dawlat (Government Cases in the Ministry of Justice)	Prepare a plan of action to reform the office of <i>Huquq</i> (Legal Affairs)	Separated into three benchmarks	None	Deadline extended 9 months
	Prepare a plan of action to reform Directorate of <i>Qaza-e-Dawlat</i> (Government Cases in Ministry of Justice)	Separated into three benchmarks	None	Deadline extended 1 year
Advance discussions and agreements on extradition, cross-border crime, and recovery of stolen assets	Advance discussions and agreements on extradition and cross-border crime	Separated into two benchmarks	Expanded to include law enforcement organizations	Deadline extended 9 months
	Advance discussions and agreements on recovery of illegally obtained assets	Separated into two benchmarks	Expanded to include law enforcement organizations	Deadline extended 1 year
Strengthening the Supreme Audit Office through a revision to the Supreme Audit Law.	Strengthening the Supreme Audit Office through a revision to the supreme audit law	None	None	Deadline extended 6 months
Introduce at least 50 prosecutors into secure districts	AGO to identify insecure districts without prosecutors and introduce at least 40 prosecutors in those districts	Separated into two benchmarks and goal changed	None	Deadline extended 3 months
	AGO to identify insecure districts without prosecutors and introduce at least 20 additional prosecutors in those districts	Separated into two benchmarks and goal changed	None	Deadline extended 9 months
Revitalization of the civil service training center and curriculum, with at least 5,000 inductees taking core courses in public administration and anti-corruption	Revitalization of the civil service training center to provide various courses in public administration and anti-corruption issues to at least 4,000 inductees	Benchmark reduced from 5,000 to 4,000	None	Deadline extended 6 months
At least 5,000 superannuated or non-performing civil servants managed out or given education option packages after which they either meet performance criteria or leave the civil service	At least 5,000 superannuated of non-performing civil servants managed out of or given education option packages after which they either meet performance criteria or leave the civil service	None	Changed to Independent Administrative Reform and Civil Service Commission	Deadline extended 8 months
Access to Justice: (1) improve citizens' access to justice across the country, (2) strengthen Case Management Systems in courts, including implementing safe archiving, (3) strengthening coordination within the judiciary and law enforcement organs	Strengthen Case Management System in courts including implementing safe archiving	Reduced to strengthening the Case Management System	None	None
Open trials: (1) ensure all trials are open to the public in accordance with the law, (2) issue and enforce clear directives requiring open trials, (3) encourage community monitoring, and ensure court verdicts are made public at the local level	Order all courts to make sure all their trials are held open to public, except if stated in law that trial must be private	Reduced to ordering all trials be open to the public	None	Deadline extended 6 months

<p>Create a channel for citizens to report corrupt officials without fear of reprisals: (1) monitor complaints through a public channel and ensure that those who report corruption can see the progress of their case, and receive feedback, (2) an audits of complaints system should be publically available, (3) establish an ombudsman system. (An effective complaints management system would need an ombudsman to ensure that the process was secure, transparent, and effective)</p>	<p>Establishing a complaints hearing committee</p>	<p>Reduced to establishing a complaints hearing committee</p>	<p>None</p>	<p>None</p>
<p>Fulfill the World Trade Organization transparency by enacting and implementing legislation, regulations, and practices mandated in the WTO Accession Package.</p>	<p>Afghanistan to join WTO</p>	<p>Reduced to joining World Trade Organization</p>	<p>None</p>	<p>Deadline reduced by 1 year</p>
<p>Full implementation of the Financial Performance Improvement Program</p>	<p>No comparable benchmark</p>	<p>No comparable benchmark</p>	<p>No comparable benchmark</p>	<p>No comparable benchmark</p>

Source: SIGAR analysis of documents provided by the Special Secretariat to the High Council on Rule of Law and Anti-Corruption

APPENDIX IV - STATUS OF 2018 ANTI-CORRUPTION STRATEGY BENCHMARKS

In December 2018 and February 2019, the Afghan government released revised versions of its whole-of-government anti-corruption strategy. The February 2019 update contained 102 benchmarks, 76 of which were due by the end of June 2019. The status of the benchmarks is presented in table 3.

Table 3 - Status of 2018 Anti-Corruption Strategy Benchmarks as of July 2019

Benchmark	Implementer	Deadline	Status (as of June 2019)
Creation of National Procurement Authority and National Procurement Commission	National Procurement Authority	December 2016	Met
Establish High Council on Rule of Law and Anti-Corruption (Anti-Corruption policymaking)	Presidential Palace	December 2017	Met
Create an independent palace ombudsman (hearing/registering high-level complaints)	Presidential Palace	December 2017	Met
Consolidate all anti-corruption bodies, except the Independent Joint Anti-Corruption and Evaluation Committee, under the Attorney General's Office	Presidential Palace	December 2017	Met
National leadership consultation of the President on anti-corruption efforts	Presidential Palace	December 2017	Met
Include civil society inputs in the development of new governance or anti-corruption legislation and policies	Presidential Palace	December 2017	Met
Appoint a High Oversight Board to provide guidance and audits of senior security-related appointments and promotions	National Security Council	December 2017	Met
Defense planning, budget, and strategy: (1) publish unconditional defense strategy and a detailed defense budget, (2) publish an anti-corruption action plan for this sector	National Security Council	December 2017	Met
Oversight on secret procurement: (1) publish oversight mechanisms for confidential procurement, (2) provide parliament with detailed audit reports related to defense and security sectors	National Security Council	December 2017	Met
Public advertising and competitive selection for all positions	Independent Administrative Reform and Civil Service Commission	December 2017	Met
Introduce an awards program for civil servant individual and team achievements in fighting corruption	Independent Administrative Reform and Civil Service Commission	December 2017	Met
Move the financial task force to the Attorney General's Office	Attorney General's Office	December 2017	Deemed No Longer Necessary
Afghanistan to join World Trade Organization	Ministry of Industry and Commerce	December 2017	Met

Secure the required capacity and resources to build capacities of relevant officials for collecting, publishing, storing, accessing, and sharing contract data and execution of a transparent public procurement system	National Procurement Authority	December 2017	Met
Pass new Hydrocarbons Law that creates an independent hydrocarbons regulatory authority	Ministry of Justice	December 2017	Met
Review anti-corruption laws and regulations	Ministry of Justice	February 2018	Met
Pass a consolidated subnational governance policy	Independent Directorate of Local Governance	February 2018	Met
Propose an accounting law that would set national standards for all public agencies and license auditors and accounting firms	Ministry of Finance	February 2018	Met
Enforce full 100 percent compliance with asset disclosure requirements for senior officials	Presidential Palace	February 2018	Met
Establishment of the Anti-Corruption Justice Center (Anti-Corruption prosecutions)	Presidential Palace	June 2018	Met
Create Deputy Attorney General's Office for Anti-Corruption (Anti-Corruption investigations)	Presidential Palace	June 2018	Met
Pass Law on Responsibilities of Attorney General's Office	Ministry of Justice	June 2018	Met
Transfer Afghan National Civil Order Police and the border guards from Ministry of Interior to Ministry of Defense, with all senior commanders to undergo a full review	Ministry of Defense and Ministry of Interior	June 2018	Unmet
Pass Anti-Corruption Law	Ministry of Justice	September 2018	Met
Enact whistleblower protection law	Ministry of Justice	December 2018	Met
Amend the access to information law to meet international best practices and strengthen the recently established oversight commission on Access to information	Ministry of Justice	December 2018	Met
Internal audit shall conduct regular (every six months) project cost estimate reviews with respect to the awarded contracts	Ministry of Defense	December 2018	Met
Attorney General's Office to identify insecure districts without prosecutors and introduce at least 40 prosecutors in those districts	Attorney General's Office	December 2018	Met
Strengthen Case Management System in courts including implementing safe archiving	Supreme Court	December 2018	Met
Publish all anti-corruption court decisions, except those decisions which are stated not to be published in the law	Supreme Court	December 2018	Met
Establishing a complaints hearing committee	Supreme Court	December 2018	Unmet

Establish an internal committee to monitor AC strategy implementation, analyze processes and set new policies	Supreme Court	December 2018	Met
Attorney General's Office to publish all ACJC court decisions online	Attorney General's Office	December 2018	Unmet
Strengthening the supreme audit office through a revision to the supreme audit law	Supreme Audit Office	December 2018	Met
Afghanistan to be removed from Financial Action Task Force grey list	Da Afghanistan Breshna Sherkat	December 2018	Met
Obtain Addis Tax membership	Ministry of Finance	December 2018	Met
Make annual implementation plans to reform the custom services in line with principles of the Arusha Declaration of the World Customs Organization	Ministry of Finance	December 2018	Met
Advertise the rates and procedures at the borders and inland custom depots on website	Ministry of Finance	December 2018	Met
KBR and Asset Recovery Department to send mutual legal assistance treaties (MLAs) to begin oversea recoveries	Kabul Bank Receivership and Attorney General's Office	December 2018	Met
Pass new Minerals Law with new anti-corruption provisions, including (1) contraction publication as condition of validity, (2) publication of revenues, and (3) disclosure of beneficial ownership	Ministry of Justice	December 2018	Met
Approve organizational structure and budget of new hydrocarbons regulatory authority	Hydrocarbons Regulatory Authority	December 2018	Met
Passage of new Companies Law	Ministry of Industry and Commerce	December 2018	Met
Passage of new Insolvency Law	Ministry of Industry and Commerce	December 2018	Met
Publish statistics on number of cases in each court, conviction rates, length of time from start to resolution, number of civil trials & settlements	Supreme Court	January 2019	Unmet
Prepare a plan of action to reform the office of <i>Taqnin</i> Legislative Drafting	Ministry of Justice	February 2019	Met
Appoint palace ombudsman	Presidential Palace	March 2019	Met
All army personnel will be recorded in the biometric registration system, to at least the 95 percent confidence level	Ministry of Defense	March 2019	Unmet
Prepare a plan of action to reform the Office of <i>Huquq</i> (Legal Affairs)	Ministry of Justice	March 2019	Met
Advance discussions and agreements on extradition and cross-border crime	Presidential Palace, Ministry of Foreign Affairs, Attorney General's Office, Ministry of Justice, Supreme Court	March 2019	Met

Appoint the members of the Anti-Corruption Commission	Presidential Palace	March 2019	Unmet
Passage of Beneficiary Ownership Law or Regulations	Ministry of Justice and Ministry of Industry and Commerce	March 2019	Unmet
Revise civil and criminal codes to seize illegally obtained assets and exclude those convicted of corruption from public office	Ministry of Justice	June 2019	Unmet
All police personnel will be recorded in the biometric registration system, to at least the 95 percent confidence level	Ministry of Interior	June 2019	Met
Amend National Procurement Authority regulations to require that the full text of government awards, contracts, and contract alterations must be published as a condition of their coming into force	National Procurement Authority	June 2019	Unmet
Broaden the membership of the stage committee to include vetted and independent representatives from Legislative, Judiciary, Executive and relevant Civil Society organizations, including member of academia and foreign experts	Supreme Court	June 2019	Met
Prepare a plan of action to reform Directorate of <i>Qaza-e-Dawlat</i> (Government Cases in Ministry of Justice)	Ministry of Justice	June 2019	Met
Advance discussions and agreements on recovery of illegally obtained assets	Presidential Palace, Ministry of Foreign Affairs, Attorney General's Office, Ministry of Justice, Supreme Court	June 2019	Met
Attorney General's Office to identify insecure districts without prosecutors and introduce at least 20 additional prosecutors in those districts	Attorney General's Office	June 2019	Met
Revitalization of the civil service training center to provide various courses in public administration and anti-corruption issues to at least 4,000 inductees	Independent Administrative Reform and Civil Service Commission	June 2019	Met
Order all courts to make sure all their trials are held open to public, except if stated in law that trial must be private	Supreme Court	June 2019	Unmet
Submission of 3 to 5 key anti-corruption benchmarks by all ministries and independent government organizations to Anti-Corruption Commission. Action plans must be updated every subsequent year and submitted to Anti-Corruption Commission	All ministries and independent government bodies	June 2019	Unmet
Upgrading the Army Staff Crimes Investigation Division under the direct supervision of the Minister	Ministry of Defense	June 2019	Met
Anti-corruption teaching materials to be added in the national army curriculum	Ministry of Defense	June 2019	Met
Deploy CoreIMS at Corp Level (based on internet connectivity availability)	Ministry of Interior	June 2019	Met
Full activation of Case Management System (CMS) at the Military Courts and Prosecution Section	Ministry of Defense	June 2019	Met

Create a database of martyrs and disables, arbitrarily leave of personnel, war captives and new recruitment	Ministry of Defense	June 2019	Unmet
Ministry of Labor and Social Affairs will prepare a retirement packages and education options for civil servants that must leave civil service	Ministry of Labor and Social Affairs	June 2019	Unmet
Transfer the registered asset declaration forms of successful 2018 parliamentary candidates from the Independent Election Commission to the administration for asset declaration	Independent Election Commission and Presidential Palace	June 2019	Unmet
MOLSA and MOF to complete biometric registrations of all pensioners	Ministry of Labor and Social Affairs and Ministry of Finance	June 2019	Unmet
Central Statistics Organization to conduct an anti-corruption survey at schools throughout the country	Central Statistics Organization	June 2019	Unmet
Establish audio monitoring of anti-corruption trials. Require all legal proceedings in corruption cases to be recorded to enhance transparency and ensure just application of the law	Supreme Court	June 2019	Met
Attorney General's Office to provide quarterly report to High Council on Rule of Law and Anti-Corruption on investigations, trials, convictions, and execution on warrants	Attorney General's Office	June 2019	Met
The Attorney General's Office's Anti-Corruption Unit will effectively and efficiently track, report and increase year on year the percentage of cases that move from: (1) referral to investigation; and (2) investigation to trial	Attorney General's Office	June 2019	Met
Establishment of the State-Owned Corporation (SOC) Oversight Board to ensure oversight of state-owned corporations	Ministry of Finance	June 2019	Unmet
Establishment of Minerals Technical Committee	Ministry of Mines and Petroleum	June 2019	Met
Afghanistan Central Business Registry & Intellectual Property One-Stop Shop fully implemented in Kabul	Ministry of Industry and Commerce and Afghanistan Central Business Registry and Intellectual Property	June 2019	Unmet

Source: SIGAR analysis of documents provided by the Afghan government and international organizations

APPENDIX V - COMMENTS FROM THE GOVERNMENT OF THE ISLAMIC REPUBLIC OF AFGHANISTAN



October 27, 2019

Dear Mr. Sopko,

We thank you for your recent updated review of the Afghan government's efforts to combat corruption and implement the National Anti-Corruption Strategy. As always, we greatly value the partnership that the government of the Islamic Republic of Afghanistan has developed with SIGAR over the last five years. I have described the reform context in my response to your review last year. I will highlight some of the key integrity reforms that we have been able to achieve since then before responding specifically to issues that you raised in the report.

Less than a month ago, Afghanistan witnessed the cleanest elections in recent history. Over the last year, the Afghan government has been able to build political consensus for the reform of the electoral commissions and law. We showed resolve to end the impunity for electoral crimes and provided the necessary financial and technical support as reforms were implemented. The use of biometric data with automated and integrated processes has quickly restored trust with our electoral system. Our security forces have shown tremendous sacrifice and professionalism in defeating the Taliban in their effort to disrupt elections. I have issued and enforced clear instructions to all public officials to refrain from any interference in the electoral process. As a result, last month's elections had the lowest level of electoral interference incidents as recorded by electoral bodies and independent observers.

We have continued to show our strong resolve to fight corruption. Three months ago, I appointed an Ombudswoman with impeccable reputation to address complaints and allegations of corruption against high-level public officials. After the revision of the National Anti-Corruption Strategy, 63 public agencies including both houses of Parliament developed their action plans to combat corruption. The High Council on rule of law and anti-corruption continued to openly discuss anti-corruption policies and issues including allowing civil society to ask questions about the prosecution of ministers and MPs. Quarterly reports on the implementation of the strategy and minutes of the High Council meetings are all made public. The work of investigative journalist is supported and their findings followed. The Access to Information Commission is pushing aggressively for transparency with all public agencies. And we have encouraged open discussion of governance issues through



other initiatives such as Open Government Partnership, open budgeting etc. Reports of independent watchdog agencies like the Joint Independent Monitoring and Evaluation Committee are openly discussed and constitute the bases of our reforms. In addition, I have ordered dozens of inquiries and investigations into the work of ministries and public institutions that have resulted in multiple referrals to the Attorney General Office.

Our anti-corruption efforts in the security sector where a culture of corruption dominated have continued even though fighting with the Taliban intensified. The enforcement of the Inherent Law for the security sector officers has resulted in rejuvenating the army and police. The strict application of the Inherent Law in Afghan Personal and Pay System (APPS) and the expansion of the APPS modules to include the martyrs, disabled, war captives, new recruitments and arbitrary leave have significantly improved the integrity of the human resources management. The expansion of modern electronic asset management (Core-IMS) has stayed a priority of our security sector. The upgrading and enhancement of the Crime Investigation Department with MoD has sped up prosecution.

The Civil Service Commission continued to support ministries to conduct fully automated, anonymized and electronic recruitments ending the culture of patronage. The completion in Kabul and rollout to provinces of the HRMIS to all public institutions significantly enhance the integrity of human resources management including the removal of ghost employees in the civil service. The functional reviews of ministries assessed the adequacy of resources to delivery of functions, improved public efficiency and combatted wasteful use of resources.

We continued to prosecute the corrupt while reforming our justice institutions. The ministry of justice implemented measures on the basis of an action plan that focuses on the reforms of the legal affairs (*Huquq*), government cases (*Qazaya*) and legislative (*Taqneen*) departments including newly recruited staff based on merit and competition with the support of the Civil Service Commission. The reform of the law for processing legislative documents now allow for mandatory consultation with civil society. The Case Management System is now used with MoI, MoD, MoJ, AGO and Supreme Court. We have continued to restructure AGO to respond to current needs. The increased presence of women prosecutors, the deployment of prosecutors in previously insecure districts, newly appointment anti-land grabbing prosecutors are all the outcome of such restructuring. HRMIS is now used in both the Supreme Court and the AGO. We have opened the courts and required publications of court decision in accordance with the Criminal Procedural Code and the Penal Code. While we continued these reforms, the AGO has aggressively



continued to prosecute the corrupt including the most powerful. In 2018, the AGO investigated 3,288 cases of corruption that led to prosecution in most cases. The ACJC continued to prosecute high-ranking officials including sitting members of Parliament, former commissioners of the electoral commissions and generals. One former minister went through trial while another three are in the final stages of prosecution.

On the financial side, we have held our grounds. I have chaired so far over two hundred meetings of the National Procurement Commission. I have ordered an investigation into every allegation of mismanagement of public financial resources that was brought to my attention and my office has referred cases of possible wrongdoing to the Attorney General Office. FINTRACA has been able to do its detection work in the financial sector without any political interference and referring cases to law-enforcement agencies for investigation. Our revenue generation effort is on track to meet the IMF benchmarks. And Kabul Bank Receivership has been able this month alone to recover 25 million dollars.

Finally, in the economic sector, both the Ministry of Industry and Commerce (MoIC) and the Ministry of Mining and Petroleum (MoMP) have gone through significant reforms. Procedures have been simplified, regulation revised and one-stop-shop easing access for licensing established by MoIC. After a new mining law was drafted, MoMP has published beneficial ownership data and all mining contracts. In addition, contract awarding has gone through a higher level of scrutiny. We are committed to regain our membership at EITI and MoMP has aggressively implemented a work plan to respond to EITI requirements.

SPECIFIC DISPUTED ISSUES

We also want to provide clarifications regarding various specific issues where we feel were incorrect in your report. First, we feel some of the concerns over the revision of the strategy do not take into account the discussions that took place in the High Council on rule of law and anti-corruption and on the anti-corruption law. The removal of the benchmark to “restrict appointments outside of the stage process” was deemed unnecessary given that the law on structure and authorities of the judiciary does not allow for any appointment outside of the stage process. The appointment of the ACC commissioners was delayed due to a factor that could not be foreseen at the time of the revision of the strategy. On the basis of recommendation by our international stakeholders, we revised the law to include civil society in the process of appointment. However, civil society organizations have not been cooperative with our Civil Service Commission to complete the

SIGAR
Comment 1



appointment in time. We are nevertheless hopeful that we will overcome this problem in near future and have the ACC commissioner appointed soon.

Second, the report on Access to Information Commission state a lack of budget, staff, resources and premises. We have responded positively and efficiently to Commission requests. On budget, AFN 40 million out of AFN 60 million was allocated through the emergency code as the request was made after the budget formulation phase. An additional AFN 22 million was included in the mid-year budget review. The Commission requested a tashkeel of 51 employees that is approved and they have been able to recruit 16 already. The former headquarter building of MoJ next to current MoF is assigned to the Commission and is in the process of being evacuated by the Supreme Court.

SIGAR
Comment 2

Third, please take note that I appointed a woman with impeccable integrity as the Palace Ombudsperson on August 4, 2019.

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Comment 3

Forth, your report discredits the office of the Deputy Attorney General for Anti-Corruption with two incorrect arguments. First, you stated that because the High Office of Oversight was viewed as being ineffective, its former employees should have been dismissed. We have absorbed the former employees of the HOO into AGO on the basis of civil service laws that protect them and in accordance with the laws that define the work of the AGO. They have gone through a process of evaluation and given positions that are adequate to their skills and qualification in the following three categories: 100 as professional staff, 130 as administrative staff and 91 as support staff in the office of the attorney general. Second, you state that because the prosecutors who work for the ACJC failed the polygraph test, they should be dismissed. We have agreed to remove them from sensitive position as part of a robust vetting of ACJC prosecutors, but have never agreed to dismiss them, given the level of accuracy of polygraph tests.

SIGAR
Comment 4

Fifth, the report seems to confuse a court verdict (*hokum*) with a judicial order (*qarar e qazayee*). We have committed to publish court verdicts in accordance with the law and there is no disagreement in the legal community on this issue. However, we understand the importance of further transparency and we welcome any scrutiny of increased judicial orders of ACJC allowing us to understand the problems and adjust policy.

SIGAR
Comment 5

Sixth, the report does not seem to understand the working of the Case Management System notably about inputting cases. As per the standard operating procedure, the ACJC prosecutors will not take on a case unless they are inputted by the MCTF. We

SIGAR
Comment 6



recognize however that this problem may have existed before the recent reforms of MCTF as capacity to input within MCTF was low.

Seventh, the report confuses the number of arrest warrants with the number of people to be arrested. AGO has submitted a total of 4,775 arrest warrants concerning 6,586 individuals over the years 1395 to 1397 and not two years as reported. MoJ has arrested over 1,500 people on the basis of these lists and is working with AGO to identify the remaining. We recognize the short coming of our law enforcement agencies in executing arrest and summon warrants including those issued by the ACJC. We are committed to seriously address this issue and significantly improve the cooperation between agencies in this area.

SIGAR
Comment 7

Eight, the report inaccurately state that Afghan judges sent extradition requests that were written in Dari. As per the law, the prosecutors send such request not judges. And to our knowledge, we have not been able to find any evidence for your statement.

SIGAR
Comment 8

Ninth, the determination of the status of the benchmarks in appendix IV is unclear to us, as the number of benchmarks that have been completed so far is higher for us (64 against 55 reported by SIGAR). Indeed, all benchmarks for 2018 were completed and an additional 20 benchmarks due by June 2019.

SIGAR
Comment 9

MOVING FORWARD & RESPONSE TO SIGAR MATTERS FOR CONSIDERATION

We consider the anti-corruption reform as a long-term dynamic process with concrete steps and results. We believe our strategy is effective if we learn from the successes and challenges of implementation. We therefore welcome recommendations by our partners. With regards to matters of consideration, we agree to take immediate action as follows:

SIGAR Recommendation 1. Increasing the resources provided to anti-corruption law enforcement organizations such as the AGO, ACJC, and MCTF to provide them with the ability to increase the number of arrests and prosecutions of corrupt individuals.

- GoIRA concurs with Recommendation 1. The Special Anti-Corruption Secretariat will revise the Plan of Action to Improve Prosecution and Detection adopted by the High Council on rule of law and anti-corruption in



July 2019 before the end of the year to include measures that will increase the number of arrests and prosecutions of corrupt individuals. By March 2020 MoI will: i) review the performance of all MCTF personnel and replace all weak performers; ii) define detailed procedure for cooperation between MCTF and ACJC; iii) Ensure all detection cases referred to MCTF prior to July 2019 are cleared; iv) Summon or arrest at least 85 percent of individuals whose arrest or summon warrants are issued by ACJC as of September 2019 and whose presence is established in Afghanistan; vi) Develop an operational plan to implement all outstanding arrest and summon warrants. By March 2020, AGO will: i) Adopt verifiable Prosecution Standards agreed upon by the judiciary to reduce judicial orders of return to prosecution; ii) Determine case-distribution standards to prosecutors

SIGAR Recommendation 2. Taking action to reduce the legal and de facto immunity of powerful individuals.

- GoIRA concurs with Recommendation 2 in principle. Please note that the legal immunity is defined in generic terms in the report without any specific reference to a legislative document or any detailed legal discussion. By March 2020 MoJ will: i) hold a consultation session with anti-corruption sector stakeholders to review the laws in order to identify any possible loopholes ensuring legal impunity for powerful individuals; ii) Pass the law for the Ombudsperson Office. By March 2020, the President's Office will fully resource the Ombudsperson Office. By March 2020, the Supreme Court will: i) Complete trial of former electoral commissioners; ii) Initiate trial of former ministers whose prosecutions are completed.

SIGAR Recommendation 3. Continuing to polygraph personnel at the ACJC and the MCTF on a regular basis and increasing efforts to eliminate lost productivity from the dismissal of personnel who fail the polygraph examinations.

- GoIRA concurs with Recommendation 3. Conduct polygraph test of MCTF and ACJC police and prosecutors and timely replacement of those who failed the test. A thorough vetting of individuals before placing them to ACJC takes between one to three months. In order to anticipate possible replacement, MoI and AGO will develop a roster of prequalified individuals prior to polygraph tests.

SIGAR Recommendation 4. Making public all anti-corruption court decisions in accordance with Afghan law.



- GoIRA concurs with Recommendation 4. Indeed, as of October 2019 all court verdicts are made public as allowed by the law. The Afghan government will further engage with the judiciary to make the publication mandatory by law. By February 2020, MoJ will amend the Penal Code to make mandatory the publication of court verdicts in corruption cases

SIGAR Recommendation 5. Increasing coordination and cooperation between Afghan law enforcement organizations and international law enforcement organizations.

- GoIRA concurs with Recommendation 5. We will pursue our discussions with other states to conclude more agreements on extradition, cross-border crime and recovery of stolen assets. MoI will further work with INTERPOL to localize and ensure arrest of convicted individuals in corruption cases, and extradite any suspect requested by third countries. By March 2020, MoI will: i) develop a follow-up plan for referrals by ACJC to INTERPOL for arrest warrants; ii) develop a capacity-building plan to properly package and track INTERPOL referrals.

SIGAR Recommendation 6. Increasing efforts to recover assets stolen from Kabul Bank and returning the funds to the Afghan Central Bank.

- GoIRA concurs with Recommendation 6. We have been able to speed up the recovery process during this month. Indeed, the agreement between Ferozi and Kabul Bank Receivership is based on the condition that it results in increased recovery. By February 2020, KBR and AGO will assure that Ferozi's repayments are in accordance with the terms of agreement made with him or enforce the sanctions foreseen in the agreement. Government will increase efforts to recover from other debtors and convicted individuals.

SIGAR Recommendation 7. Taking actions that allow for the distribution of criminally derived assets to government organizations.

- GoIRA concurs with Recommendation 7. By end of the year, Cabinet will pass the regulation on asset recovery including disposing of and distribution of stolen assets. By June 2020, AGO will develop a mechanism for the distribution of criminally derived assets to government agencies

SIGAR Recommendation 8. Continuing to implement the Case Management System and ensuring its systematic use among Afghan law enforcement organizations.



- GoIRA concurs with Recommendation 8. By June 2020, Cabinet will adopt the regulation on Case Management System. Further, as a key component of the Plan of Action for Improving Prosecution and Detection, the systematic use of Case Management System will be overseen by the High Council on rule of law and anti-corruption on a quarterly basis.

Once again, we thank you for working with the Government of the Islamic Republic of Afghanistan on anti-corruption efforts.

Sincerely,

A handwritten signature in black ink, appearing to be 'Mohammad Ashraf Ghani'.

Mohammad Ashraf Ghani
President
Islamic Republic of Afghanistan

Mr. John F. Sopko
Special Inspector General for
Afghanistan Reconstruction

SIGAR's Response to Comments from the Government of the Islamic Republic of Afghanistan

SIGAR Comment 1: In response, we added language in the report to note that the Afghan government removed the benchmark “restrict appointments outside of the stage process” from the anti-corruption strategy because Afghan law does not allow for appointments outside of the stage process. We also added language citing the Afghan government’s position that the delay in commissioner appointments resulted from a lack of cooperation from civil society. However, we caution that civil society organizations we spoke with expressed concerns about the independence of the Commission, as noted in the report.

SIGAR Comment 2: We revised the report to reflect the Afghan government’s reported updates regarding resources provided to the Access to Information Commission.

SIGAR Comment 3: As the Afghan government has appointed an Ombudsperson, we have updated the relevant section. We look forward to seeing how the Ombudsperson’s office functions once it becomes operational.

SIGAR Comment 4: The report did not state that the employees from the High Office of Oversight and Anti-Corruption should have been dismissed. We added language to clarify that the Afghan government stated that employees from the High Office of Oversight and Anti-Corruption were evaluated and given positions based on their skills and qualifications. Additionally, we added clarifying language that the Afghan government stated that it did not agree to remove prosecutors that failed polygraphs from the Attorney General’s Office; it only agreed to remove these prosecutors from sensitive positions.

SIGAR Comment 5: We updated the report to state that the Afghan government is committed to publishing verdicts. However, we note that in the anti-corruption strategy, the Afghan government also committed to publishing full court decisions, or *faisalas* (complete decisions that include legal reasoning). The Afghan government has not yet taken that step, and it gave no indication that it was planning to take such action.

SIGAR Comment 6: We updated the report to reflect that the Afghan government reported that issues related to the use of CMS were resolved, and that ACJC prosecutors were only accepting cases entered into the system.

SIGAR Comment 7: We commend the Afghan government for prioritizing the execution of summonses and arrest warrants, and have updated the report to reflect that that Afghan government reports it has arrested over 1,500 people on the basis of its arrest warrants list.

SIGAR Comment 8: We have made the appropriate changes to address this comment in the report.

SIGAR Comment 9: We added language indicating that the Afghan government stated it has completed 64 benchmarks. However, we were unable to verify the completion of the additional benchmarks that the Afghan government has reported as complete because (1) the documentation we have is not sufficient to mark these remaining benchmarks as complete, (2) the Afghan government has not provided the additional documentation to allow us to verify the benchmarks are complete, or (3) the Afghan government is counting benchmarks that are were completed after the June 2019 period included in our assessment.

APPENDIX VI - COMMENTS FROM THE U.S. EMBASSY IN KABUL AND UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT



Embassy of the United States of America

Kabul, Afghanistan

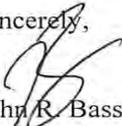
October 28, 2019

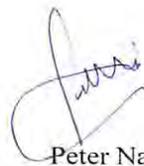
Mr. John F. Sopko
Special Inspector General
For Afghanistan Reconstruction
1550 Crystal Drive, Suite 900
Arlington, VA 22202

Dear Mr. Sopko,

The U.S. Embassy thanks SIGAR for the opportunity to review the Report titled “Afghanistan’s Anti-Corruption Efforts: The Afghan Government Made Progress in Meeting its Anti-Corruption Strategy Benchmarks, but Serious Challenges Remain to Fighting Corruption.” The Report acknowledges the accomplishments and challenges associated with the implementation of the Government of Afghanistan’s anti-corruption strategy. State and USAID acknowledge that the Afghan government recently introduced the Anti-Corruption Reform Accelerating Plan (RAP), a set of benchmarks designed to address institutional deficiencies and transparency gaps across the government. However, as the Report suggests, State and USAID highlight that the government’s past anti-corruption efforts have fallen short due to a lack of sustained commitment and political will. The Afghan government must continue and expand its efforts to demonstrate to the people of Afghanistan its commitment to fighting corruption. This is a pivotal moment in Afghanistan’s trajectory that cannot be lost to another decade of empty promises.

Sincerely,


John R. Bass
Ambassador



Peter Natiello
USAID Mission Director

APPENDIX VII - COMMENTS FROM THE COMBINED SECURITY TRANSITION COMMAND-AFGHANISTAN



UNCLASSIFIED
HEADQUARTERS RESOLUTE SUPPORT
COMBINED SECURITY TRANSITION COMMAND-AFGHANISTAN
KABUL, AFGHANISTAN
APO, AE 09320

CSTC-A

21 October 2019

MEMORANDUM THRU

United States Forces – Afghanistan DCDR-S, APO AE 09356
United States Central Command (CCIG), MacDill Air Force Base, FL 33621

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

SUBJECT: Review of draft report "Afghanistan's Progress in Implementing its Anti-Corruption Strategy and Achieving its Anti-Corruption Objectives" SIGAR 130A

1. The purpose of this memorandum is to provide a response to the review of the draft report "Afghanistan's Progress in Implementing its Anti-Corruption Strategy and Achieving its Anti-Corruption Objectives" SIGAR 130A.

2. CSTC-A appreciates the hard work of the SIGAR audit team and appreciates the opportunity to respond to SIGAR's fair and balanced draft report assessment on Afghanistan's anti-corruption strategy and their determination that the Afghan government has made progress in meeting its anti-corruption strategy benchmarks. CSTC-A agrees with the report findings that improvements have occurred and provides additional confirmation of anti-corruption achievements.

a. In May 2018, SIGAR identified six matters for consideration for the Afghan government that would increase the efficacy of its anti-corruption efforts. According to this SIGAR report, since May the Afghan government has made progress in addressing all six matters. CSTC-A believes that continued train, advise, and assist (TAA) focused efforts on anti-corruption with its reliable partners will contribute to continued improvements.

b. Since the SIGAR audit team's review and with CSTC-A's continued TAA emphasis, improvements have occurred in the Afghan government's implementation of anti-corruption objectives. CSTC-A has seen improvement in the consistency of use of the Case Management System (CMS), which is the online database that tracks the status of criminal cases. In addition, there has been a renewed focus between key Afghan anti-corruption law enforcement organizations on increasing warrant execution. For example, the Director, Criminal Investigation Directorate, led an effort to execute

SIGAR
Comment 1

UNCLASSIFIED

CSTC-A

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SUBJECT: Department of Defense's Construction of Infrastructure for Women in the ANDSF SIGAR-134A

criminal arrest warrants and cleared over 1,200 from January through June 2019. These efforts demonstrate the continued progress of the Afghan government's commitment to anti-corruption efforts.

c. In October 2019, a meeting occurred between Afghan President Ghani and the U.S. Special Inspector General for Afghanistan, John Sopko, where they discussed the Afghan government's anti-corruption drive. A statement from the Presidential Palace said Ghani and Mr. Sopko talked about the government's anti-corruption efforts, achievements, and performance results during the meeting. According to the statement, Mr. Sopko said Afghanistan had made good progress in its fight against corruption. "I am happy that programs to curb corruption are implemented and the Afghan government has made good progress in anti-corruption efforts, these efforts should continue." As discussed previously, CSTC-A believes that its continued TAA effort with its reliable partners will result in sustained anti-corruption successes.

SIGAR
Comment 2

3. Point of contact is Mr. Matthew A. Norton, [REDACTED]

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SIGAR's Response to Comments from the Combined Security Transition Command–Afghanistan

SIGAR Comment 1: We updated the report to state that Combined security transition command–Afghanistan (CSTC-A) identified an improvement in the consistent use of CMS.

SIGAR Comment 2: CSTC-A cited a purported quote from Special Inspector General Sopko's meeting with Afghan President Ashraf Ghani in October 2019. Although, the purported quote was reported by the presidential palace and in the Afghan press, we feel it is important to clarify our position that progress thus far, while important, has not yet achieved intended outcomes and the Afghan government must continue taking meaningful action and demonstrating the political will to prevent and eliminate corruption.

APPENDIX VIII - ACKNOWLEDGMENTS

Christopher Borgeson, Senior Program Manager

Margaret Tiernan, Analyst-in-Charge

Warren Anthony, Senior Auditor

Luis Vertiz, Program Analyst

This performance audit was conducted
under project code SIGAR-130A.

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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