

SIGAR

**Special Inspector General for
Afghanistan Reconstruction**

SIGAR 15-68 Audit Report

Rule of Law in Afghanistan: U.S. Agencies Lack a Strategy and Cannot Fully Determine the Effectiveness of Programs Costing More Than \$1 Billion



JULY
2015

SIGAR

Special Inspector General for Afghanistan Reconstruction

WHAT SIGAR REVIEWED

Since 2003, the U.S. government, through the Departments of Defense (DOD), Justice (DOJ), and State (State), and the U.S. Agency for International Development (USAID), has worked to develop the rule of law in Afghanistan. This effort has focused on areas such as the judicial system, corrections system (detention centers and prisons), informal justice system, legislative reform, legal education, public outreach, and anticorruption efforts.

The objectives of this audit were to determine the extent to which (1) the strategies and objectives guiding U.S. government support are current and have consistently defined the scope of rule of law assistance; (2) U.S. agencies can fully identify and account for U.S. government programs and funding; (3) current rule of law programs' performance management systems are measuring progress made in achieving program objectives and in contributing to achieving U.S. strategic objectives; and (4) the U.S. government has encountered challenges in achieving its objectives and the extent to which it has addressed these challenges.

WHAT SIGAR RECOMMENDS

This report contains four recommendations. SIGAR recommends that the Secretary of State, in coordination with other U.S. agencies managing rule of law programs in Afghanistan, ensure that a new strategy is finalized that includes an agreed-upon scope of activities and a plan to measure performance and performance metrics to evaluate U.S. progress in meeting strategy objectives. SIGAR also recommends that the Secretary of Defense require that components implementing future rule of law efforts track their activities and funding and report this information to the

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WHAT SIGAR FOUND

U.S. efforts to develop the rule of law in Afghanistan have been impaired by four significant factors. First, U.S. agencies lack a comprehensive rule of law strategy to help plan and guide their efforts. Second, DOD is unable to account for the total amount of funds it spent to support rule of law development. Third, DOD, DOJ, State, and USAID all have had problems measuring the performance of their respective rule of law programs. Fourth, U.S. efforts are undermined by significant challenges from pervasive corruption in Afghanistan's justice sector and the uncertainty regarding whether the Afghan government can or will sustain U.S. program activities and reforms.

U.S. agencies—led by DOD, DOJ, State, and USAID—lack a current, comprehensive interagency rule of law strategy to help plan and guide U.S. rule of law development efforts in Afghanistan. State issued the first interagency strategy in September 2009 (2009 strategy) to guide efforts in the formal and informal justice systems. Although State, in its capacity as coordinator for developing and approving U.S. agencies' foreign assistance strategies, is working to finalize a new strategy, it will be less robust than the U.S. Rule of Law Strategy for Afghanistan approved in September 2009. However, U.S. Embassy Kabul officials told SIGAR that by 2012, the 2009 strategy no longer reflected the operating environment or available resources, was "over-ambitious," and, as a result, had become outdated.

In June 2013, the embassy drafted a new strategy. However, the draft strategy has not yet been approved by State or formally vetted by other U.S. agencies involved in rule of law development. The embassy's draft 2013 strategy is less extensive than the previous 2009 strategy. For example, U.S. embassy officials told us that the 2013 draft strategy does not include monitoring and evaluation components intended to help determine if strategic objectives are being achieved. Unlike the 2009 strategy, which contained 27 specific performance measures, the 2013 draft strategy contains no performance measures. In accordance with State and USAID's 2010 Quadrennial Diplomacy and Development Review, State and USAID guidance states that the agencies "must incorporate analysis and evidence into strategies" and build and assess these strategies on clear performance metrics and high-quality evaluations in order to provide information about the success or failure of strategies against their objectives. The 2013 draft strategy lacks these important measures.

Without an approved strategy in place, U.S. efforts may not be properly coordinated across agencies, monitored for alignment with U.S. and Afghan development goals and objectives, or managed effectively to ensure proper expenditure of U.S. taxpayer monies. In addition, DOD, DOJ, State, and USAID did not have a clear and consistent agreed-upon description of the scope of activities that constitute rule of law assistance. Officials from DOJ, State, and USAID told SIGAR they are not required to have one agreed-upon definition of the scope of activities they plan to conduct. Although the 2009 strategy defined a scope, DOD, DOJ, State, and USAID continued to have varying activities they considered to fall under rule of law assistance.

SIGAR determined that DOD, DOJ, State, and USAID have spent more than \$1 billion on at least 66 programs since 2003 to develop the rule of law in Afghanistan. The Coordinating Director at the U.S. embassy in Afghanistan is responsible for decisions regarding how civilian agencies use funds appropriated for rule of law programs in Afghanistan. As a

consequence of the Coordinating Director's responsibility for such decisions, DOJ, State, and USAID are required to report to the U.S. embassy on their funding for rule of law programs. The three agencies were able to identify the rule of law activities they conducted and account for the funding spent since 2003 in response to SIGAR's request. Although SIGAR identified more than \$1 billion spent by U.S. agencies on rule of law programs in Afghanistan since 2003, this amount does not represent the total spent because DOD could not provide us complete funding figures, such as obligations or expenses, for the Rule of Law Field Force–Afghanistan (ROLFF-A), even though this sub-command of the Combined Joint Interagency Task Force–435 (CJATF-435) had a dedicated rule of law mission. DOD officials also told SIGAR that many of the department's rule of law activities were not tracked as part of a specific rule of law program. Consequently, DOD could not account for the total amount of funds it has spent to support rule of law development in Afghanistan, and likely performed more activities and spent more than the \$243.4 million it reported to SIGAR.

SIGAR reviewed 6 of the 66 completed and ongoing rule of law programs, which totaled at least \$635 million (i.e., 59 percent of the total amount of funding spent on rule of law programs since 2003) and covered all four funding agencies (i.e., DOD, DOJ, State, and USAID): (1) DOD's ROLFF-A, (2) DOJ's Senior Federal Prosecutors Program, (3) State's Corrections System Support Program (CSSP), (4) State's Justice Sector Support Program (JSSP), and (5) USAID's Rule of Law Stabilization Program–Formal and (6) Rule of Law Stabilization Program–Informal Components. The four agencies each have guidance calling for them to establish a performance management system for monitoring and reporting on each program's progress toward achieving its objectives. However, SIGAR found problems with all six programs' performance management systems, which make the extent to which the programs achieved all of their objectives unclear. For example, State's CSSP, which cost approximately \$259.5 million, lacked a performance management plan, as called for by State, until October 2012—over 6 years after the program had started—and only in March 2014 was an adequate plan for measuring program performance outputs and outcomes created. Because DOD, DOJ, State, and USAID did not systematically measure and report on their programs' achievements, it remains unclear what overall outcomes and impact have resulted from the expenditure of more than \$1 billion to develop the rule of law in Afghanistan.

Two major challenges continue to undermine U.S. efforts to develop the rule of law in Afghanistan: (1) the pervasive corruption in Afghanistan's justice sector, and (2) the uncertainty regarding whether the Afghan government can or will sustain U.S. program activities and reforms. DOD, DOJ, State, and USAID officials at the Coordinating Directorate's office have been aware of these challenges and have taken steps to address them. For example, according to officials from the Coordinating Directorate's office, the agencies have made efforts in the past to reduce corruption within the justice sector. However, DOD, DOJ, State, and USAID officials and rule of law experts told us that U.S. anticorruption efforts have not been successful because, among other things, the Afghan government has lacked the political will and commitment to tackle corruption in the justice system. In addition, the Consolidated Appropriations Act, 2012, Pub. L. No. 112-74 (2011), calls for State and USAID to consider the sustainability of reconstruction programs in Afghanistan. However, officials from these agencies told us they do not know whether the Afghans will be able to continue the work, and they raised concerns with some specific rule of law programs. These challenges will greatly influence the effectiveness of future U.S. assistance and sustainability of any gains that have been made in developing the rule of law in Afghanistan.

Secretary of State, in recognition of State's capacity as lead coordinator of U.S. rule of law development assistance in Afghanistan. In addition, SIGAR recommends that the Secretary of Defense, the Attorney General, the Secretary of State, and the USAID Administrator, taking into account the challenges to measuring performance in Afghanistan, revise performance management plans for ongoing rule of law programs and develop and implement plans for planned or future programs that include appropriate performance indicators, baselines, and targets, and ensure program progress is consistently monitored and reported. Finally, SIGAR recommends that the Secretary of Defense, the Attorney General, the Secretary of State, and the USAID Administrator assess whether ongoing and future rule of law programs are sustainable and determine whether and how those programs will be continued. If programs are to be continued or new programs are to be initiated, the agencies should obtain Afghan government commitment to help support them through a formal, written agreement prior to the expenditure of U.S. taxpayer funds.

SIGAR received comments from DOD and DOJ, and joint comments from the U.S. Embassy Kabul and the USAID Mission for Afghanistan. DOD partially concurred with our recommendations, and DOJ concurred. U.S. Embassy Kabul and the USAID Mission for Afghanistan concurred with two recommendations and did not concur with one recommendation.



USAID Rule of Law Stabilization–Informal Component, Family Law Workshop in Dara-e-Noor, USAID Mission for Afghanistan (January 2012)



SIGAR

Office of the Special Inspector General
for Afghanistan Reconstruction

July 1, 2015

The Honorable John F. Kerry
Secretary of State

The Honorable Ashton B. Carter
Secretary of Defense

The Honorable Loretta E. Lynch
Attorney General of the United States

The Honorable Alfonso E. Lenhardt
Acting Administrator, U.S. Agency for International Development

This report discusses the results of SIGAR's audit of the U.S. government's rule of law activities in Afghanistan performed by the Departments of Defense (DOD), Justice (DOJ), and State (State), and the U.S. Agency for International Development (USAID) since 2003. We are making one recommendation to State to finalize and improve the development of, and measure the performance of, a new U.S. rule of law strategy for Afghanistan. We are making one recommendation to DOD to track the activities and funding for any future rule of law efforts and report this information to State in its capacity as lead coordinator of U.S. rule of law development assistance in Afghanistan. We are making two recommendations to DOD, DOJ, State, and USAID: (1) to revise existing performance management plans for ongoing rule of law programs and improve future plans to ensure program progress is consistently monitored and reported; and (2) to assess whether ongoing and future programs are sustainable and whether and how they will be continued. If programs are to be continued or new programs are to be initiated, the agencies should obtain Afghan government commitment to help support them through a formal, written agreement prior to the expenditure of U.S. taxpayer funds.

We received comments from DOD and DOJ, and joint comments from the U.S. Embassy Kabul and USAID Mission for Afghanistan. DOD partially concurred with our recommendations, and DOJ concurred. U.S. Embassy Kabul and the USAID Mission for Afghanistan concurred with two recommendations and did not concur with one recommendation. The agencies' comments and our responses are presented in appendices III, IV, and V.

SIGAR conducted this audit under the authority of Public Law No. 110-181, as amended; 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

TABLE OF CONTENTS

Background.....	2
U.S. Agencies Lack an Approved Rule of Law Strategy and Consistent Definitions to Guide Their Programs in Afghanistan	4
DOD, DOJ, State, and USAID Have Spent More Than \$1 Billion since 2003 to Develop the Rule of Law in Afghanistan; DOD Could Not Fully Account For Its Efforts.....	7
Six Major Rule of Law Programs Did Not Have Adequate Performance Management Systems, and Agencies Could Not or Did Not Determine the Extent to Which the Programs Met Their Objectives	9
Pervasive Corruption in Afghanistan’s Justice Sector and Sustainability Challenges Undermine U.S. Rule of Law Development Efforts.....	19
Conclusion.....	21
Recommendations	22
Agency Comments	23
Appendix I - Scope and Methodology	26
Appendix II - Breakdown of 66 Ongoing and Completed Rule of Law Programs Performed by DOD, DOJ, State, and USAID	29
Appendix III - Comments from the Department of Defense	35
Appendix IV - Comments from the Department of Justice	41
Appendix V - Comments from the U.S. Embassy Kabul and the U.S. Agency for International Development in Kabul	43
Appendix VI - Acknowledgments	50

TABLES

Table 1 - Completed and Ongoing Rule of Law Programs and Spending by Agency since 2003	7
Table 2 - Sampled Programs from DOD, DOJ, State, and USAID	9
Table 3 - DOD Rule of Law Programs and Spending	30
Table 4 - DOJ Rule of Law Programs and Spending	30
Table 5 - State Rule of Law Programs and Spending	31
Table 6 - USAID Rule of Law Programs and Spending.....	34

FIGURES

Figure 1 - Afghan Justice Sector Institutions.....	3
Figure 2 - Program Amounts Expended Compared to Agency Total Expended, 2003–2014 (\$ Millions)	29

ABBREVIATIONS

Checchi	Checchi and Company Consulting, Inc.
CJIATF-435	Combined Joint Interagency Task Force–435
CSSP	Corrections System Support Program
DOD	Department of Defense
DOJ	Department of Justice
INL	Bureau of International Narcotics and Law Enforcement Affairs
JSSP	Justice Sector Support Program
RLS-F	Rule of Law Stabilization–Formal
RLS-I	Rule of Law Stabilization–Informal
ROLFF-A	Rule of Law Field Force–Afghanistan
SFPP	Senior Federal Prosecutor’s Program
State	Department of State
State OIG	Department of State Office of the Inspector General
USAID	U.S. Agency for International Development
USAID/Afghanistan	USAID Mission for Afghanistan

In Afghanistan, a country plagued by decades of conflict, access to fair, efficient, and transparent justice is limited. Formal Afghan courts are often difficult to access and widely viewed by Afghan citizens as corrupt. According to the U.S. Institute of Peace, informal justice mechanisms remain the “preferred” path to justice for a large majority of Afghans but frequently do not provide outcomes that meet international human rights standards, due partly to an emphasis on communal over individual rights. According to the U.S. Army’s Center for Law and Military Operations’ Rule of Law Handbook, Afghanistan’s legal system is characterized by the coexistence of two separate judicial systems: (1) a formal system of law practiced by state authorities relying on a mixture between the civil law and elements of Islamic Sharia law, and (2) an informal customary legal system based on customary tribal law and local interpretations of Islamic Sharia law, particularly Hanafi jurisprudence.^{1, 2} The Handbook also states that these dual legal systems exist due to the limited reach of state authority, especially in rural areas, as well as historical, “remoteness/isolation,” and cultural reasons. A 2013 U.S. Institute of Peace report notes that more than 80 percent of social conflicts in Afghanistan are estimated to be handled through the informal justice system.^{3, 4}

The U.S. and Afghan governments believe that strengthening the “rule of law” is an important way of building the legitimacy of the Afghan government and fostering sustainable development in Afghanistan.⁵ Both governments have made it a priority to improve the rule of law, as noted in key strategies and plans such as Afghanistan’s National Justice Sector Strategy (2008) and the U.S. government’s Integrated Civilian-Military Campaign Plan for Support to Afghanistan (2011 and 2013).

U.S. government agencies, including the Departments of Defense (DOD), Justice (DOJ), and State (State), and the U.S. Agency for International Development (USAID), as well as international organizations, such as the United Nations Assistance Mission in Afghanistan and the European Union, have provided assistance to the Afghan government to develop the rule of law. DOJ and State officials told us that U.S. rule of law efforts have primarily focused on criminal law with assistance provided to the judicial system, the corrections system (detention centers and prisons), the informal justice system, legal education, public outreach, and anticorruption efforts within the justice sector.⁶

The objectives of this audit were to determine the extent to which: (1) the strategies and objectives guiding U.S. government support for the rule of law in Afghanistan are current and have consistently defined the scope of rule of law assistance; (2) U.S. agencies can fully identify and account for U.S. government programs and funding; (3) current rule of law programs’ performance management systems are measuring progress made in achieving program objectives and in contributing to achieving U.S. strategic objectives; and (4) the U.S. government has encountered challenges in achieving its rule of law program objectives and the extent to which it has addressed these challenges.⁷

¹ The Rule of Law Handbook is the product of contributions by dozens of authors from a multitude of agencies, both U.S. and foreign, and non-governmental and international organizations, both military and civilian.

² U.S. Embassy Kabul officials told us that “local interpretations of Islamic law” primarily deal with “Hanafi Jurisprudence.” The Hanafi School is one of the four major schools of Sunni Islamic legal reasoning. The Afghanistan Constitution views Hanafi as a residual source of law in the absence of explicit legislation or other constitutional provisions.

³ Noah Coburn, United States Institute of Peace, *Informal Justice and the International Community in Afghanistan*, April 2013.

⁴ The informal justice system consists of local councils of tribal elders called *jirgas* and *shuras* that adjudicate disputes, particularly with cases involving property, familial, or other local issues.

⁵ See USAID, DOD, and State, *Security Sector Reform*, February 2009. According to *Security Sector Reform*—a paper that provides general guidelines to U.S. agencies for coordinating, planning, and implementing security sector reform programs with foreign partner nations—“rule of law” is a principle that can be defined as having all people and institutions subject to laws that are fairly applied and enforced.

⁶ The scope of the audit did not include counternarcotics efforts or assistance provided to the Afghan National Police, two areas in which we have prior or ongoing work. Refer to appendix I for more explanation of the scope and methodology.

⁷ For the purposes of this audit, “programs” include all types of rule of law assistance, including projects, programs, activities, awards, efforts, and initiatives.

To accomplish our objectives, we reviewed U.S. law, regulation, and agency guidance; reports from the Government Accountability Office, DOD, DOJ, State, State's Office of the Inspector General (State OIG), and USAID; and DOD, DOJ, State, and USAID policies, procedures, and program data, including financial reports, contracts, cooperative agreements, progress reports, and oversight reports. We also interviewed officials with DOD, DOJ, State, USAID, and U.S. Embassy Kabul; the U.S. Institute of Peace; Tetra Tech DPK, PAE Incorporated (hereafter referred to as PAE), and Checchi and Company Consulting, Inc. (hereafter referred to as Checchi); U.S. non-governmental organizations, including the Carnegie Endowment for International Peace; Afghan non-governmental organizations, including the Afghan Independent Bar Association and Integrity Watch Afghanistan; and international organizations, including Germany's GIZ (Deutsche Gesellschaft für Internationale Zusammenarbeit) and the World Bank. We also examined six recently completed or ongoing U.S. rule of law programs. A more detailed discussion of our scope and methodology is in appendix I. We conducted our work in Washington, D.C., and Kabul, Afghanistan, from February 2014 to April 2015, in accordance with generally accepted government auditing standards.

BACKGROUND

Defining Rule of Law

The U.S. Army's Center for Law and Military Operations' Rule of Law Handbook states that the "rule of law" is "an inherently (and frequently intentionally) vague term" and that there is no widespread agreement on what exactly constitutes the rule of law.⁸ In February 2009, DOD, DOJ, State, and USAID published a U.S. government interagency definition of the rule of law for the purposes of clarifying global foreign assistance, that matches the United Nations definition:

...a principle under which all persons, institutions, and entities, public and private, including the state itself, are accountable to laws that are publicly promulgated, equally enforced, and independently adjudicated, and which are consistent with international human rights law.⁹

Rule of Law in Afghanistan

Experts we consulted describe a complex legal system in Afghanistan that incorporates hundreds of years of informal traditions, Islamic Sharia law, former Soviet judicial practices during the 1980s, and modern Western influence since the fall of the Taliban in 2001.¹⁰ Formal judicial systems deal primarily with criminal matters and are supplemented by the Huquq Department under the Ministry of Justice, which is responsible for civil cases such as divorce or land disputes. In more rural areas, informal justice systems, such as *shuras* and *jirgas* composed of Afghan elders or tribal leaders, often decide disputes over land or personal matters between individuals. These informal systems are used predominantly in areas where formal systems were absent during decades of civil war and where it remains difficult to access formal courts due to continued insecurity and lack of proximity of courts to rural areas.¹¹

U.S. rule of law development efforts in both the formal and informal justice systems are guided by (1) Afghan government strategies and plans to develop the justice sector, (2) various agreements and accords among the

⁸ For further discussion on defining the rule of law in development settings, see Rachel Kleinfeld, *Competing Definitions of Rule of Law: Implications for Practitioners*, January 2005.

⁹ USAID, DOD, and State, *Security Sector Reform*, February 2009. Also see United Nations Security Council, *The rule of law and transitional justice in conflict and post-conflict societies*, August 23, 2004.

¹⁰ We interviewed rule of law experts from the U.S. Institute of Peace, the United Nations, the Carnegie Endowment for International Peace, the Congressional Research Service, the World Bank, the Max Planck Institute, and Integrity Watch Afghanistan, as well as independent experts.

¹¹ Rule of law experts we interviewed pointed out that the Taliban offers a parallel justice system in areas under its control, seeking to present an alternative system that undermines the central Afghan government.

U.S. government, the Afghan government, and other international stakeholders,¹² and (3) U.S. government internal policy and guidance documents.

Early on, U.S. and international assistance in the justice sector to help improve rule of law was framed by the Bonn Agreement, signed in December 2001, in which Italy assumed responsibility as the lead nation for justice reform in Afghanistan, a role it fulfilled from 2002 to 2004.¹³ The U.S. government began funding its own rule of law programs at the end of 2003.

In 2008, the Afghan government released the *Afghanistan National Development Strategy* identifying its vision and goals for developing the country, including strengthening the rule of law. As part of the national strategy, the Afghan government issued its *National Justice Sector Strategy* in 2008 that set justice sector development goals to include improving the institutional capacity to deliver sustainable justice services and improving the quality of justice. The July 2010 Kabul Conference and the July 2012 Tokyo Mutual Accountability Framework included additional justice reform benchmarks agreed upon by the Afghan government. These commitments are expressed through the Afghan government's 2013 National Priority Program 5: Law and Justice for All, which calls rule of law development a national priority and commits Afghanistan to reform legal and legislative effectiveness, enhance the efficiency of the justice system, increase access to justice, build institutional capacity to deliver justice, and increase and improve judicial infrastructure.

Figure 1 describes the primary Afghan institutions involved in the justice sector and U.S. rule of law development efforts.

Figure 1 - Afghan Justice Sector Institutions

Judiciary: ^a The Judiciary consists of a nine member Supreme Court appointed by the President to 10-year terms, Courts of Appeals, and primary courts in the 34 provinces of Afghanistan. The Supreme Court's primary role is to ensure that laws, decrees, treaties, and conventions conform to provisions of the Constitution.	Ministry of Justice: The Ministry of Justice drafts, reviews, and vets proposed laws for compliance with the Constitution. It also provides a majority of defense counsel for criminal trials.	Office of the Attorney General: The office investigates and prosecutes crimes, including cases of official corruption. An Anticorruption Unit was established within the Attorney General's Office in 2009. The office also includes the Anti-Terrorism Prosecution Directorate, which investigates and prosecutes national security cases.	Ministry of Interior: The Ministry of Interior is responsible for overseeing domestic security, including the Afghan National Police. In January 2012, the ministry regained responsibility for the General Directorate of Prisons and Detention Centers, which oversees Afghan prisons and detention centers.	Informal Justice System: Elders and religious figures serve on local councils called <i>shuras</i> or <i>jirgas</i> to adjudicate disputes, particularly with cases involving property, familial, or other local issues.
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Source: SIGAR analysis of Congressional Research Service, Report No. R41484, *Afghanistan: U.S. Rule of Law and Justice Sector Assistance*, November 9, 2010; and information provided by U.S. Embassy Kabul.

^a The judiciary branch is independent from the executive branch and its agencies, such as the Ministries of Justice and the Interior, and the Office of the Attorney General.

¹² International stakeholders include the United Nations Assistance Mission in Afghanistan; the World Bank; the European Union; and the German, French, Japanese, and British governments.

¹³ The U.S. government contributed funding to the Afghanistan Reconstruction Trust Fund, which provided aid and assistance through Italy to establish the rule of law in Afghanistan.

U.S. law requires agencies to measure the performance of their programs. Section 1115 of Title 31, United States Code, commonly known as the Government Performance and Results Act Modernization Act of 2010, requires agencies to prepare performance plans covering each program activity set forth in their budgets. The plans are required to establish performance goals and performance indicators “to be used in measuring or assessing progress toward each performance goal, including, as appropriate . . . output, and outcome indicators.”¹⁴ Objectively measuring how well a program is meeting its stated goals and objectives is a key component of performance management.¹⁵

U.S. AGENCIES LACK AN APPROVED RULE OF LAW STRATEGY AND CONSISTENT DEFINITIONS TO GUIDE THEIR PROGRAMS IN AFGHANISTAN

U.S. agencies—led by DOD, DOJ, State, and USAID—lack a current, comprehensive interagency rule of law strategy to help plan and guide U.S. rule of law development efforts in Afghanistan. Although State, in its capacity as coordinator for developing and approving U.S. agencies’ foreign assistance strategies, is working to finalize a new strategy, it will be less robust than the U.S. Rule of Law Strategy for Afghanistan approved in September 2009 (2009 strategy). In particular, U.S. agencies will not be expected to measure their overall performance in meeting the strategy’s objectives. The lack of a rule of law strategy during the majority of U.S. involvement in Afghanistan may be a significant reason why DOD, DOJ, State, and USAID do not clearly and consistently define the range of activities that constitute their rule of law development efforts.

The 2013 Rule of Law Strategy Has Not Been Finalized and Lacks a Plan to Measure Performance

In December 2005, the White House issued National Security Presidential Directive Number 44 to promote the security of the United States through improved coordination, planning, and implementation of reconstruction and stabilization assistance for foreign states and regions at risk of, in the midst of, or in transition from conflict or civil strife. A key aspect of this directive requires State to lead coordination among the various U.S. agencies, including developing and approving strategies with respect to foreign assistance.

Despite the fact that the U.S. government began conducting rule of law development programs in Afghanistan in 2003, agencies did not have an overarching rule of law strategy or defined objectives guiding their efforts until 2009. State and USAID documents show that these agencies did, however, have objectives for individual rule of law programs between 2005 and 2008. By 2009, DOD, DOJ, State, and USAID were all implementing several rule of law programs. U.S. officials in the Interagency Rule of Law office at U.S. Embassy Kabul told us that the embassy realized the need at that time to have a cohesive interagency strategy.¹⁶

In September 2009, the U.S. agencies issued their first interagency rule of law strategy to guide all U.S. government efforts towards the formal and informal Afghan justice sectors. This strategy laid out two specific

¹⁴ GPRA Modernization Act of 2010, Pub. L. No. 111-352, § 3 (2011), codified at 31 U.S.C. § 1115. The act defines the term “performance goal” to mean “a target level of performance expressed as a tangible, measurable objective, against which actual achievement can be compared, including a good expressed as a quantitative standard, value, or rate”; “performance indicator” to mean “a particular value or characteristic used to measure output or outcome”; “output measure” to mean a “tabulation, calculation, or recording of activity or effort and can be expressed in a quantitative or qualitative manner”; and “outcome measure” to mean an “assessment of the results of a program activity compared to its intended purpose.”

¹⁵ Organization for Economic Cooperation and Development, Development Assistance Committee Working Party on Aid Evaluation, *Results Based Management in the Development Co-Operation Agencies: A Review of Experience*, February 2000.

¹⁶ The Interagency Rule of Law office closed during the course of this audit.

objectives.¹⁷ As the reconstruction mission evolved in Afghanistan, U.S. embassy officials told us that by 2012, the 2009 strategy no longer reflected the operating environment or available resources, was “over-ambitious,” and, as a result, had become outdated.

Consequently, in June 2013, U.S. Embassy Kabul drafted a Rule of Law and Law Enforcement Framework to replace the 2009 strategy.¹⁸ Despite this, U.S. agencies still do not have a current rule of law strategy for Afghanistan. The 2013 draft still has not been approved by State’s Office of the Special Representative for Afghanistan and Pakistan, nor has it gone through the interagency vetting process for approval by other U.S. agencies involved in rule of law development efforts in Afghanistan.¹⁹ State officials told us that the main reason for the delay in approving the 2013 draft strategy was that the agencies were uncertain of the post-2014 presence in Afghanistan, which hinged in part on the U.S. Administration’s plans for troop levels beyond 2014. Now that troop level plans have been announced, State officials told us they intend to hold policy discussions with other U.S. agencies (e.g., DOD, DOJ, and USAID) to complete an updated, approved rule of law strategy.

However, the embassy’s draft 2013 strategy is less extensive than the previous 2009 strategy. For example, U.S. embassy officials told us that the 2013 draft strategy does not include monitoring and evaluation components intended to help determine if strategic objectives are being achieved. Unlike the 2009 strategy, which contained 27 specific performance measures, the 2013 draft strategy contains no performance measures.²⁰ However, in accordance with State and USAID’s 2010 Quadrennial Diplomacy and Development Review, State and USAID guidance states that the agencies “must incorporate analysis and evidence into strategies” and build and assess these strategies on clear performance metrics and high-quality evaluations in order to provide information about the success or failure of strategies against their objectives.²¹ The 2013 draft strategy lacks these important measures.

Furthermore, despite the United States establishing 27 performance indicators to help determine U.S. progress in meeting the objectives of the 2009 strategy, no measuring and reporting was done against them. Even if the U.S. government had reported such information, it did not collect baseline data or specify targeted levels of improvement based on these indicators.²²

Without a current U.S. government rule of law strategy that includes a plan for measuring performance and the appropriate elements to measure performance, such as performance metrics, U.S. efforts in the sector may not be: (1) properly coordinated across U.S. agencies; (2) monitored for alignment with U.S. and Afghan

¹⁷ The objectives were (1) to focus U.S. rule of law assistance in Afghanistan on constructive programs that will (a) offer Afghans meaningful access to fair, efficient, and transparent justice based on Afghan law, and (b) help eliminate Taliban justice and defeat the insurgency; and (2) to help increase the Afghan government’s legitimacy and improve its perceptions among Afghans by promoting a culture that values the rule of law above powerful interests.

¹⁸ U.S. Embassy officials stated that the draft 2013 strategy focused on higher-level program objectives and was more inclusive of law enforcement efforts. Although law enforcement is not part of the 2009 rule of law strategy, it is part of the draft 2013 strategy.

¹⁹ SIGAR-14-26-AR, *Support for Afghanistan’s Justice Sector: State Department Programs Need Better Management and Stronger Oversight*, January 2014. In that report, we recommended that State “finalize the updates to the 2009 U.S. Government Rule of Law Strategy within 3 months, so that timely decisions can be made to guide the development and coordination of current and future justice sector programs in Afghanistan.” State concurred with our recommendation and said it would finalize the strategy within 3 months, but failed to do so.

²⁰ Examples of the performance measure in the 2009 strategy are “public confidence in the Afghan justice system improves,” “the average time for a case to proceed from arrest through investigation, prosecution, conviction and incarceration decreases,” and “Afghan government and justice sector officials are increasingly hired and retained based on merit rather than family, tribal or illicit business relationships.”

²¹ Department of State and USAID, *Leading Through Civilian Power: The First Quadrennial Diplomacy and Development Review*, 2010.

²² A baseline is the value of a performance indicator before the implementation of projects or activities, while a target is the specific, planned level of result to be achieved within an explicit timeframe. (See USAID, *Performance Monitoring and Evaluation TIPS: Baseline and Targets*, Second Edition, Number 8, 2010.)

development goals and objectives; or (3) managed effectively to ensure proper expenditure of U.S. taxpayer monies, especially considering the reduced capacity and capability to monitor and evaluate ongoing and future programs as a result of the continuing drawdown in U.S. personnel. Finally, if the United States does not assess its performance in meeting rule of law strategic objectives, it may overlook valuable information that could inform current and future decision-making and spending on its rule of law efforts.

U.S. Agencies' Rule of Law Activities Have Inconsistent Scopes and Are Not Clearly Defined

DOD, DOJ, State, and USAID each determine their own scope of activities, such as whether police, corrections, counternarcotics, general governance capacity building, legal education (e.g., informing women of their rights), support for human rights, and capacity building of civil society organizations (e.g., media) are considered rule of law. For example, State and USAID programs supporting legal education, informing women of their legal rights, and building the capacity of independent media organizations could be defined as education, human rights, civil society, or rule of law efforts, or a combination of the three, depending on the individual views of agency officials and the main goals of the program. Officials from DOJ, State, and USAID explained to us that they are not required to have one agreed-upon definition of the scope of activities they plan to conduct in rule of law development.

Until 2009, there was no documented strategy that defined the specific scope of U.S. activities that constitute rule of law assistance. The scope of the 2009 strategy included the formal justice system (prosecutors, defense counsel, judges, and courts), the corrections system (detention centers and prisons), the informal justice system (local elders and religious figures rule on local councils called *shuras* or *jirgas* to adjudicate local disputes, particularly with cases involving property, familial or other local disputes), legal education, public outreach, and anticorruption efforts within the justice sector. Although the 2009 strategy defined this scope, DOD, DOJ, State, and USAID continued to have varying ranges of activities they considered to fall under rule of law assistance. For example, DOJ considers its rule of law programs to include counternarcotics and police training efforts although they are not included in the scope of the 2009 strategy. Similarly, some DOD officials consider training for Afghan police in forensics and biometric systems, as well as general engagement of personnel with village elders, as rule of law activities.

Because U.S. agencies lack a current strategy with an agreed-upon scope of activities we made our own determination of the scope of activities in order to conduct a methodologically sound audit. We used the scope of assistance activities included in the 2009 strategy as the basis for making our determination. Based on our analysis of the 2009 strategy, we excluded law enforcement and counternarcotics activities from our scope because the strategy identifies them as complementary efforts primarily accomplished through separate strategies.²³ This meant that some activities conducted or being conducted by DOD, DOJ, State, and USAID were not part of our scope of rule of law activities.

²³ Because of this and our separate work on counternarcotics and law enforcement efforts, we did not include these efforts in our scope of the rule of law. We discussed our methodology with the agencies at the beginning of our audit and received their agreement. However, during discussions after the completion of our field work, DOJ and State officials told us that we could have considered counternarcotics and law enforcement activities to be part of the rule of law. We acknowledge that the agencies may disagree with us on what should be considered rule of law activities.

DOD, DOJ, STATE, AND USAID HAVE SPENT MORE THAN \$1 BILLION SINCE 2003 TO DEVELOP THE RULE OF LAW IN AFGHANISTAN; DOD COULD NOT FULLY ACCOUNT FOR ITS EFFORTS

Agencies Have Spent More than \$1 Billion to Implement at Least 66 Rule of Law Programs

For the purposes of this report, we analyzed the information DOD, DOJ, State, and USAID provided to identify the total number of known U.S. government rule of law programs conducted and assistance provided since 2003. As noted above, because the U.S. government does not have a clear, comprehensive record of its rule of law activities, we followed the 2009 U.S. Government Rule of Law Strategy for Afghanistan in order to determine the scope of DOD, DOJ, State, and USAID activities considered to fall under rule of law.

We determined that DOD, DOJ, State, and USAID have spent more than \$1 billion on at least 66 programs since 2003 to develop the rule of law in Afghanistan. Of the 66 identified programs, 36 are ongoing programs, totaling approximately \$601.2 million, and 30 are completed programs, totaling approximately \$483.2 million.²⁴

Table 1 details the completed and ongoing rule of law programs and money spent by DOJ, State, and USAID since 2003. For DOD, table 1 details the information they were able to provide. See appendix II for additional details on the programs implemented by each agency.

Table 1 - Completed and Ongoing Rule of Law Programs and Spending by Agency since 2003

Agency	Number of Rule of Law Programs	Amount Expended As of May 2014 (\$ Millions)	Funding Sources
DOD	2 ^a	\$243.4 ^b	Afghanistan Security Forces Fund, Afghanistan Infrastructure Fund, Commander's Emergency Response Program
DOJ	1 ^c	22.7 ^d	International Narcotics Control and Law Enforcement, State Bureau of South and Central Asian Affairs funding
State	49	648.4	International Narcotics Control and Law Enforcement, Economic Support Fund
USAID	14	169.9	Economic Support Fund and Economic Support Fund-Supplemental, Gifts and Donations, and Development Assistance Funds
Total	66	\$1,084.4	

Source: SIGAR analysis of information provided by DOD, DOJ, State, and USAID

Notes: ^a Many relevant DOD activities occurred as part of daily operations by Judge Advocate General officers and other U.S. military personnel. We included only those programs for which a specific rule of law mission or accounting line were identified.

^b DOD provided incomplete funding data on its rule of law programs and told us that many activities performed were not tracked as part of a specific DOD rule of law program. As a result, this figure is likely higher based on activities described by DOD to be under the rule of law scope.

^c This program is implemented under an interagency agreement between State's Bureau of International Narcotics and Law Enforcement Affairs (INL) and DOJ. The majority of the activities and funding under this agreement pertain to activities outside our audit scope (e.g., counternarcotics). DOJ provided us an estimate for the costs associated with the agreement's activities that were within our audit scope.

^d In addition to State INL funds from the interagency agreement, DOJ reported that South Central Asian Affairs funds were used to carry out work under the DOJ Senior Federal Prosecutor's Program. The total of State INL and South Central Asian Affairs funds used for the DOJ's program was \$22.7 million.

²⁴ The 36 programs were ongoing as of May 2014.

DOJ, State, and USAID Could Account For Total Funds Spent

The Coordinating Director at the U.S. Embassy in Afghanistan is responsible for decisions regarding how U.S. agencies use State and foreign operations funds made available for rule of law programs in Afghanistan.²⁵ As a consequence of the Coordinating Director's responsibility for such decisions, DOJ, State, and USAID are required to report to U.S. Embassy Kabul on their funding for rule of law programs. In response to our request for information, DOJ, State, and USAID identified the rule of law activities they conducted and the funding spent in Afghanistan since 2003. Furthermore, State identified additional activities that support rule of law as part of their "ongoing diplomatic engagement," but are not associated with specific rule of law programs and do not carry a dollar value for their associated costs. For example, State officials told us that they did not provide any direct funding or programming for some activities, such as efforts to urge the Afghan government to pursue suspects in high-profile corruption cases involving the justice sector, to monitor the Afghan government and the international community's anticorruption initiatives, and to work with the Afghanistan Independent Bar Association. As for DOJ, a senior DOJ official explained that the majority of efforts under DOJ's rule of law programs, and their associated costs, primarily focus on counternarcotics and law enforcement, and fall outside the scope of the 2009 U.S. government Rule of Law Strategy for Afghanistan and our audit based on our definition of rule of law. DOJ provided estimated costs consistent with the scope of the 2009 strategy.

During our audit, State and USAID were planning at least eight new programs, with USAID estimating program amounts of approximately \$127 million for its two programs.²⁶ State officials told us they did not have cost figures for their six planned programs.²⁷ These new State and USAID programs are intended to focus on formal justice sector development and capacity, corrections and detention reform, legal education, anticorruption, strengthening the informal justice system, public outreach, and civic education. In addition, through September 2015, DOJ will continue to work through its interagency agreement with State's Bureau of International Narcotics and Law Enforcement Affairs (INL) to provide training and mentoring related to anticorruption and major crimes, national security crimes, and Afghan criminal justice progress and law reform, as well as mentoring and training to provincial investigators and prosecutors.

DOD Could Only Account For Some Funds Spent

Although we identified more than \$1 billion spent by U.S. agencies on rule of law programs in Afghanistan since 2003, this amount may actually be higher. Despite its own guidance for reporting costs for its work, DOD could not provide us complete funding figures, such as obligations or expenses, for the Rule of Law Field Force-Afghanistan (ROLFF-A), even though this sub-command of the Combined Joint Interagency Task Force-435 (CJIATF-435) had a dedicated rule of law mission.²⁸ For example, DOD could not provide us supporting contract documentation detailing the costs for all ROLFF-A infrastructure projects. DOD officials stated that ROLFF-A should have documented this information, but could not provide any supporting evidence. As a result, DOD could not account for the total amount of funds it has spent to support rule of law development in Afghanistan.

²⁵ Consolidated and Further Continuing Appropriations Act, 2015, Pub. L. No. 113-235, § 7044(a)(5) (2014).

²⁶ At the time we drafted this report, USAID's two planned programs were updated to total \$117 million: the \$87 million, 5-year Assistance for the Development of Afghan Legal Access and Transparency program, which has a planned start date in autumn 2015; and the \$30 million, 5-year Supporting Afghanistan's Fight Against Corruption program, which has a planned start date in late 2015 or early 2016.

²⁷ State officials told us that they do not have funding figures to provide for their planned programs. At the time we drafted this report, State reported it has begun work on the Afghan Children's Support Center Fund, Afghanistan Jessup Moot Court, and Supporting Access to Justice in Afghanistan. Three programs are still in the planning stages: the Samagan Prison New Water Well, Pol-i-Charkhi Renovations, and Pol-i-Charkhi Waste Water Treatment Plant.

²⁸ DOD, *The Rule of Law Field Support Officer Deskbook*, June 2012, p. 50. This book was published ROLFF-A to provide guidance and lessons learned for military support to the Afghan justice sector.

In addition, DOD officials told us that many rule of law activities performed by U.S. soldiers were part of a broader range of daily work assigned by U.S. commanders and were not tracked as part of a specific DOD rule of law program. For example, one Judge Advocate General officer assigned to a National Guard brigade in 2012 told us that the majority of his tour was spent on contracting and financial matters; however, on occasion, he performed rule of law activities, such as supporting CJATF-435's ROLFF-A officials to conduct a conference with Afghan prosecutors and police to discuss legal best practices and issues with cases. DOD did not track this effort as part of a DOD rule of law program or identify associated costs. As a result, DOD has likely performed more rule of law activities than it was able to identify in response to our requests for information.

Following the end of CJATF-435 and the ROLFF-A's mission in 2014, DOD officials told us that the department has no specific rule of law programs planned, though a small number of staff will continue to provide support to Afghan justice actors at the Justice Center in Parwan and the Afghan ministries through the North Atlantic Treaty Organization's Resolute Support mission.

SIX MAJOR RULE OF LAW PROGRAMS DID NOT HAVE ADEQUATE PERFORMANCE MANAGEMENT SYSTEMS, AND AGENCIES COULD NOT OR DID NOT DETERMINE THE EXTENT TO WHICH THE PROGRAMS MET THEIR OBJECTIVES

We selected 6 of 66 completed and ongoing programs for review.²⁹ These programs totaled at least \$634.6 million (i.e., 59 percent of the total amount of funding spent on rule of law programs since 2003) and covered all four funding agencies (i.e., DOD, DOJ, State, and USAID) and 11 years of programming (i.e., 2003 to 2014). Using program documents, contracts, and evaluation reports, we examined each agency's performance management system and information on their programs' performance in achieving objectives and contributing to U.S. rule of law strategic objectives.³⁰ Table 2 provides details for each of the six programs.

Table 2 - Sampled Programs from DOD, DOJ, State, and USAID

U.S. Agency	Program	Program Activity Type(s)	Program Expenditures as of May 2014 (\$ Millions)	Program Period of Performance as of May 2014
DOD	CJIATF-435 Rule of Law Field Force-Afghanistan (ROLFF-A)	Formal Justice Sector	\$24.3	9/2010-2/2014
DOJ	DOJ Senior Federal Prosecutors Program (SFPP)	Anticorruption, Formal Justice Sector	22.7	2/2005-9/2014
State	Corrections System Support Program (CSSP)	Corrections	259.5	1/2006-12/2014
State	Justice Sector Support Program (JSSP)	Formal Justice Sector	241.0	3/2005-12/2014
USAID	Rule of Law Stabilization Program - Formal Component (RLS-F)	Formal Justice Sector, Legal Education, Public Outreach	47.5	1/2010-7/2014
USAID	Rule of Law Stabilization Program - Informal Component (RLS-I)	Informal Justice Sector	39.7	3/2010-3/2014

Source: Information provided in response to SIGAR Requests for Information from DOD, DOJ, State, and USAID

²⁹ See appendix I for more details on our judgmental sample and how we selected these programs to be as representative as possible of overall U.S. rule of law efforts in Afghanistan.

³⁰ DOD, DOJ, State, and USAID use a variety of terms, including performance measurement, performance management, and performance monitoring. For example, State has used the term "performance management plans" and "performance measurement plans." For consistency, we use the term "performance management." For our purposes, a performance management system includes a plan for monitoring and evaluating how a program is performing and involves measuring and reporting on established performance indicators.

DOD, DOJ, State, and USAID each have guidance—in the form of contract requirements, agency policies such as 2003 State guidance for measuring performance, 2011 State guidance for performance management plans, and USAID ADS 203 guidance for performance management plans, or other documentation such as the 2011–2015 U.S. Mission Afghanistan, Post Performance Management Plan—calling for the agencies to establish a performance management system for monitoring and reporting on programs' progress toward achieving their objectives.³¹ For the six major programs we examined, DOD, DOJ, State, and USAID did not fully measure performance in accordance with their own internal guidance. Three of the six programs did not have any performance management plan in place until several years after the programs began. Furthermore, State guidance specifically calling for such plans was not issued until several years after State INL's programs were underway. The agencies were able to identify some particular instances of successes and challenges by measuring the performance of these programs, but problems with all six programs' performance management systems make the extent to which the six programs achieved all of their objectives unclear.

Because these agencies did not systematically measure and report on their programs' achievements—or how those programs fulfilled the broader 2009 strategy—they cannot fully determine the extent to which these \$1 billion in programs have made progress in achieving objectives for developing the rule of law in Afghanistan.

DOD Cannot Fully Determine the Extent to Which Rule of Law Field Force–Afghanistan Achieved its Objectives

DOD established ROLFF-A in September 2010 as a sub-command of the CJATF-435, and spent at least \$24 million on its program activities.³² ROLFF-A had four primary objectives in 10 provinces: (1) develop human capacity, (2) build sustainable infrastructure, (3) facilitate justice sector security, and (4) promote awareness of the law and access to justice. Specific ROLFF-A activities included improvements to judicial infrastructure in provinces, training on evidence-based operations for judicial actors and law enforcement, and public outreach efforts on Afghan law and trials.

The Center for Law and Military Operations 2011 Rule of Law Handbook provides performance management guidance for DOD rule of law activities and notes the importance of having assessment, monitoring, and evaluation phases in a rule of law program. Such phases are to include establishing baselines, targets, and indicators to track rule of law efforts' progress in meeting their objectives. Measuring performance helps to evaluate change and determine whether the rule of law program's design is proving successful or requires enhancement or reassessment.³³ In addition, the Rule of Law Field Support Officer's Deskbook, a document published by ROLFF-A in 2012 to guide the work of field support officers, notes the importance of measuring progress on rule of law over the course of the mission.

DOD's March 2014 final evaluation of ROLFF-A found that the program did not adequately or comprehensively measure performance and progress in meeting its objectives and goals.³⁴ The report noted that ROLFF-A

³¹ See, e.g., State, *Performance and Accountability Highlights Fiscal Year 2003*, 2003 (also noted in Annual Performance Summaries for 2005 and 2006); Department of State, *Performance Management Guidebook, Resources, Tips, and Tools*, 2011; USAID, *Functional Series 200-Programming Policy, ADS 203–Assessing and Learning*, January 31, 2003; and U.S. Mission for Afghanistan, *U.S. Foreign Assistance For Afghanistan, Post Performance Management Plan 2011–2015*, October 2010.

³² Established in 2009, CJATF-435 was responsible for U.S. detention operations in Afghanistan and had a secondary mission to develop the government of Afghanistan's investigative, prosecutorial, and judicial systems. The command ceased operations in September 2014.

³³ The U.S. Army Center for Law and Military Operations' Judge Advocate General's Legal Center and School, *Rule of Law Handbook: A Practitioner's Guide for Judge Advocates*, 2011. Updated in 2013, the handbook also provided guidance that rule of law planners should "use established frameworks for assessing host-nation legal institutions and measuring the progress of rule of law activities."

³⁴ North Atlantic Treaty Organization Rule of Law Field Support Mission/Rule of Law Field Force-Afghanistan After Action Report, March 11, 2014.

implementers never conducted a baseline study of rule of law activities in Afghanistan, therefore making any subsequent progress difficult to measure. ROLFF-A established a data collection effort in 2011 to gather performance information on certain rule of law indicators, such as the presence of active judges, prosecutors, and defense attorneys in a district, and whether public trials are held in the district. However, our review found that the performance indicators were vague, did not clearly link back to ROLFF-A's four primary operational objectives, and were inconsistently measured and reported. Our review of the data collected showed that DOD did not systematically track established performance indicators over time or collect performance information consistently across program locations. For example, DOD tracked the number of public trials held by province. In late 2011, officials recorded this data for 8 of the 10 program provinces. By mid-2012, officials recorded data for only three of these provinces, and in late 2012, for only one province. In addition, some ROLFF-A officials measured performance indicators at irregular intervals across provinces or without any particular frequency within their assigned province. As a result, there is likely insufficient performance data to assess progress.³⁵ Former ROLFF-A officials tasked with collecting the performance data noted in the final evaluation and told us that this lack of consistency in measuring and reporting was partly because they received insufficient guidance on how they should collect the data or how it was intended to be used. In addition, officials cited the lack of dedicated security support as a factor affecting their ability to systematically collect data across the 10 provinces.

Although DOD did not have a performance management system to determine ROLFF-A's progress in meeting its objectives, ROLFF-A officials identified some examples of accomplishments and failures with the program. For example, the final ROLFF-A evaluation report in March 2014 noted that the program (1) improved security at some Afghan courthouses and related justice facilities through infrastructure improvements, and (2) provided training and mentoring, such as support to the Justice Center in Parwan and technical support (e.g., proper use of forensic evidence) to Afghan judges, prosecutors, and defense attorneys operating at Parwan. The report further noted that these efforts at Parwan led to more timely and efficient case management, higher overall rates of conviction, and improved the quality of evidence used in the legal process.

ROLFF-A officials and documents also identified problems, such as frequent staff turnover and staff not sharing information on previous work or capturing and transferring institutional knowledge to successors, as challenges to the program's success. In addition, former commanders and officers noted that a dedicated security component for ROLFF-A in the form of a 160-man artillery company was planned but never manned. According to DOD's final evaluation, this severely limited engagements with key Afghan leaders and meant that ROLFF-A was unable to provide security for justice staff at the national or provincial level.

ROLFF-A officials were able to provide anecdotes of program success and failures, but problems with ROLFF-A's performance management system have made it difficult for DOD to determine the extent to which its program activities met their objectives or identify the outcomes and impacts from its efforts. More importantly, DOD does not have a complete picture of what the program accomplished.

DOJ's Senior Federal Prosecutor's Program Showed Mixed Results in Achieving Some of its Objectives and Lacked a Performance Management Plan Until 2014

DOJ implemented the Senior Federal Prosecutor's Program (SFPP) through an interagency agreement with State INL totaling \$22.7 million for the period from February 2005 to September 2014.³⁶ According to the

³⁵ The U.S. Army Center for Law and Military Operations 2011 Rule of Law Handbook states that "consistent monitoring of both qualitative and quantitative indicators allows for an appraisal of progress against the goals that have been set." The U.S. Army Center for Law and Military Operations' Judge Advocate General's Legal Center and School, *Rule of Law Handbook: A Practitioner's Guide for Judge Advocates*, 2011.

³⁶ State, *Amendment Six to the 2009 Interagency Agreement between Department of State Bureau of International Narcotics and Law Enforcement Affairs and Department of Justice including the Criminal Division, Department of Justice Counternarcotics, Counter-Corruption, Major Crimes, and National Security Investigation and Prosecution Program in Afghanistan*, September 2012.

agreement, SFPP's goal was to assist the Afghan government's formal criminal justice system to help it achieve legitimacy with Afghan criminal justice authorities working to combat narcotics trafficking, significant public corruption, national security threats, and other major crimes. The majority of the activities and funding under this agreement pertain to activities supporting U.S. counternarcotics and law enforcement efforts that are outside the scope of this audit. Because of this we limited our review of the program to the objectives pertaining to (1) reforming Afghan criminal law and (2) building the capacity of the Anticorruption Unit within the Afghan Attorney General's Office to effectively combat public corruption. DOJ estimates that the cost to perform these two objectives of the SFPP was approximately \$22.7 million.³⁷

From 2005 to 2014, DOJ measured the performance of SFPP to some extent. For example, in the 2005 interagency agreement, State required DOJ to report on some performance indicators, such as reviewing whether various codes in criminal law have been completed and whether draft laws or technical fixes to laws have been submitted to Afghan officials for consideration. Moreover, in the 2009 interagency agreement, State required DOJ to report on indicators such as whether new members of the Afghan Anticorruption Unit, Major Crimes Task Force, and other specialized units were trained, and actively participating in investigations and prosecutions within 2 months.³⁸ DOJ provided quarterly performance reports to State that primarily included anecdotal narratives on how the SFPP was performing. A senior DOJ official told us that the performance reporting was mainly qualitative and that it was difficult to provide quantitative analysis on rule of law activities.³⁹ Nevertheless, we determined that the indicators developed by State were vague, and the performance reports appeared to simply provide updates on the activities conducted rather than measure progress.

Under its interagency agreement with State, DOJ is required to follow State performance management guidance issued in 2010, which calls for the establishment of a performance management plan.⁴⁰ However, State and DOJ did not develop a performance management plan for the SFPP until 2014—3 years after it was required by State. In addition, the same State guidance states that programs should establish performance indicators and baselines, as well as identify targets against which to measure performance. Although the 2014 performance management plan includes eight output and three outcome indicators, including “number of trainings” and “increase in human capacity,” none of these indicators report corresponding baseline data or include targets to track progress.

DOJ officials noted anecdotally their belief that DOJ has had mixed results in meeting SFPP's two objectives. Specifically, DOJ officials told us that the program made some progress in achieving criminal law reform and building the capacity of the Anticorruption Unit within the Afghan Attorney General's Office to effectively combat public corruption. DOJ provided some examples to support these opinions. With regards to the program's first objective to reform Afghan criminal laws, DOJ, as part of an international working group involving Afghanistan's Ministry of Justice and the Attorney General's Office, has assisted the Afghan government by providing policy guidance on new legislation, such as the Criminal Procedures Code, the penal code, and anti-money laundering legislation. For example, DOJ provided policy guidance to the Afghan government to develop the June 2014 Criminal Procedure Code and help ensure that the code was consistent with the Afghan Constitution.

³⁷ DOJ reported that in addition to its interagency agreement with State INL and DOJ, State's Bureau of South and Central Asian Affairs also provided funding to support the SFPP. DOJ estimates that State INL provided approximately \$6.8 million, and South and Central Asian Affairs provided approximately \$15.9 million toward rule of law work within our audit scope, for a total of \$22.7 million. DOJ confirmed that it is coincidence that DOJ's estimate for the cost of rule of law activities it conducted under our audit's rule of law scope equals the total of the interagency agreement.

³⁸ The Major Crimes Task Force is the principal Afghan government agency responsible for investigating and processing major anti-corruption, kidnapping, and organized crime cases.

³⁹ The DOJ official also noted that it is a challenge to establish quality performance indicators in rule of law and that DOJ and State officials regularly met to discuss ideas for establishing more helpful performance indicators.

⁴⁰ U.S. Mission for Afghanistan, *U.S. Foreign Assistance for Afghanistan Post Performance Management Plan 2011-2015*, October 2010.

With regard to the second objective, DOJ worked with the Afghan Attorney General's Office to create an Anticorruption Unit in August 2009. DOJ officials told us that in August 2009 corruption became an important issue for U.S. Embassy Kabul to address and, as a result, U.S. officials began to focus more on anticorruption efforts. For example, in an effort to build capacity in the Anticorruption Unit, in 2010, DOJ worked through the Major Crimes Task Force to help vet Afghan judges to work in the courts and mentor prosecutors to pursue corruption cases, including mid and high-level targets. However, DOJ officials also mentioned that their efforts to build capacity and train Afghans to fight corruption were eventually ignored due to the Afghan government's lack of political will to allow corruption cases to be prosecuted. Afghanistan's anticorruption efforts were blocked later in 2010 by the Afghan Administration's interference in specific cases, including securing the release of a high-level Afghan official arrested for corruption. The Administration subsequently reduced the authority of the Major Crimes Task Force and the Anticorruption Unit. Officials from DOJ and the U.S. embassy told us that, as a result of the Afghan government's lack of political will to pursue high-level corruption cases, DOJ significantly limited its involvement in the Anticorruption Unit. Currently, the DOJ has very limited involvement with the unit, but conducts some activities, such as helping it develop a schedule for specialized training of Afghan prosecutors. Even without detailed performance information, DOJ reports that there was no improvement in the Afghan government's willingness to prosecute major corruption cases in 2014.⁴¹

Although State and DOJ took some steps to measure and report on SFPP performance over the years, the agencies only established a detailed performance management plan for systematically evaluating and reporting on the program in 2014. Unfortunately, this plan still does not report performance baselines and targets from which to assess detailed progress against program objectives. As a result, State and DOJ cannot determine the extent to which the rule of law components of the SFPP, which cost \$22.7 million to implement, achieved their goals.

Despite Addressing Some Previously Identified Performance Management Problems with the Corrections System Support Program, State Still Cannot Fully Determine Whether the Program Has Achieved its Objectives

State INL started the Corrections System Support Program (CSSP) in January 2006 to assist in the development of Afghanistan's national corrections system. State INL paid approximately \$259.5 million from January 2006 through May 2014 to PAE Incorporated to assist the Afghan government in building a safe, secure, and humane prison system that meets international standards and Afghan cultural requirements. Specifically, the CSSP focuses on providing the Afghanistan Ministry of Interior's General Directorate of Prisons and Detention Centers with training, mentoring, and professional assistance, and advises the Afghan government on corrections best practices, including infrastructure, maintenance, staff training, reintegration, educational and vocational programming, prison industries, and gender awareness. State INL has projected that CSSP will continue through 2016, with several major CSSP initiatives scheduled to transfer to the Afghan government between 2013 and 2015. According to State INL, the program's current end date was December 31, 2014, but it is expected to be continued through a re-competed contract under the broader Criminal Justice Program Support contract in 2015.

In a September 2013 audit report on the CSSP, State's Office of the Inspector General (OIG) raised significant concerns with State INL's ability to measure program performance.⁴² State OIG reported that, among other things, INL had not (1) developed a performance management plan—as called for by State's December 2011 guidance—until October 2012, over 6 years after the program had started; (2) conducted a program review to determine CSSP program and cost effectiveness; or (3) developed a quarterly assessment and reporting

⁴¹ A senior DOJ official noted that DOJ hopes the new Afghan Administration will usher a new era in political will to fight corruption.

⁴² State OIG, Report No. AUD-MERO-13-37, *Audit of the Bureau of International Narcotics and Law Enforcement Affairs Corrections System Support Program in Afghanistan*, September 2013.

process for measuring CSSP success in achieving its program outcomes and the Afghan government's progress on meeting its commitments.⁴³ Furthermore, State OIG found that despite issuing a performance management plan in October 2012, the plan did not align with State's December 2011 performance management guidance and did not establish a methodology for linking CSSP outcomes to CSSP's objectives.⁴⁴ In June 2014, State INL responded to State OIG regarding its progress implementing the recommendations from the audit, stating that the bureau had updated the CSSP performance management plan to include specific program goals and measurable program objectives; had established a quarterly assessment and reporting process; would complete a sustainability strategy in partnership with the Afghan government by July 2014; and would solicit a third-party evaluation of CSSP in September 2014.⁴⁵

Our analysis found that State INL updated the CSSP performance management plan to include output, outcome, and impact indicators, which are linked to one another and measure CSSP progress toward objectives.⁴⁶ State INL also developed a quarterly assessment and reporting process and reported on some but not all CSSP indicators. Although State OIG's recommendation was made in September 2013, State INL awarded a contract in August 2014 for a third-party impact evaluation of CSSP to determine whether the program had achieved its desired impact, met program goals and objectives, and resolved previous performance management problems. This evaluation is projected to be completed by September 2015.

Despite State INL's recent performance management improvements, it still cannot determine the extent to which CSSP—a program that has cost the department \$259.5 million to implement—has achieved its overall objectives. Despite this, State has already planned to extend the program.

The Extent to Which the Justice Sector Support Program Met its Objectives Cannot be Fully Determined Because Of Deficiencies in the Program's Performance Management System

State INL paid approximately \$241 million from March 2005 through May 2014 to PAE Incorporated on the Justice Sector Support Program (JSSP) to provide training to Afghan justice sector officials, develop a case management system to track cases throughout Afghanistan's justice system, and build the capacity and administrative skills of officials within Afghan ministries. JSSP is part of the U.S. government's efforts to develop the formal justice sector in Afghanistan and help improve legal services for the Afghan people, a key component of the National Justice Sector Strategy for Afghanistan.⁴⁷

In our January 2014 audit report on JSSP, we reported that State INL performed inconsistent oversight of the JSSP and had several problems assessing both the program's ability to meet its objectives and the program's impact on Afghan justice sector development.⁴⁸ Specifically, State INL did not develop a performance

⁴³ State INL officials told us that they originally disagreed with State OIG's finding, and they began implementing draft CSSP performance management plan in October 2011. The final performance management plan was approved and issued in October 2012.

⁴⁴ State, *The Performance Management Guidebook*, December 2011. This is a guide to build capacity within State to plan for and conduct rigorous performance management efforts in order to collect data and put that data to use in decision-making through analysis and results reporting.

⁴⁵ The third-party evaluation will seek to determine to what extent CSSP has successfully built a sustainable capacity within the Afghan government to manage correctional facilities in alignment with international corrections best practices, especially humane treatment of prisoners and detainees.

⁴⁶ State defines an "impact" as an indicator of the broader social and environmental changes that demonstrate the program is achieving its desired results. See State INL Afghanistan-Pakistan, *Outreach and Programs Support (OPS) Unit Justice Sector Support Program (JSSP) Performance Management Plan (PMP)*, October 2012.

⁴⁷ SIGAR 15-22-FA, *Department of State's Afghanistan Justice Sector Support Program: Audit of Costs Incurred by Pacific Architects and Engineers, Inc.*, December 2014.

⁴⁸ SIGAR Audit 14-26-AR, *Support for Afghanistan's Justice Sector: State Department Programs Need Better Management and Stronger Oversight*, January 2014.

management plan detailing specific performance indicators for JSSP, as required by contract, until October 2012—two and a half years after it signed the May 2010 contract with PAE. Although this performance management plan contained specific indicators, it lacked baselines against which to assess progress and targets to which PAE could be held accountable. Notably, State INL's JSSP performance management plan acknowledges that without a baseline, "there is no comparison to provide a measure of change" in performance from the previous year and against which to assess program impacts. Moreover, although some of the indicators State INL relied upon to determine program success, such as the number of courses conducted and the total hours JSSP staff spent advising trainees, focused on short-term performance outputs, State INL did not look to long-term performance outcomes that could help determine the JSSP's overall effect on development of Afghanistan's justice sector. Although State's performance management guidance states that evaluating a program's overall effect on its beneficiaries may be challenging because achieving outcomes is a resource-intensive effort that takes time to appear, it also states that measuring a program's overall impact can only be done through such an approach.⁴⁹ We found that State INL did not know the extent to which the JSSP has contributed to the development of rule of law and the sustainability of the Afghan justice sector.

For this audit, we conducted follow-up interviews with State officials and reviewed updated information provided to us to determine the extent to which improvements had been made in State INL's measurement of JSSP performance and progress. We found that State INL, working with PAE, produced updated performance output and outcome indicators, as well as impacts to be measured. However, State and PAE still had not established targets for these outcome indicators. In addition, our review of updated JSSP progress reports, such as the May 2014 JSSP quarterly report, found that the reports provide information on output indicators which track program activities, but they still did not measure and report progress against outcome indicators, as required by the 2012 JSSP performance management plan. For example, the 2012 performance management plan established outcome indicators to "increase efficiency and effectiveness of the justice and corrections systems of Afghanistan" and for "improved communications within justice institutions" to be reported on quarterly.⁵⁰ The May 2014 JSSP quarterly report did not report on these outcome indicators.

State INL also completed a qualitative study of the JSSP in November 2013.⁵¹ The study reports examples of some successes, such as JSSP's contributions to increasing the capacity and knowledge of justice sector actors on Afghan laws, and their duties and responsibilities. However, the study also highlights several problems with JSSP's performance management system and inadequacies with evaluating whether JSSP is achieving its objectives. For example, the study, like our previous audit of JSSP, found a lack of baseline data, which would have helped State INL to determine whether the JSSP improved the rule of law in Afghanistan. In 2013, State and PAE established a formal monitoring and evaluation unit to help address this lack of systematic measurement, but this was 7 years after the start of the program and contract guidance that called for them to do so.

Although some improvements have been made to the JSSP performance management plan and measuring progress since our previous audit, State INL's problems with performance management persist. State INL still does not measure outcomes and impacts, as required by the original 2006 contract scope of work, preventing State from knowing the extent to which JSSP has met its program objectives. As a result, State INL cannot fully determine whether this \$241 million program met its objectives or strengthened the rule of law in Afghanistan.

⁴⁹ State INL Afghanistan-Pakistan (INL/AP), *Outreach and Programs Support (OPS) Unit, Justice Sector Support Program (JSSP), Performance Management Plan*, October 2012; and State Bureau of Democracy, Human Rights, and Labor, *Monitoring and Evaluation Plan Primer for DRL Grantees*.

⁵⁰ State INL Afghanistan-Pakistan, *Outreach and Programs Support (OPS) Unit Justice Sector Support Program (JSSP) Performance Management Plan (PMP)*, October 2012.

⁵¹ PAE, *The Justice Sector Support Program Seven Years Implementing Rule of Law in Afghanistan: Qualitative Evaluation Research Study – A Regional Perspective*, November 2013.

The Extent to Which USAID’s Rule of Law Stabilization-Formal Met its Objectives Cannot be Fully Determined Because Of Deficiencies in the Program’s Performance Management System

USAID paid approximately \$47.5 million to Tetra Tech DPK on the Rule of Law Stabilization–Formal (RLS-F) program from January 2010 through May 2014. RLS-F was completed in September 2014. The program’s mission was to support the 2009 U.S. rule of law strategy for Afghanistan, improve Afghanistan’s formal justice sector, and reduce corruption. The RLS-F program was also to build leadership in the justice sector and civil society by (1) building the capacity of the judiciary, (2) building the capacity of court management systems, (3) building the capacity of law and Sharia faculties, and (4) conducting public outreach and awareness through strategic communication.⁵²

USAID guidance states that a performance management plan is a useful tool in monitoring a program’s progress and is designed to assist in monitoring, analyzing, evaluating, and reporting toward achieving the program’s objectives. Specifically, USAID’s Automated Directives System 203 states that every mission “must” prepare a performance management plan.⁵³ USAID contract awards require implementing partners to prepare similar plans that include performance measures—both output and outcome indicators—along with baselines, targets, data sources, and data collection systems to monitor and report on program progress.⁵⁴ Under the original RLS-F contract, USAID was to oversee a requirement that Tetra Tech DPK provide a performance management plan, establish performance indicators to be monitored and evaluated by USAID, and to submit monthly performance reports with a summary of performance indicator results, progress toward performance targets, and identify problems and proposed remedial actions.

An August 2012 third party evaluation of RLS-F performed by Democracy International and funded by USAID concluded that USAID performed “little monitoring and evaluation during the life of the program” and found that USAID and Tetra Tech DPK lacked an effective performance management system and recorded “ambiguous” performance data.⁵⁵ Moreover, the data provided was primarily composed of output indicators, like the number of judges trained or the number of legal clinics established at universities, and did not report on effectiveness or outcome indicators, such as, for example, reporting on the extent to which judges became more ethical in their duties as a result of the training, or whether these judges were consistently using the materials taught to make their rulings.⁵⁶ Democracy International also reported that measuring the performance of the program was difficult for USAID and Tetra Tech DPK because of a slow administrative process between the field and headquarters, a lack of monitoring and evaluation systems at the beginning of the program, and minimal effort to measure outcomes.

Democracy International found some examples of mixed progress in achieving RLS-F’s objectives. For example, Democracy International stated that RLS-F had some success in meeting its first objective to develop the capacity of the judiciary through the assistance to the Afghan Supreme Court’s *Stage*, a formal two-year training program for new judges,⁵⁷ and meeting its third objective to build the capacity of Afghan law and Sharia faculties through the development of legal clinics at Afghan universities, a uniform core curriculum for

⁵² SIGAR 15-41-FA, *USAID’s Rule of Law Stabilization Program—Formal Component: Audit of Costs Incurred by Tetra Tech DPK*, March 2015.

⁵³ USAID, *Functional Series 200—Programming Policy, ADS Chapter 203: Assessing and Learning*, January 2003. (Revised in March 2004, September 2008, and November 2012.)

⁵⁴ See, e.g., USAID, *Letter Contract for AID-306-C-12-00014, Rule of Law Stabilization Formal-Component*, July 2012.

⁵⁵ Democracy International, Inc. *Rule of Law Stabilization-Formal Sector Component Program Evaluation*, August 2012.

⁵⁶ *Ibid.*

⁵⁷ Democracy International reported that about 125 students participated in the *Stage* program each year, and approximately 80 percent of judges who begin the program complete it.

Afghan law schools, and the Jessup Moot Court competition.⁵⁸ However, Democracy International also reported that although legal clinics had been established, few Afghans gained practical experience in performing legal work, and Tetra Tech DPK staff did not fully understand the purpose of the clinics. In addition, Democracy International reported that RLS-F was unsuccessful at meeting its fourth objective regarding public outreach and awareness, noting that public outreach and awareness efforts seemed to be an “afterthought.”⁵⁹

Our analysis following up on progress from late 2012 to the program’s completion in 2014 shows that USAID and Tetra Tech DPK were able to measure performance against output indicators and improve the program’s performance management plan by creating some outcome indicators. However, the November 2012 program performance management plan called for internal court user satisfaction surveys to gauge the perceptions of Afghan citizens who interact with courts, and using this data to measure the “percentage of court users who agree that a court performed effectively.” Although RLS-F conducted two surveys and reported that 47.1 percent of court users agreed that the court performed effectively, a January 2014 Tetra Tech DPK survey report noted problems with the survey’s usefulness.⁶⁰ For example, the information could not be used for probability sampling, lacked user satisfaction baseline data against which to measure, and used different survey questions across the two phases and various provinces in which the survey was conducted. As a result, it was impossible to compare survey results across provinces.⁶¹ Moreover, Tetra Tech DPK’s September 2014 final report noted that problems with monitoring and evaluation adversely affected the program. The report also noted that USAID had not measured outcome indicators for multiple RLS-F objectives upon the program’s completion, but provides no explanation about why USAID had not done so.

Although USAID made efforts to improve RLS-F’s performance management system, problems early in the program and continuing deficiencies in measuring and reporting on program outcomes prevented USAID from fully determining the extent to which the program met its objectives. Furthermore, since the program has ended, USAID is unlikely to ever fully determine the impact the \$47.5 million RLS-F program had on developing rule of law in Afghanistan.

The Extent to Which USAID’s Rule of Law Stabilization-Informal Met its Objectives Cannot be Fully Determined Because Of Deficiencies in the Program’s Performance Management System

USAID paid approximately \$39.7 million to Checchi and Company Consulting, Inc. (Checchi) for implementation of the Rule of Law Stabilization–Informal (RLS-I) program from March 2010 through its completion in March 2014. The program’s mission was to support both the 2009 U.S. rule of law strategy for Afghanistan and USAID Mission for Afghanistan objectives to strengthen the informal justice sector in Afghanistan. USAID intended for RLS-I to strengthen the informal justice sector in order to help increase stability and improve access to justice in target districts. The program’s core objectives were to (1) strengthen informal justice mechanisms, specifically shuras and jirgas; (2) enhance linkages between formal and informal systems; and (3) facilitate the resolution of long-standing and destabilizing disputes. Under the original contract for RLS-I, much like the contract for RLS-F, USAID was responsible for ensuring Checchi met its requirements to create a performance management plan, establish performance indicators to be monitored and evaluated by USAID, and to submit

⁵⁸ The Jessup Moot Court Competition involves Afghan universities sending student teams to compete at the Kabul Appellate Court for the chance to represent Afghanistan at the Jessup International Law Moot Court Competition—an established methodology for law students around the world to hone their legal skills through head-to-head courtroom activities that require intensive study, preparation, critical thinking, and debating skills.

⁵⁹ Democracy International, Inc. *Rule of Law Stabilization-Formal Sector Component Program Evaluation*, August 2012.

⁶⁰ USAID, *Rule of Law Stabilization-Formal Component, Court User Survey, Court User Perceptions in Afghanistan*, January 2014.

⁶¹ USAID’s Automated Directive System 203.3.11 states for data to be reliable it should be collected and analyzed over time in a stable and consistent manner.

monthly performance reports with a summary of performance indicator results, progress toward performance targets, and identified problems and remedial actions proposed.

A January 2011 USAID assessment of Checchi's implementation of RLS-I activities stated that program beneficiaries and stakeholders expressed positive views of the program and believed the program was beginning to produce a wide variety of results from its training, networking, linkages connecting the formal and informal justice sectors, and outreach activities.⁶² Although the assessment team recommended continuing support to RLS-I, the team also stated that the program's performance management system was inadequate due to weak baselines and unclear benchmarks. The team recommended that USAID prepare a performance management plan, as Checchi was already required to do by the contract, to include performance indicators with baselines, targets, and outcome indicators, such as ways to measure justice quality and levels of abuse and violations.

After the 2011 assessment, USAID and Checchi made some improvements to measure performance. They established a series of outcome and impact indicators, and called for program implementers to use perception surveys, interviews, focus groups, and quantitative data collection instruments to measure progress toward achieving program objectives. USAID approved a final RLS-I performance management plan in October 2012, approximately two and a half years after the program began. Nevertheless, in its 2012 performance management plan Checchi reported serious limitations with the data collected for these performance indicators. For example, the indicator "[p]ercent of elders registering decisions with the government" would be measured by self-reporting from elders, which often cannot be verified.

Two final evaluations of RLS-I funded by USAID cited some examples of mixed results in achieving program objectives.⁶³ Although Checchi's April 2014 final RLS-I program evaluation notes challenges and limitations to assessing programs in Afghanistan such as identifying change through statistics and gathering quality data, the evaluation reports on some successes and problems. For example, the evaluation states that RLS-I helped to foster awareness of state jurisdiction over crimes and promoted interaction with the formal justice sector in recording and documenting informal dispute resolutions. On the other hand, Checchi reported negligible gains in more abstract constitutional knowledge, such as freedom of assembly or gender equality. Checchi also observed that collaboration between the formal and informal justice systems was often one-way, with the formal justice system referring cases to informal actors, but informal actors not referring cases to the formal justice system. In addition, USAID's May 2014 contracted independent final evaluation with an Afghan research firm reported, for example, that trainings provided to male and female beneficiaries improved elder knowledge about Afghan law and their ability to make decisions in accordance with Afghan law

Checchi's final evaluation also highlights continued problems with RLS-I's overall performance management plan and performance data limitations that restricted USAID and Checchi's ability to assess the full extent to which the program achieved its goals. For example, Checchi noted that the performance information did not randomly sample data, did not use adequate sample sizes, and contained other problems with data quality, all of which hindered its ability to conduct a complete assessment.⁶⁴ As a result, USAID is not able to comprehensively determine the impact the approximately \$39.7 million program had on developing Afghanistan's informal justice sector.

⁶² USAID, *Afghanistan Rule of Law Stabilization Program (Informal Component) Assessment*, January 2011.

⁶³ USAID, *Final Evaluation Report Rule of Law Stabilization Program-Informal Component*, April 2014; and Sayara Research, *Performance Evaluation of the Rule of Law Stabilization-Informal Component Program*, May 2014.

⁶⁴ The sample sizes were moderate to small according to Checchi. In one case, the sample size was significantly reduced after baseline data collection, calling into question the validity of those results.

PERVASIVE CORRUPTION IN AFGHANISTAN'S JUSTICE SECTOR AND SUSTAINABILITY CHALLENGES UNDERMINE U.S. RULE OF LAW DEVELOPMENT EFFORTS

Two major challenges continue to undermine U.S. efforts to develop the rule of law in Afghanistan: (1) the pervasive corruption in Afghanistan's justice sector, and (2) the uncertainty regarding whether the Afghan government can or will sustain U.S. program activities and reforms.

Pervasive Corruption in Afghanistan's Justice Sector

International and Afghan perceptions of corruption in Afghanistan's justice sector have not improved since U.S. reconstruction efforts began in Afghanistan and may have recently worsened. For example, the World Bank's Worldwide Governance Indicators for 1996 through 2012 for both rule of law and control of corruption ranks Afghanistan near the bottom of about 200 countries, and has not shown any significant improvement over the years studied. In addition, according to Integrity Watch Afghanistan's 2014 National Corruption Survey report regarding Afghans' perceptions and experiences of corruption, the Afghan public viewed the formal justice institutions as the most corrupt public institutions in Afghanistan, undermining access to justice and state legitimacy. Furthermore, almost all the rule of law experts, U.S. officials, implementing partners, international and bilateral donors, and Afghan non-governmental organizations we met with told us that corruption continues to be a major problem in the justice sector.⁶⁵

DOD, DOJ, State, and USAID officials with the Coordinating Directorate's office have been aware of corruption challenges and have taken steps to address them.⁶⁶ One of the principal goals of the 2009 U.S. rule of law strategy for Afghanistan was to address the culture of impunity in the justice sector by reducing corruption and noted this effort was crucial for the rule of law to develop and flourish in Afghanistan. However, DOD, DOJ, State, and USAID officials and rule of law experts told us that U.S. anticorruption efforts have not been successful in Afghanistan.⁶⁷ Multiple officials and experts told us this is primarily because senior U.S. government officials have prioritized stability and security over fighting corruption, and the Afghan government has lacked the political will and commitment to tackle corruption in the justice sector. For example, although the U.S. Embassy drafted a comprehensive anticorruption strategy in 2010, it was never approved, and senior U.S. officials decided not to implement the strategy's initiatives.⁶⁸ Furthermore, multiple rule of law experts affiliated with U.S. non-governmental organizations told us they believe senior U.S. officials have knowingly accepted ongoing corruption in the Afghan government for the sake of maintaining government stability and security. DOJ and State officials told us the Afghan Attorney General's Office has for several years been unwilling to fight corruption. Officials said this is illustrated by the fact that the Attorney General's Office has not been pursuing complex, high-level corruption cases and has routinely declined offers from DOJ to train Afghan prosecutors in the Anticorruption Unit on investigative methods for pursuing corruption cases.

⁶⁵ We met with U.S. officials (e.g., State and USAID), implementing partners (e.g., Tetra Tech DPK), international and bilateral donors (e.g., United Nations Assistance Mission in Afghanistan), and Afghan non-governmental organizations (e.g., Afghan Independent Bar Association and Afghan Independent Human Rights Commission).

⁶⁶ In commenting on a draft of this report, U.S. Embassy Kabul told us that the Coordinating Directorate's International Rule of Law Office was dissolved in July 2014 and its responsibilities were divided between the Embassy's Political and Political-Military sections. The Embassy continues to monitor rule of law issues through these sections and the Coordinating Directorate's biweekly Law Enforcement Working Group, quarterly Rule of Law Sub-Group, and "regular" telephone conferences with Washington. DOD representatives are included in these meetings.

⁶⁷ In commenting on a draft of this report, the U.S. Embassy Kabul noted that the new Afghan administration differs "greatly in terms of cooperation and communication with, and receptivity to, Embassy Kabul and U.S. policy-makers."

⁶⁸ SIGAR SP-13-9 *U.S. Anti-Corruption Efforts: A Strategic Plan and Mechanisms to Track Progress are Needed in Fighting Corruption in Afghanistan*, September 2013; SIGAR-14-88-SP Inquiry Letter: *DOD Anti/Counter Corruption Efforts*, July 2014; and SIGAR Audit-10-15 *Anti-Corruption/Strategy and Planning*, August 2010.

As a result, pervasive corruption in the justice sector persists and not only compromises U.S. efforts to improve the rule of law, but also weakens the impartiality and integrity of Afghanistan's judicial processes.

U.S. Agencies Do Not Know Whether Their Rule of Law Programs Are Sustainable

Another significant challenge for the United States in developing the rule of law in Afghanistan is determining whether the Afghan government is willing or able to sustain programs currently funded by U.S. taxpayers. U.S. agencies conducting rule of law development programs, including DOD, DOJ, State, and USAID, are responsible for transitioning their specific activities to Afghan counterparts with a stated, vested interest in providing the Afghan government the capacity to sustain them. However, officials from these agencies told us they do not know whether the Afghans will be able to continue the work, and they raised concerns with some specific rule of law programs. The Consolidated Appropriations Act, 2012, stated that fiscal year 2012 funds appropriated for the Economic Support Fund and International Narcotics and Law Enforcement could not be obligated for assistance for the Afghan government “until the Secretary of State, in consultation with the [USAID] Administrator, certifies to the Committees on Appropriations that—(A) The funds will be used to design and support programs in accordance with the June 2011 ‘Administrator’s Sustainability Guidance for USAID in Afghanistan’.”⁶⁹ The Sustainability Guidance listed several “next steps” that were important for its implementation, including:

- The examination of all USAID Mission for Afghanistan “projects against the principles of (1) Afghan-ownership and capacity; (2) their contribution to transition and confidence; and (3) cost effectiveness and program effectiveness.”
- “For every project, estimate all recurrent costs required to maintain the services, infrastructure and institutions, as well as ongoing capacity building investments that will be required [for each program].”
- “Sustainability of USAID’s approach and investments must be paramount.”
- “For projects that do not align with these principles, or for which there is insufficient commitment to fund or capacitate, recommend whether projects should be modified, ended, or postponed.”
- Develop plans in partnership with the Afghan government and other donors to ensure that such costs are priorities and are within budgets in a scarce environment.
- “If our work establishes recurrent costs, then we must determine with our Afghan partners and other donors whether they will have the interest and resources, amongst many competing demands and decreasing resources, to maintain the investment over time, so that it is sustainable.”

Unfortunately, in some significant instances, it does not appear that agencies took the required steps to determine in advance whether a particular program would be sustainable. For example, in August 2012, USAID performed a sustainability review of RLS-F and concluded that the program’s sustainability is questionable due to the Afghan Supreme Court’s lack of political will to support the program’s activities. Moreover, USAID found that the Supreme Court was not budgeting funds to sustain RLS-F judicial training efforts, including the Stage program. Despite this apparent lack of Afghan ownership of the program, USAID continued RLS-F and awarded an additional \$22.9 million to perform the program through July 2014.

A September 2013 State OIG report, noted that State INL began obligating fiscal year 2012 funds for implementation of the CSSP without having fully met the requirements of the Sustainability Guidance that call for the examination of program sustainability, including estimating the costs and activities necessary for the Afghans to sustain the program.⁷⁰ As a result, State OIG concluded that State INL has no basis for determining whether the Afghan government will have the capacity to sustain the corrections program once international contributions are reduced. State OIG also reported that at September 2013 Afghan government funding levels,

⁶⁹ Consolidated Appropriations Act, 2012, Pub. L. No. 112-74, § 7046(a)(1)(A) (2011).

⁷⁰ State OIG, Report No. AUD-MERO-13-37, *Audit of the Bureau of International Narcotics and Law Enforcement Affairs Corrections System Support Program in Afghanistan*, September 2013.

the Afghan corrections program was not sustainable without continued international support.⁷¹ In response to State OIG recommendations, in January 2015, State INL stated that (1) a third-party final evaluation is expected to be completed by September 2015, and (2) it was working in partnership with Afghanistan's General Directorate of Prisons and Detention Centers to complete a sustainability strategy by April 2015. To date, the sustainability strategy has still not been finalized, yet State has already made plans to invest significant funds to continue CSSP efforts in 2015 under the Criminal Justice Program Support contract.

By not conducting sustainability reviews, U.S. agencies do not and will not know whether Afghans are willing and able to continue specific rule of law programs when U.S. taxpayer funding is reduced.

CONCLUSION

U.S. agencies have been performing a wide range of activities to develop the rule of law in Afghanistan since 2003. However, for much of this period, these activities have not been guided by a unified, comprehensive U.S. government strategy that clearly defines the priorities and scope of activities that constitute U.S. rule of law programs. The 2009 strategy developed to align U.S. activities across agencies is outdated. Developing the rule of law in Afghanistan is a complex and generational endeavor, and therefore calls for a unified, strategic approach across U.S. agencies. Without a new agreed upon strategy that ensures a unified approach and incorporates a plan to measure performance, including specific performance metrics, the U.S. risks spending U.S. taxpayer funds on rule of law programs in a piecemeal, haphazard manner, without any assurance that the strategy is achieving its intended goals and objectives.

DOD has been one of the key U.S. agencies tasked with developing the rule of law in Afghanistan, spending at least \$243 million in its efforts. However, in contrast to State, USAID, and DOJ, DOD could not identify all the funds it has spent to date. Although DOD does not have any future rule of law programs planned, without a better system for tracking and detailing the money it spends on rule of law and any potential related activities going forward, DOD will continue to lack financial accountability of, and the U.S. government and taxpayers will continue to lack full visibility into, the funds spent to improve rule of law in Afghanistan.

We recognize the difficulties and barriers to achieving ideal or perfect program performance measurement in Afghanistan where security, mobility, illiteracy and other challenges persist. Nevertheless, spending over \$1 billion dollars without having a credible level of planning and measuring for results leaves the U.S. uninformed on what its investments are accomplishing in developing the rule of law in Afghanistan. Despite challenges, the agencies remain responsible for measuring performance results and developing plans for doing so. Unless the agencies develop ways to overcome performance measurement challenges, and incorporate those concepts into their performance measurement plans, the U.S. is at significant risk of making misguided program and funding decisions going forward.

The United States faces pervasive corruption, lack of will, and other challenges in trying to improve the Afghan justice sector. After 13 years and over \$1 billion spent, U.S. agencies are still not consistently assessing the sustainability of their rule of law programs in Afghanistan. For example, in the case of RLS-F, USAID nearly doubled funding, even though it knew the Afghan Supreme Court was not interested in funding or otherwise sustaining those activities. Without sustainability assessments and subsequent reconsideration of program direction as a result of such reviews, U.S. agencies risk investing taxpayer funds in ill-advised or misaligned programs that the Afghan government cannot or will not continue after U.S. taxpayer funds are no longer available. Moreover, the Afghan government must take greater responsibility to improve the rule of law. Without Afghan ownership of and capacity to sustain U.S. rule of law programs, the U.S. government will continue to spend taxpayer dollars without any assurance that those programs will have a lasting impact on the rule of law in Afghanistan.

⁷¹ The Afghan General Directorate of Prisons and Detention Center's annual average budget was about \$32 million. Of that amount, the Afghan government funded about \$14 million (about 44 percent).

RECOMMENDATIONS

To help guide the development and coordination of current and future rule of law programming and funding, and to assess the achievement of intended outcomes, we recommend that the Secretary of State, in coordination with other U.S. agencies managing rule of law programs in Afghanistan:

- 1. Finalize the updated draft U.S. rule of law strategy for Afghanistan and notify SIGAR within 90 days, and ensure it includes:**
 - a. an agreed-upon definition and scope of activities U.S. agencies should conduct under rule of law assistance, even if individual agencies pursue different elements based on their mandates and expertise, and**
 - b. a plan for measuring the performance of the strategy and specific performance metrics to evaluate U.S. progress in meeting the strategy's objectives.**

To improve accountability for U.S. government rule of law programs and activities, we recommend the Secretary of Defense:

- 2. Require that components implementing future rule of law programs track their activities and funding, and report this information to the Secretary of State, in recognition of State's capacity as lead coordinator of U.S. rule of law development assistance in Afghanistan.**

To strengthen ongoing and future individual rule of law program performance management plans and to enable periodic reporting on progress towards meeting intended program objectives, we recommend that the Secretary of Defense, the Attorney General, the Secretary of State, and the USAID Administrator:

- 3. Taking into account the challenges to measuring performance in Afghanistan, revise performance management plans for all ongoing rule of law programs, within 90 days; and, for planned or future rule of law programs, develop and implement plans from the outset that include appropriate performance indicators, baselines, and targets, and ensure program progress is consistently monitored and reported.**

To help ensure that the Afghan government has the ability and commitment to sustain rule of law development activities and institutional reforms, we recommend that the Secretary of Defense, the Attorney General, the Secretary of State, and the USAID Administrator:

- 4. Conduct reviews to assess whether ongoing and future rule of law programs are sustainable and determine whether and how those programs will be continued. If programs are to be continued or new programs are to be initiated, obtain Afghan government commitment to help support them through a formal written agreement prior to the expenditure of U.S. taxpayer funds. Report to SIGAR on the progress of these efforts within 6 months.**

AGENCY COMMENTS

We provided a draft of this report to DOD, DOJ, State, and USAID for review and comment. DOD provided written comments, which are reproduced in appendix III.⁷² DOJ provided comments, which are reproduced in appendix IV. U.S. Embassy Kabul and the USAID Mission for Afghanistan (USAID/Afghanistan) provided joint comments, which are reproduced in appendix V. All comments included technical comments, which we incorporated into this report, as appropriate.

DOD Comments

DOD partially concurred with three recommendations and deferred one recommendation to State. In reference to the first recommendation, DOD deferred to State. Although State has the lead in coordinating and developing a new U.S. interagency rule of law strategy, we maintain that DOD should participate in the coordination and development of the strategy. State officials told us they have held and intend to continue holding discussions with DOD and other agencies to complete a new interagency rule of law strategy. According to U.S. Embassy Kabul, DOD still actively participates in biweekly and quarterly rule of law coordination meetings at the Embassy.

We modified the second recommendation based on DOD's comments on the draft report. Initially, we recommended that DOD track the activities and funding of its rule of law programs, within 90 days, and report this information to the Secretary of State, in recognition of State's capacity as lead coordinator of U.S. rule of law development assistance in Afghanistan. As DOD noted, it does not have any ongoing rule of law programs for which to track activities and funding. We modified the recommendation by removing the 90 day period and changing the focus from tracking activities and funding for current rule of law programs to planned or future rule of law programs, and reporting that information to State. The updated recommendation will ensure that any future rule of law efforts do not suffer from the lack of accountability found in the ROLFF-A program.

In response to our third recommendation, DOD partially concurred. DOD stated that since it does not have an ongoing rule of law program, there is no need to revise or adjust a performance management plan. We modified the third recommendation to include future rule of law programs. As we reported, DOD's ROLFF-A faced significant performance management issues. To prevent such issues from occurring in the future, DOD should ensure that any future rule of law programs implement performance management plans that consistently monitor and report on program progress.

In response to our fourth recommendation, DOD partially concurred. We are pleased that DOD agreed that any future rule of law program should include Afghan government buy-in. However, DOD did not comment on the portion of the recommendation requesting that DOD also assess whether any new programs are sustainable. We maintain that program sustainability is an important component of any effort to safeguard U.S. taxpayer funds spent on future rule of law programs.

DOJ Comments

DOJ generally agreed with the report's message and recommendations. In response to our first recommendation, DOJ said it is ready to assist State through the interagency process to develop and finalize a new rule of law strategy.

In response to our third recommendation, DOJ said it would continue to work with State, which funds DOJ's rule of law programs in Afghanistan, "to review and, where appropriate, refine performance measures consistent

⁷² We received comments from both the Office of the Under Secretary of Defense and the U.S. Forces-Afghanistan's Combined Security Transition Command-Afghanistan.

with the recommendation.” DOJ noted that “[b]ecause many of the proposed performance reporting enhancements were underway prior to this report, the Department believes that 90-days to complete the revisions are reasonable.” However, DOJ ultimately deferred to State with regard to the reasonableness of the timing to revise its performance management plans.

In response to our fourth recommendation, DOJ said State is “the exclusive agency for entering into agreements with foreign sovereigns,” but that DOJ will assist State with advice and recommendations on future rule of law programming.

U.S. Embassy Kabul and USAID/Afghanistan Joint Comments

In their joint comments, U.S. Embassy Kabul and USAID/Afghanistan concurred with two recommendations and did not concur with one recommendation.

In response to our first recommendation, U.S. Embassy Kabul and USAID/Afghanistan concurred with the qualification that “performance management plans should apply to programs, not strategies.” In our draft report, we used the terminology “performance management plan” in the context of a strategy as an abbreviated way to discuss measuring performance, not a specific State “Performance Management Plan (PMP)” document. We revised our terminology in the final report and our recommendation to reflect language that communicates the importance of having a strategy include a plan for measuring performance and performance metrics for evaluating whether a strategy’s objectives are being met. We note that the 2013 draft strategy does not have such a plan or metrics and we maintain that it should include those things if State intends to seriously assess whether its rule of law strategy in Afghanistan is successful. Furthermore, as we note in the report, we found problems with all six selected programs’ performance management systems we reviewed, and these problems prevented the U.S. government from fully determining whether these programs achieved their objectives. If the agencies cannot clearly assess the performance and effectiveness of the programs, they will also not be able to clearly assess the effectiveness of the strategy.

In response to our third recommendation, U.S. Embassy Kabul and USAID/Afghanistan stated that they did not concur with the portion of the recommendation calling for them to revise performance management plans for all “ongoing” rule of law programs. It is puzzling that U.S. Embassy Kabul and USAID/Afghanistan would disagree with this portion of our recommendation. After all, U.S. Embassy Kabul and USAID/Afghanistan stated that their performance management plans are “continually assessed and updated.” U.S. Embassy Kabul and USAID/Afghanistan also assert that they use multiple performance management “techniques” and regularly review “various data and reporting documents” to adjust programs as needed. The embassy specifically noted that State INL “refreshed” its performance management plans in October 2013 to better align with State guidance to include updated outputs, outcomes, impacts and additional performance targets. Given these claims, it is unclear why U.S. Embassy Kabul would be opposed to revising its performance management plans.

As we note in the report, State has made improvements to performance management plans, such as INL’s CSSP, over the years. However, we found problems with INL’s performance management systems for ongoing programs. For example, CSSP did not report on assessments for all indicators, and the Justice Sector Support Program did not establish targets for outcome indicators or report progress against these indicators.

USAID/Afghanistan stated it will include appropriate performance indicators, baselines, and targets, and ensure program progress is consistently monitored and reported in its planned rule of law programs by its target date of December 31, 2015, as we recommended. We look forward to receiving that performance management information once USAID completes procurement of the new rule of law program noted in its comments.

U.S. Embassy Kabul and USAID/Afghanistan concurred with our fourth recommendation. They noted that in “many instances,” they already conduct sustainability reviews and have formal written agreements with the Afghan government. However, U.S. Embassy Kabul and USAID/Afghanistan did not address the portion of our recommendation that calls for them, after reviewing the sustainability of their programs, to determine whether

and how those programs will be continued. As we state in the report, State and USAID continued programs despite being aware of significant concerns regarding their sustainability. State and USAID's own Sustainability Guidance states that "For projects that do not align with these principles, or for which there is insufficient commitment to fund or capacitate, recommend whether projects should be modified, ended, or postponed." Therefore, we maintain that State and USAID should follow through on their assessments in accordance with the Sustainability Guidance and determine whether to modify, postpone, or end ongoing programs that are unsustainable.

USAID/Afghanistan stated that it will take steps to obtain the Afghan government's buy-in, including having the Supreme Court and the Ministry of Justice sign official implementation letters that, in accordance with ADS Chapter 200, will include detailed procedures, terms of cooperation, and funding commitments. In addition, by December 31, 2015, USAID plans to develop and incorporate provisions in the award document for its upcoming rule of law program requiring the implementing partner to take steps necessary to ensure that the project will be sustained upon completion. In accordance with our normal procedures, we will follow up with the agencies to assess their progress in implementing our recommendations.

APPENDIX I - SCOPE AND METHODOLOGY

This audit examined U.S. efforts from 2003 to 2014 to support Afghan rule of law. The objectives of this audit were to determine for U.S. rule of law assistance the extent to which (1) the strategies and objectives guiding U.S. government support are current and have consistently defined the scope of rule of law assistance, (2) U.S. agencies can fully identify and account for U.S. government programs and funding, and (3) current rule of law programs' performance management systems are measuring progress made in achieving program objectives and in contributing to achieving U.S. strategic objectives; and (4) identify challenges that the U.S. government has encountered in achieving its objectives and the extent to which it has addressed these challenges.⁷³

We limited our scope to activities, projects, programs, and initiatives funded by the Departments of Defense (DOD), Justice (DOJ), and State (State), and the U.S. Agency for International Development (USAID).⁷⁴ We selected these four agencies because they are the primary funders and administrators of reconstruction efforts related to rule of law in Afghanistan.⁷⁵ We defined rule of law-related activities in Afghanistan according to the U.S. Government Rule of Law Strategy for Afghanistan, September 2009—hereafter referred to as the 2009 strategy—which includes support to the formal judicial system (prosecutors, defense counsel, judges, and courts), the corrections system (detention centers and prisons), the informal justice system (local elders and religious figures, local adjudication mechanisms), legal education, associated public outreach efforts, and anti-corruption efforts within the justice sector. We excluded counternarcotics and law enforcement activities from our scope based on our prior and ongoing work in those areas, and the 2009 strategy. The strategy's main pillars focus on justice institutions, not counternarcotics or law enforcement, which are handled primarily through separate U.S. government strategies that are complementary to the rule of law strategy.

For all the objectives, we interviewed current and former agency officials from DOD, DOJ, State, and USAID. From DOD, we spoke with officials from the Office of the Secretary of Defense, the Judge Advocate General's Legal Center and School, the U.S. Army Center for Law and Military Operations, U.S. Forces–Afghanistan, U.S. Central Command, Combined Joint Interagency Task Force (CJIATF)–Shafafiyat, CJIATF-435, and the Rule of Law Field Force–Afghanistan (ROLFF-A). From DOJ, we interviewed officials from DOJ Headquarters and the DOJ Attaché's Office within the U.S. Embassy in Kabul. From State, we met with officials from State's Bureau of International Narcotics and Law Enforcement Affairs (INL), the Office of the Special Representative for Afghanistan and Pakistan, the Office of the Coordinating Directorate for U.S. Embassy Kabul, the Interagency Rule of Law office, and the U.S. Embassy in Kabul's Public Affairs and Political Sections, as well as a former Deputy Ambassador to Afghanistan. We also interviewed officials from the USAID Mission for Afghanistan. In addition, we interviewed officials from Tetra Tech DPK, Checchi and Company Consulting, Inc., and PAE Incorporated.

To determine the extent to which the strategies and objectives guiding U.S. government support to develop rule of law in Afghanistan are current and have consistently defined the scope of rule of law assistance, we reviewed U.S. government policies, strategies, and plans related to rule of law efforts in Afghanistan such as the 2009 strategy; the February 2011 U.S. Government Integrated Civilian-Military Campaign Plan for Support to Afghanistan; and the June 2013 Framework for U.S. Rule of Law & Law Enforcement Efforts in Afghanistan. We reviewed DOD, DOJ, State, and USAID responses to requests for information on the policies, plans, and strategies that defined their respective rule of law efforts.

⁷³ For the purposes of this audit, "programs" include all types of rule of law assistance, including projects, programs, activities, awards, efforts, and initiatives.

⁷⁴ DOD does not generally organize its activities in Afghanistan as programs. For the purposes of this audit, we grouped the work of Combined Joint Interagency Task Force 435 and the Commander's Emergency Response Program as functionally equivalent to other agencies' programs, allowing us to analyze funding amounts, outcomes, and impact.

⁷⁵ Other funding agencies are engaged in activities related to counternarcotics and law enforcement efforts. Given that we based our scope on the 2009 Interagency Rule of Law for Afghanistan, which regards these efforts as complementary to but separate from rule of law efforts, we determined those other agencies were outside the scope of the audit.

To determine the amount of programs and funding the U.S. government has dedicated to developing the rule of law, we requested information from DOD, DOJ, State, and USAID listing each agency's rule of law programs and their associated awarded, obligated, and expended funds. We obtained lists of all U.S. government-funded programs that fall under the definition of rule of law, based on the 2009 strategy and our audit scope. During our data collection process, we found that clear and consistent definitions for rule of law programs did not always exist; definitions varied both within and across agencies, and over time. As a result, we found that the agencies were not always consistent in the organization of or terminology for their rule of efforts and provided incomplete data as defined by the audit scope for rule of law activities. Therefore, from the agency-provided lists of rule of law programs, we (1) removed programs we considered not to be rule of law efforts based on our audit scope and (2) grouped individual activities by implementing partner award and agency unit/subunit to the extent possible.^{76,77} We then worked with the agencies to fill or explain any gaps in the information they provided, and shared revised lists for their feedback and revision on an ongoing basis. We also interviewed the agencies' implementing partners, specifically Tetra Tech DPK, Checchi and Company Consulting, Inc., and PAE Incorporated, to obtain additional information and clarify responses from the agencies regarding their lists of rule of law programs.

To evaluate the extent to which current rule of law programs' performance management systems are measuring progress made in achieving program objectives and contributing to U.S. rule of law strategic objectives, we reviewed:

- relevant DOD, DOJ, State, and USAID guidance and policies, such as the *U.S. Foreign Assistance for Afghanistan Post Performance Management Plan, 2011-2015* and The Judge Advocate General's Legal Center and School, *U.S. Army Center for Law and Military Operations Rule of Law Handbook—A Practitioner's Guide for Judge Advocates, 2011*;
- agency program and progress reports such as the NATO Rule of Law Field Support Mission Rule of Law Field Force After Action Report and quarterly, annual, and final reports;
- implementing partners' monitoring, progress, and evaluation reports of their rule of programs, and agency and implementing partner performance management plans; and,
- reports by international and nongovernmental organizations such as the U.S. Institute of Peace's *2001 Rebuilding Afghanistan, A Framework for Establishing Security and the Rule of Law* report and the Congressional Research Service's *2010 Afghanistan: U.S. Rule of Law and Justice Sector Assistance* report.

To assess specific programs' progress in achieving intended outcomes and contributing to U.S. strategic objectives to develop rule of law in Afghanistan, we selected six rule of law programs for closer review and case-study presentation within the report. From a total of 66 potential programs, we selected 6 programs that were as representative as possible of the breadth and depth of U.S. rule of law efforts in Afghanistan. We used a tiered selection process focusing on the highest dollar amounts spent by each of the four agencies to select the six programs we ultimately profiled.⁷⁸ The population of activities includes assistance to the judicial system

⁷⁶ If it was unclear from activity/program description whether the program was within our audit scope, we excluded it.

⁷⁷ DOD provided its data in the form of individual activities; for example, DOD listed a specific training session under the ROLFF-A program individually, and listed a Commander's Emergency Response Program-refurbished courthouse within a larger program as its own activity. USAID provided rule of law program data as individual awards to implementing partners. An award often comprises numerous components and activities; for example, USAID's Rule of Law Stabilization-Formal Component (RLS-F) program included training sessions on various rule of law topics for different stakeholders and a component to develop legal education curricula.

⁷⁸ We selected the top programs from each agency by highest dollar amount. DOD, the agency told us that the ROLFF-A was the only purely rule of law focused program conducted by the department, and the program fell under the CJATF-435 mission. As a result, we only selected one DOD program. DOJ only had one program. For State, we selected the two highest dollar programs—the Corrections System Support Program (CSSP) and the Justice Sector Support Program (JSSP)—which cover the corrections system and the justice system, respectively. For USAID, we selected the highest dollar program, which

(Ministry of Justice, Office of the Attorney General, Supreme Court, prosecutors, defense counsel, judges, other courts, civil/criminal, anti-corruption, independent bar association), correction systems (detention centers, prisons), traditional dispute resolution mechanisms (informal system), legal education, and public outreach from 2003 to May 2014. We used judgmental sampling—a sampling methodology without statistical measurement—which allowed us to select specific programs based on their funding agency, total dollar amount, category of assistance to establishing rule of law in Afghanistan, and period of performance, with selection of the most recent programs prioritized. We selected programs to be included in the sample with the aim of including all four funding agencies—DOD, DOJ, DOS, and USAID—focusing on higher dollar value funded programs.

To identify challenges that the U.S. government has encountered in achieving rule of law objectives and the extent to which it has addressed these challenges, we interviewed officials from the World Bank, the United Nations Assistance Mission in Afghanistan, the European Union, the International Committee of the Red Cross, the Max Planck Institute, Germany's GIZ (formally Deutsche Gesellschaft für Internationale Zusammenarbeit), the French Embassy in Afghanistan, and the United Kingdom's Department for International Development. We also interviewed subject matter experts from the Carnegie Endowment for International Peace, the Congressional Research Service, and the U.S. Institute of Peace, as well as officials from Afghan non-governmental organizations, including the Independent Joint Anti-Corruption Monitoring and Evaluation Committee, Integrity Watch Afghanistan, the Afghan Independent Bar Association, and the Afghan Independent Human Rights Commission.

We utilized some computer-processed data from DOD, DOJ, State, and USAID to identify the programs the agencies implemented from 2003 through 2014 supporting the rule of law in Afghanistan and determined the data was reliable for the purposes of this audit. We assessed internal controls to determine the extent to which the agencies had systems in place to track and report on their efforts specifically supporting the rule of law in Afghanistan. The results of our assessment are included in the body of the report.

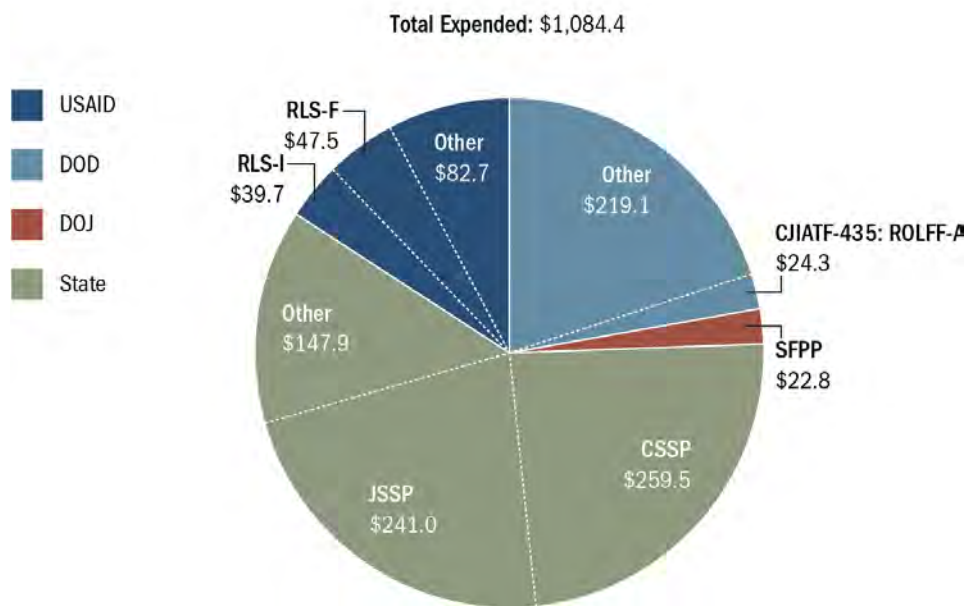
We conducted our audit work in Kabul, Afghanistan, and Washington, D.C., from February 2014 to April 2015, in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. This audit was performed by SIGAR under the authority of Public Law 110-181, as amended, the Inspector General Act of 1978, and the Inspector General Reform Act of 2008.

was RLS-F. We also selected the Rule of Law Stabilization–Informal Component to ensure our sample included a program that provided assistance to the informal system.

APPENDIX II - BREAKDOWN OF 66 ONGOING AND COMPLETED RULE OF LAW PROGRAMS PERFORMED BY DOD, DOJ, STATE, AND USAID

In total, the Departments of Defense (DOD), Justice (DOJ), and State (State), and the U.S. Agency for International Development (USAID) provided information on 66 programs that cost approximately \$1,084.4 million dollars. Our sample of six programs comprised nearly 59 percent of all expenditures funded by U.S. taxpayer monies for rule of law efforts in Afghanistan. See figure 2 for information on costs of the six programs reviewed in proportion to the agencies' total expenditures on rule of law efforts.

Figure 2 - Program Amounts Expended Compared to Agency Total Expended, 2003-2014 (\$ Millions)



Source: Information provided by DOD, DOJ, State, and USAID

Note: Numbers affected by rounding.

Department of Defense

DOD identified two programs within the scope of our audit. DOD started conducting rule of law efforts as a distinct mission in 2010 with the Rule of Law Field Force–Afghanistan (ROLFF-A), a sub-command of the Combined Joint Interagency Task Force–435 (CJIATF-435). Prior to that, starting in 2004, DOD carried out some rule of law efforts as part of the Commander’s Emergency Response Program. Examples included the purchase of supplies for judges, legal training for justice actors, and public outreach regarding Afghan rights under the constitution.

Table 3 - DOD Rule of Law Programs and Spending

Program Name	Program Description	Amount Expended
Combined Joint Interagency Task Force (CJIATF)-435	ROLFF-A was a sub-command of CJIATF-435 from 2010-2014 tasked with providing rule of law field support to US civilian agencies including contracting, security and technical assistance. Specific ROLLF-A activities conducted include improvements to judicial infrastructure in provinces, training on evidence based operations for judicial actors and law enforcement, and public outreach efforts on Afghan law and trials. CJIATF-435 also included expenditures to build the Justice Center in Parwan and related detention facilities. CJIATF-435 undertook miscellaneous rule of law activities apart from ROLFF-A and Parwan, but these have not been reported to SIGAR and are not included in the amount expended.	\$236,237,736.20
Commander's Emergency Response Program (CERP)	A funding program intended to enable U.S. commanders to respond to urgent humanitarian relief and reconstruction requirements with their area of responsibility by carrying out programs that will immediately assist the indigenous population. This includes rule of law activities.	7,188,425.00
2 Programs		\$243,426,161.20

Source: Information provided by DOD

Department of Justice

The Department of Justice had one program within the scope of our audit, the Senior Federal Prosecutors Program (SFPP), which provides advisors for the Afghan judicial system, including the Ministry of Justice and Attorney General’s Office, as well as defense counsels, judges and civil society. The program was funded under an interagency agreement with State’s Bureau of International Narcotics and Law Enforcement Affairs (INL), and the majority of the work under the agreement involved counternarcotics and law enforcement efforts, which were outside the scope of our audit. DOJ obtained additional funding for the program from State’s Bureau of South Central Asian Affairs. In total, \$22.7 million was spent on SFPP activities within our audit scope.

Table 4 - DOJ Rule of Law Programs and Spending

Program Name	Program Description	Amount Expended
DOJ Senior Federal Prosecutors Program	Provides advisors for the Afghan judicial system, including the Ministry of Justice and Attorney General's Office, as well as defense counsels, judges and civil society to (1) reform Afghan criminal law, and (2) build the capacity of the Anticorruption Unit within the Afghan Attorney General's Office to effectively combat public corruption.	\$22,752,000.00
1 Program		\$22,752,000.00

Source: Information provided by DOJ

Department of State

The Department of State had 49 ongoing or completed programs that assisted the formal justice sector—both judicial and corrections systems—as well as legal education and public outreach.

Table 5 - State Rule of Law Programs and Spending

Program Name	Program Description	Amount Expended
Corrections System Support Program	Advisory, infrastructure, and training support to Afghan government's General Directorate of Prisons and Detention Centers and Juvenile Rehabilitation Directorate.	\$259,489,995.28
Justice Sector Support Program	An effort to develop and strengthen the capacity of the Afghan criminal justice sector institutions and justice professionals.	240,951,971.13
Justice Center at Parwan	Advisory, operations and maintenance support for an Afghan government national security court. The center adjudicates criminal cases under Afghan law for defendants charged with national security crimes who were originally detained under the Law of Armed Conflict before being transferred to Afghan custody and referred for prosecution. (Note: The majority of INL's support ended in December 2014.)	28,060,980.00
Justice Training Transition Program	Raises the capacity of Afghan judges, lawyers, and prosecutors to a level where further international assistance is no longer essential. Focus on working with the justice ministries to build in-house training units that will continue legal education for justice professionals in the future. Training activities are expected to be transitioned to the ministries by the end of 2015.	20,000,000.00
Supporting the National Justice Sector Strategy of Afghanistan: Improving Security, Legal Rights and Legal Services for the Afghan People	Improves the investigation and prosecution of crimes against women and girls, and increase public awareness of legal issues, rights and services.	18,050,326.00
United States Institute for Peace	Through a State INL and USIP Interagency Agreement, USIP enhances access to justice, particularly for women; promotes adherence to rule of law based in the Afghan constitution; and links Afghanistan's customary and formal justice systems through research and pilot projects.	10,209,990.00
Baghlan Prison Construction	Construction of the Baghlan Provincial Prison, a new 495 bed prison.	10,033,612.00
Legal Education Support Program-Afghanistan	Provides pedagogical development to Afghan law faculty members, including graduate legal study opportunities at the University of Washington Law School in Seattle. Professors come to the U.S. as visiting scholars, and to pursue LLM degrees and PhD degrees.	8,660,093.00
Protection and Promotion of Afghan Women's Rights	Increases access to justice for Afghan women and girls; increase access to shelters for women and their accompanying children and girls subjected to human rights abuses; increase awareness of Afghan prosecutors, judges, attorneys, police and the general public of women's legal rights and resources; and increase shelter beneficiaries' ability to reintegrate into society.	6,627,082.00
Afghan Women's Shelter Fund	The fund increases access to justice for Afghan women and girls who have survived, or are at risk of experiencing, gender-based violence by providing grants to women's shelters and family guidance centers. The centers provide legal and mediation services to survivors of gender-based violence.	6,270,000.00
Wardak Prison Construction	Construction of the Wardak Provincial Prison, a new 210 bed prison.	6,124,891.00
Global Rights' Build the Capacity of the Afghan Civil Society to Protect and Promote Human Rights in Afghanistan	Improves and sustains the quality of legal education in Afghanistan. Global Rights has provided practical legal education and fellowships to over 450 Law and Sharia students per semester at Afghan public universities.	4,954,278.00
Afghan TV Content -- Cetena	Cetena: Between You and Me - nation-wide television broadcast on the Tolo TV channel. A legal drama between two brothers, one is a public defender and the other works in the Ministry of Justice, fighting for their mother's love. Fictional trials also featured.	4,453,668.43
Access to Justice Small Grants Program	A U.S. government initiative, launched in 2011, to expand assistance efforts in the area of rule of law in Afghanistan. The aim of the program is to give Afghan civil-society organizations, private sector companies, academic institutions, and professional associations the opportunity to develop projects that will strengthen the rule of law in Afghanistan. In addition, the program aims to strengthen and reinforce the capacity of civil society organizations to advocate for justice and the rule of law in Afghanistan.	3,549,000.00
American Legal Education Project	State INL supports Stanford University Law School to develop and deliver English-language legal textbooks and law classes to undergraduate American University of Afghanistan students. The project also worked with the university to start its first ever degree-granting bachelor of law program.	2,601,362.00
Pol-i-Charkhi Prison New Staff Barracks	Construction of New Staff Barracks at Pol-i-Charkhi Prison.	2,291,168.00
Developing the Capacities of Women Judges as Leaders, Trainers, and Catalysts for Enhancing the Rule of Law and Equal Justice in Afghanistan	Increases the Judiciary's understanding of various judicial issues, including human rights, better understanding of the Afghan Constitution, and the new Law on the Elimination of Violence Against Women; increase the Judiciary's understanding of its own role in enforcement and protection of victim rights; increase the capacity of the Afghan women judges regarding English and computer skills, leadership participation and opportunities; and increase the opportunities for Afghan partners to network with each other and with other women judges around the world.	1,891,672.00
Provincial Justice Coordination Mechanism Project	INL signed a letter of agreement in 2008 with the United Nations Development Program to support three of the project's offices in Kabul, Nangarhar, and Paktia provinces for one year to coordinate and expand bilateral provincial justice assistance. The project helps the Afghan Government to systematically expand the rule of law beyond Kabul through coordinating targeted donor programs for technical assistance, training, capacity-building, infrastructure, and the provision of equipment.	1,561,308.00

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Program Name	Program Description	Amount Expended
International Correctional Management Training Center: Afghan Correctional Officer Training	Supports training of Afghan correctional personnel at facility in Cañon City, Colorado.	1,446,108.80
Pol-i-Charkhi Prison Elevated Potable Water Tank	Construction of Elevated Potable Water Tank at Pol-i-Charkhi Prison.	1,391,036.35
Pol-i-Charkhi Prison Commercial Power Project (12 MVA)	Construction of Commercial Power Project for Pol-i-Charkhi Prison.	1,382,434.00
Friends of the Public-Private Partnership for Justice Reform in Afghanistan	The Afghan LLM Scholarship program, funded through a combination of private sector donations and a grant from State INL, sends Afghan lawyers to the United States to pursue graduate-level legal studies for one academic year. After their studies, scholars commit to returning to Afghanistan to advance the rule of law. The program is implemented by the Public-Private Partnership for Justice Reform in Afghanistan, which brings together the Department of State and the U.S. legal community to support the justice sector in Afghanistan.	1,335,936.00
Transit Shelter for Victims of Gender-Based Violence	The project provides a path to women and their children to be safe, develop life skills, and secure employment that guides them towards being stable and independent. The project supports the continuation in Mazar, Herat, and Kabul, of the social protection services offered by Women for Afghan Women's Transitional Houses for women who have been released from prison but who lack a safe place to go to. The project also helps women who have been released from prison develop the resources they need to rejoin society as active, self-directed individuals who can support themselves and their accompanying children in legal employment.	1,082,560.00
World Justice Project Index	This grant allows the project to add Afghanistan to the Rule of Law Index, and collect new data on the adherence to the rule of law in both Afghanistan and Pakistan by conducting extended general populations polls and running specialized justice surveys.	848,085.00
Judicial Education Program for Afghan Women Judges	The project increases the Judiciary's understanding of various judicial issues, including human rights, better understanding of the Afghan Constitution, and the new Law on the Elimination of Violence Against Women; increases the Judiciary's understanding of its own role in enforcement and protection of victim rights; increases the capacity of the Afghan women judges regarding English and computer skills, leadership participation and opportunities; and increases the opportunities for Afghan partners to network with each other and with other women judges around the world.	772,873.00
Women for Afghan Women Family Guidance Center and Shelter in Kunduz	Establishes and operates a Family Guidance Center and women's shelter facility in Kunduz province. This program has been subsumed under the Afghan Women's Shelter Fund. (See above information on Afghan Women's Shelter Fund.)	544,853.00
Exchange Program to Create Anticorruption Action	A grant program to recruit Afghans in positions to reduce corruption, introduce them to their peers in other countries to expose them to successful anti-corruption techniques and programs, encourage them to learn from best practices to develop a concrete plan of action to reduce corruption in Afghanistan, and establish a sustainable network of Afghan leaders from government and civil society who desire to tackle corruption in Afghanistan.	452,414.00
Samangan Prison Water Well	The project is for the drilling of a water well to service the Samangan Provincial Prison.	393,055.00
Kabul Debate Live -- Media One	Provides nationwide television broadcasts on issues such as the Kabul Bank crisis, the economy, and corruption.	387,214.31
Social Protection Services for Children in Prison	Provides housing, educational opportunities, and counseling to children who would otherwise be living with their incarcerated mothers in prison in the Herat region.	353,642.00
Rule of Law Primer	The Rule of Law in Afghanistan: A Primer for Practitioners (hereafter "Primer") provides a practical introduction to rule of law development in Afghanistan, cross-referencing training and educational support material. The Primer familiarizes U.S. personnel with both the framework for rule of law development in Afghanistan as well as Afghanistan's justice system.	271,123.00
Women for Afghan Women Transitional Houses	The overall objective of the program aims to provide a path to women and their children to be safe, develop life skills, and secure employment that will guide them towards being stable and independent. An objective is to replicate in Herat, and support the continuation in Mazar and Kabul, of the social protection services offered for women who have been released from prison but who lack a safe place to go to. Another objective is to help women who have been released from prison develop the resources they need to rejoin society as active, self-directed individuals who can support themselves and their accompanying children in legal employment.	244,075.00
Pol-i-Charkhi Prison K-Span Storage building	Construction of storage building for the Pol-i-Charkhi Prison.	236,333.37
Kabul Female Prison Grant	Provides educational, vocational, legal, and social work services for women and juvenile girls incarcerated at the Kabul Female Prison and Detention Center and Kabul Juvenile Rehabilitation Center.	210,268.00
Pol-i-Charkhi Prison Block 3 (Wings 3 & 6)	Renovation of Block 3 Prison Wings at Pol-i-Charkhi Prison.	192,610.46
Central Prison Directorate Security Upgrade	This project was for security upgrades to the headquarters of the Central Prison Directorate – now known as the General Directorate of Prisons and Detention Centers.	171,528.00
Women for Afghan Women Family Guidance Center and Shelter in Kapisa	Provides six months of emergency funding to the Women for Afghan Women shelter and Family Guidance Center in Kapisa province. This program has been subsumed under the Afghan Women's Shelter Fund. (See above information on Afghan Women's Shelter Fund.)	146,267.00

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Program Name	Program Description	Amount Expended
Pol-i-Charkhi Prison Water Well	Construction of Water Well at Pol-i-Charkhi Prison	140,000.00
Mazar-e-Sharif Prison renovation	Renovation of a prison in Mazar-e-Sharif	111,312.00
Pol-i-Charkhi Prison Commercial Power Design	Design for Commercial Power at Pol-i-Charkhi Prison	87,336.00
Pol-i-Charkhi Prison Industries Bldg. (completion of renovation)	Renovation of Prison Industries Building at Pol-i-Charkhi Prison	83,727.60
Pol-i-Charkhi Prison Renovation of Boiler Building	Renovation of Boiler Building at Pol-i-Charkhi Prison.	83,062.00
Ministry of Women's Affairs	Advising/mentoring/administrative and operational capacity building at the Ministry of Women's Affairs.	56,592.00
Friends of the Public-Private Partnership for Justice Reform in Afghanistan Rule of Law Chair	This project works with the law students at Herat University to publish an academic law review journal and to hold conferences and training sessions addressing security, human rights, and good governance. The program also hopes to transition the Rule of Law Center as an official academic department with the faculty of law.	42,647.00
Safer Children, Safer Communities	Provides vocational and educational teachers to juveniles in the Kabul Juvenile Rehabilitation Center, as well as funds local counselors to raise awareness on juvenile rights and help mediate cases through the informal justice system in Kabul.	35,590.50
Women Correctional Officer Training, Nebraska 2012	Supports basic correctional officer training of female Afghan correctional personnel at a facility in York, Nebraska.	23,382.06
Women Correctional Officer Training, Nebraska 2011	Supports basic correctional officer training of female Afghan correctional personnel at a facility in York, Nebraska.	8,960.56
Wardak Prison (Fuel Supply)	This project was a modification to the Wardak Prison construction contract to provide for the supply and delivery of generator fuel to Wardak prison for a six-month period.	7,755.26
Baglan Prison (flood mitigation)	This project was a modification to the Baghlan prison construction project to incorporate the design and construction of drainage improvements for flood mitigation.	154.29
49 Programs		\$648,324,332.40

Source: Information provided by State

Note: INL stands for the Department of State's Bureau of International Narcotics and Law Enforcement; LLM stands for Latin Legum Magister; MVA stands for Megavolt Ampere; PhD stands for Doctorate of Philosophy degree; and USIP stands for the United States Institute of Peace.

U.S. Agency for International Development

USAID had 14 ongoing or completed programs that supported judicial systems, both formal and informal (traditional dispute resolution mechanisms), as well as legal education and public outreach.

Table 6 - USAID Rule of Law Programs and Spending

Program Name	Program Description	Amount Expended
Rule of Law Stabilization - Formal Justice Sector	Supports the formal justice sector by developing the capacity of Afghanistan's justice system to be accessible, reliable and fair, focusing on: 1) Capacity building of the judiciary; 2) court administrators; 3) Afghan Law and and Sharia Faculties; and 4) public legal outreach through strategic communications.	\$47,533,082.00
Afghanistan Rule of Law Project	Supports Afghan justice sector institutions by: 1) strengthening court systems and the education of legal personnel; 2) law reform and legislative drafting; 3) access to justice in the informal sector; 4) support for commercial court reform; and 5) human rights and women's rights under Islam.	44,254,176.00
Rule of Law Stabilization- Informal	Supports the informal justice sector through traditional dispute resolution and strengthening informal justice systems in Afghanistan.	39,712,263.00
Bonn Process / Judicial Reform	Supports complementary governance reform goals and provided support in the following areas: 1) support for the constitution making process including providing planning and logistical support; 2) support for the planning of Constitutional Loja Jirga and holding of its elections and follow-on activities; 3) support for rehabilitation and reinvigoration of Afghanistan's legal and judicial system and institutions; 4) strengthening the Afghanistan Independent Human Rights Commission, and 5) creation of the Policy Management Unit within the President's Office, including supporting the unit's staffing and functioning.	22,168,299.00
Assistance to Afghanistan's Anti-corruption Authority	Program provides assistance to the High Office of Anti-Corruption in the following areas: 1) developing and implementing effective institutional planning and procedures; 2) carrying out institutionally mandated technical responsibilities; and 3) improving public perception of the Afghan government's anticorruption efforts.	8,781,268.00
Promoting Conflict Resolution, Peace Building, and Enhanced Governance	This is an interagency agreement with the United States Institute for Peace focused on 1) strengthening the capacity of Civil Society Organizations to mitigate conflict; 2) improving cooperation for peace, security, and development; 3) enhancing the rule of law; and 4) increasing understanding of critical development, peace, and stability issues through fellowships, research, and analysis.	2,329,047.00
Support to Afghanistan Independent Bar Association	The effort 1) assists the association to establish four regional sub-offices, issue new licenses and to hold bar examination; 2) improves capacity of justice sector personnel; 3) increases access to legal assistance and/or aid for citizens in the targeted rural areas, and 4) increases citizen awareness of their legal rights and the legal processes of the judicial system.	924,029.00
Support to Medica, Law Enforcement and Rule of Law Programs for Afghanistan	This project: 1) enhances access to legal services for women and girls; 2) enhances access to safe reintegration after prison and other social work for women and girls; 3) increases awareness about women's legal rights; 4) strengthens alliances with government and NGOs working to promote legal and social rights for women and girls.	834,750.00
Justice & Governance in RC-East Project	The project increases capacities for dispute resolution and enhances coordination between alternative dispute resolution providers and government officials at the national and sub-national levels.	726,270.00
The Anti-Corruption Project	The project provides capacity building training to line directorates at the provincial and district level; enhances integrity and accountability; conducts fraud awareness workshops and conferences; provides oversight opportunities for civil society; enhances skills and professional knowledge of judges and prosecutors in handling corruption cases; increases the awareness and understanding of people on corruption harms at provincial and district level.	664,707.00
Integrity Watch Afghanistan, Community Based Monitoring of Infrastructure Projects	This funding promotes social accountability through community mobilization and social audit. The project works to improve service delivery at sub-national level through a representative and participatory process whereby institutions delivering essential infrastructure services become responsive and local communities are empowered to hold them accountable.	663,011.00
SABA Media Organization and Watch on Basic Rights Afghanistan Organization	The effort strengthens and empowers targeted communities through self-mobilization, raising public awareness, civic education and awareness and through coordinated advocacy activities on both the formal and informal justice systems and on basic rights.	549,200.00
Safehouse for At-Risk Women and Girls	The program works in the following areas: 1) legal & social protection of victims of violence and at-risk women & girls in Nimroz (continuation of women shelter services in Zaranj City of Nimroz Province); 2) enhances coordination between informal justice providers and GiRoA (through coordination & cooperation committee) in Nimroz, continuation of family guidance center, and provision of services at the shelter & family guidance center; 3) reduces violence against women through legal & family counseling for violence against women cases; and 4) increases access to formal justice through awareness campaign by legal & family counseling at doorstep through outreach, and through capacity-building and advocacy workshops, seminars and roundtables.	270,970.00
Fight Corruption Tooth and Nail	This project raises awareness of corruption through a national civic education and media campaign. The project disseminates anticorruption messages at the national and sub-national levels through television spots, radio dramas, cell phone videos, posters, leaflets, TV serials, workshops, radio spots, Anti-Corruption guide book, new paper articles and billboards.	528,783.00
14 Programs		\$169,939,854.00

Source: Information provided by USAID

Note: NGO stands for non-governmental organization.

APPENDIX III - COMMENTS FROM THE DEPARTMENT OF DEFENSE



POLICY

OFFICE OF THE UNDER SECRETARY OF DEFENSE
2000 DEFENSE PENTAGON
WASHINGTON, DC 20301-2000

The Honorable John Sopko
Special Inspector General for Afghanistan Reconstruction
1550 Crystal Drive, 9th Floor
Arlington, VA 22202

Dear Mr. Sopko:

Enclosed please find the Department of Defense (DoD) response to the Special Inspector General for Afghanistan Reconstruction (SIGAR) draft audit, "Rule of Law in Afghanistan: U.S. Agencies Lack a Strategy and Cannot Fully Determine the Effectiveness of Programs Costing More Than \$1 Billion."

DoD partially concurs in each of the three DoD-relevant recommendations in the audit. In particular, the Department agrees that any new ROL training activities should involve Afghan government buy-in and coordination with the U.S. Embassy Kabul country team.

Of note, however, consistent with the President's guidance, DoD is now conducting two narrow missions in Afghanistan: training, advising, and assisting the Afghan National Defense and Security Forces and the security ministries; and conducting counterterrorism operations. ROL is not a significant feature of this narrow missions set. Those ROL activities conducted by DoD as part of its mission will remain limited, coordinated with the Department of State, and not significantly implicate DoD funding streams.

Thank you for the opportunity to review and respond.

A handwritten signature in blue ink, appearing to read "C. Abizaïd".

Christine Abizaïd
Deputy Assistant Secretary of Defense
Afghanistan, Pakistan, and Central Asia

Enclosure:
As stated



APC DRAFT REPORT RESPONSE

“Rule of Law in Afghanistan: U.S. Agencies Lack a Strategy and Cannot Fully Determine the Effectiveness of Programs Costing More Than \$1 Billion” (SIGAR Audit Report 15-X)

In response to the three recommendations directed to the Secretary of Defense, the Department of Defense submits the following responses:

1. Recommendation 1:

Recommendation for Secretary of State.

2. Recommendation 2:

Secretary of Defense track the activities and funding, within 90 days, and report this information to the Secretary of State, in recognition of State's capacity as lead coordinator of U.S. rule of law development assistance in Afghanistan.

Partially concur. There is no DoD rule of law (ROL) program of record, and ROL is not a DoD mission in Afghanistan as part of Operation Freedom's Sentinel. During the period covered by this report, ROL activities conducted by U.S. forces in Afghanistan were ad hoc activities designed to address specific problems identified in the field. Neither the Rule of Law Field Force-Afghanistan (ROLFF-A) nor Combined Joint Interagency Task Force (CJIATF) 435 exists at this time, and Essential Function 3 (EF3), Rule of Law (ROL), is the present “add on” to NATO's Resolute Support (RS) mission and is not part of a specific U.S. Government ROL program. EF3 acts only in a facilitator capacity, and any current and future DoD ROL activities in Afghanistan will be limited primarily to the kind of training that DoD provides to military forces through, or on behalf of, other security cooperation partners, such as training conducted by the Defense Institute of International Legal Studies (DIILS) in Law of Armed Conflict, Human Rights, Investigations, and Fighting Corruption.

3. Recommendation 3:

Secretary of Defense, the Attorney General, the Secretary of State, and the USAID Administrator, taking into account the challenges to measuring performance in Afghanistan, revise performance management plans for ongoing rule of law programs, within 90 days; for planned rule of law programs, develop and implement plans from the outset that include appropriate performance indicators, baselines, and targets, and ensure program progress is consistently monitored and reported.

Partially concur. As there is no current DoD ROL program in Afghanistan, there is no need for revising or adjusting program management or performance plans. DoD ROL activities are very limited in scope and address very narrow, specific training needs in areas such as Law of Armed Conflict, Human Rights, Investigations, and Fighting Corruption. Resolute Support staff monitor and assess progress in developing Afghan capacity in these areas.

4. Recommendation 4:

Secretary of Defense, the Attorney General, the Secretary of State, and the USAID Administrator conduct reviews to assess whether ongoing and future rule of law programs are sustainable and determine whether and how those programs will be continued. If programs are to be continued or new programs are to be initiated, obtain Afghan government commitment to help support them through a formal written agreement prior to the expenditure of U.S. taxpayer funds. Report on the progress on these efforts within 6 months.

Partially concur. DoD does not have a ROL mission in Afghanistan and is only involved in very limited ROL activities involving, for example, training by the Defense Institute of International Legal Studies (DIILS) on the law of armed conflict, human rights, investigations, and fighting corruption. The Department agrees that any new ROL training activities should involve Afghan government buy-in and coordination with the U.S. Embassy Kabul country team. DoD will work with Combined Security Transition Command-Afghanistan to determine the best way to obtain written agreement with the Afghan government for such activities prior to the expenditure of U.S. funds.

UNCLASSIFIED



**HEADQUARTERS
UNITED STATES FORCES-AFGHANISTAN
BAGRAM, AFGHANISTAN
APO AE 09354**

USFOR-A DCDR-S

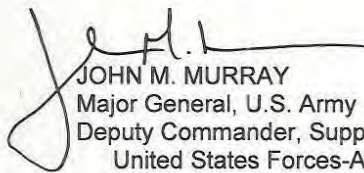
16 May 2015

MEMORANDUM FOR United States Central Command Inspector General (CCIG),
MacDill Air Force Base, FL 33621

SUBJECT: USFOR-A's Response to SIGAR Draft Report 095A, "Rule of Law in
Afghanistan: US Agencies Lack a Strategy and Cannot Fully Determine the
Effectiveness of Programs Costing More than \$1 Billion"

1. I concur with the enclosed CSTC-A comments on the SIGAR 095A Draft Report.
2. The point of contact is Col Patrick Davis, USFOR-A Audits Program Manager, [REDACTED], DSN [REDACTED]

Encl
CSTC-A Memo Thru, 15 May 15


JOHN M. MURRAY
Major General, U.S. Army
Deputy Commander, Support
United States Forces-Afghanistan

UNCLASSIFIED



DEPUTY CHIEF OF STAFF SECURITY ASSISTANCE
COMBINED SECURITY TRANSITION COMMAND-AFGHANISTAN
KABUL, AFGHANISTAN
APO AE 09356

DCOS SA/CSTC-A

9 May 2015

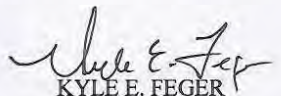
MEMORANDUM THRU

United States Forces - Afghanistan (CJIG), APO AE 09356
United States Central Command (CCIG), MacDill AFB, FL 33621

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

SUBJECT: Review and Comments on SIGAR 095A, "Rule of Law in Afghanistan: U.S. Agencies Lack a Strategy and Cannot Fully Determine the Effectiveness of the Programs Costing More than \$1 Billion"

1. Reference: SIGAR Draft Report, "Rule of Law in Afghanistan: U.S. Agencies Lack a Strategy and Cannot Fully Determine the Effectiveness of the Programs Costing More than \$1 Billion".
2. The purpose of this memorandum is to provide comments to the SIGAR request for a review of the draft report.
3. While the Combined Security Transition Command-Afghanistan is not directly involved in any specific Rule of Law programs, Essential Function 3 (EF3), Rule of Law, contributes to the ministerial development of both the Afghan Ministry of Defense and the Ministry of Interior, as it relates to Gross Violations of Human Rights and the prosecution of acts of corruption. In doing so, EF3 actively engages in Train, Advise, and Assist activities that promote capacity-building at the ministerial level. In some instances, legal studies workshops and training aligned to educate Afghan National Defense Security Force leaders on matters regarding the Law of Armed Conflict and other Rule of Law topics have required the expenditure of U.S. funds. These programs are effective in promoting the progress of the Afghan legal system and the continued development of the ministerial leadership. They are an absolutely critical component of the larger effort in establishing a transparent and sustainable government for Afghanistan.
4. The point of contact for this action is LTC Paul Goethals at DSN [REDACTED], or via e-mail at [REDACTED].


KYLE E. FEGER
Colonel, U.S. Army
Chief of Staff, CSTC-A

NON SENSITIVE INFORMATION RELEASABLE TO THE PUBLIC

CSTC-A Review of SIGAR 095A

**“Rule of Law in Afghanistan: U.S. Agencies Lack a Strategy and Cannot Fully Determine the Effectiveness of Programs Costing More Than \$1 Billion”
(SIGAR 095A)**

The focus of Essential Function 3 (EF3), Rule of Law (RoL), as part of NATO’s Resolute Support (RS) mission, is to assist the Afghan Ministries of Defense and Interior in ensuring they have the necessary processes in order to effectively prevent, track, investigate, and if necessary, prosecute Gross Violations of Human Rights (GVHRs) and significant acts of corruption. As such, EF3 is not directly involved in any specific US RoL programs, as noted on page 9 of the Draft Report.

In its current capacity, EF3 has leveraged pre-existing Afghan Security Forces Funds (ASFF) to support training in Afghanistan on the Law of Armed Conflict (LOAC), Human Rights, Investigations, and Fighting Corruption, with the assistance of the Defense Institute of International Legal Studies (DIILS). A five-day workshop was held in December 2014 at the Resolute Support Headquarters, and two more workshops are currently being planned for June and August 2015. In addition, this same funding was used to send an Afghan attorney to an in-residence DIILS course in Newport, RI, which focused on LOAC and Human Rights. This attorney, an instructor at the Afghan National Army Legal School, will then be part of an Afghan Mobile Training Team which will provide LOAC and Human Rights training to all of the ANA Corps.

Furthermore, CSTC-A has contracted for a team of Afghan Legal Trainers who provide train-the-trainer legal training to Ministry of Interior and Police personnel throughout Afghanistan. This contract is currently under review for renewal. And, EF3 hosts a bi-weekly International RoL meeting at the Resolute Support Headquarters. International Governmental Organizations, NGOs, and several U.S. agencies meet and discuss their various RoL efforts to promote a greater understanding of all RoL efforts within the international community and to enhance synchronization of programs. EF3 acts only in a facilitator capacity and no funds are expended with this program.

Other than the above-mentioned initiatives, EF3 is not involved in any other RoL programs potentially involving the expenditure of U.S. funds.

APPROVED BY:
MITCHELL R. CHITWOOD
BG, USA
EF 3 Lead

PREPARED BY:
JASON S. WRACHFORD
Lt Col, USAF
EF 3 Rule of Law Advisor

NON SENSITIVE INFORMATION RELEASABLE TO THE PUBLIC

APPENDIX IV - COMMENTS FROM THE DEPARTMENT OF JUSTICE



U.S. Department of Justice

Office of the Deputy Attorney General

May 18, 2015

Gabriele A. Tonsil
Assistant Inspector General for Audits and Inspections
Special Inspector General for Afghanistan Reconstruction
1550 Crystal Drive Suite 900
Arlington, VA 22202

Re: SIGAR 095A - Rule of Law in Afghanistan (UNCLASSIFIED)

The Department of Justice thanks the Special Inspector General for Afghanistan Reconstruction (SIGAR) for its latest report on Rule of Law programming in Afghanistan and for the opportunity to provide our comments. In sum and substance, the Department generally agrees with the message and recommendations of SIGAR. The Department is especially pleased that SIGAR recognizes that Afghanistan presents a unique and challenging environment to systematically assess and report on; an environment that requires frequent assessment and reassessment to ensure meaningful performance and avoid the duplication of efforts. As the report accurately states, achieving “ideal or perfect” reporting structures is exceedingly difficult in the Afghan context.

As noted in the report, defining the scope and meaning of “rule of law” can be somewhat amorphous. According to SIGAR, the 2009 U.S. Rule of Law Strategy includes the formal and informal justice systems, legal education, public outreach and anticorruption efforts – but excludes counternarcotics and police training efforts. Although the Department regards the parameters of the 2009 strategy more broadly than SIGAR, we respect and understand SIGAR’s framing of the strategy for this report. We also wholeheartedly agree that meaningful performance reporting is vital. The Department is required to report on its programs as instructed to do so under its interagency agreement with Department of State, Bureau of International Narcotics and Law Enforcement Affairs (State/INL). Since 2005, the Department has reported on its programming and regularly consults with State to refine its reporting structures to provide the best possible program performance review. As noted below, we look forward to continued collaboration with State/INL on additional performance management plan development consistent with this report.

Recommendation Number One: *Recommends finalizing the updated draft U.S. rule of law strategy for Afghanistan within 90-days.* As it has in the past, the Department stands ready to assist State and the interagency in the development and finalization of a new rule of law strategy. The Department recognizes that the National Security Council process provides for the ultimate

approval of such a strategy for the United States. Therefore, the Department is not in a position to bind other parts of the Executive Branch to a defined timeline but stands ready to actively participate in the process.

Recommendation Number Two: *Recommends that the Department of Defense track its activities and funding for its rule of law programs.* The Department has no comment on recommendation number two.

Recommendation Number Three: *Recommends revisions of performance management plans.* The Department will continue to work with its funding agency, State/INL, to review and, where appropriate, refine performance measures consistent with the recommendation. Because many of the proposed reporting enhancements were underway prior to this report, the Department believes that 90-days to complete the revisions are reasonable; however, we cannot bind another part of the Executive Branch to a timeline. Because we report on programming per State's instructions, we demur to them with regard to the reasonableness of timing. The Department adds that the review and refining process of performance measures is not static and, as mentioned, is routinely evaluated and amended.

Recommendation Number Four: *Recommends further reviews and reports on the progress of ongoing and future rule of law programming; and obtain a written commitment from the Afghan Government on new or continued programming.* The Department regularly assesses its programs and will continue to do so. The State Department is the exclusive agency for entering into agreements with foreign sovereigns; however, the Department will assist Embassy Kabul, where appropriate, with advice and recommendations on future rule of law programming. The Department looks forward to continuing to provide SIGAR updates on its rule of law efforts in the SIGAR quarterly report.

We appreciate SIGAR's work on this report. Also, we appreciate the inspection team's sincere desire to listen to this agency's comments and concerns throughout the development of the report.

Respectfully,



Brian M. Tomney
Senior Counsel to the Deputy Attorney General

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



Embassy of the United States of America

Kabul, Afghanistan

May 19, 2015

Ms. Gabriele A. Tonsil
Deputy Assistant Inspector General
for Audits and Inspections
Special Inspector Afghanistan Reconstruction (SIGAR)
1550 Crystal Drive, Suite 900
Arlington, VA 22202

Dear Ms. Tonsil:

This letter conveys consolidated comments from U.S. Embassy Kabul and from the U.S. Agency for International Development (USAID) in Kabul in response to SIGAR's draft audit report titled *Rule of Law in Afghanistan: US Agencies Lack a Strategy and Cannot Fully Determine the Effectiveness of Programs Costing More Than \$1 Billion*.

As the draft report highlights, the United States' rule-of-law programming in Afghanistan spans four agencies and numerous programs. The Embassy has taken great pains over the past several years to coordinate rule-of-law activities among its constituent offices and agencies, maintaining several highly engaged interagency exchanges on rule-of-law activities and program development. Regular meetings among offices working specific rule-of-law issues also further coordination. For example, USAID's work on the Afghanistan Court Administration System and INL's work on the Case Management System have had overlap in judicial record keeping. Both offices met regularly to discuss how their programs were evolving and how they could best complement each other.

Similarly, the Embassy's Coordinating Directorate chairs a monthly Anti-Corruption Coordination Group (ACCG) meeting among stakeholders from Embassy sections, the Department of Justice, USAID, the Department of the Treasury, and the Drug Enforcement Agency. This meeting includes U.S. military counterparts from USFOR-A and Resolute Support. The Political Section acts as the ACCG's secretariat and works with Embassy sections and agencies to advise on development of anti-corruption strategies (guided by the Integrated Country Strategy) and on coordination with the Afghan government.

Our preliminary rule-of-law framework is fully compatible and in accordance with the 2010 QDDR principles. The strategy has been designed and built in response to evidence and analysis gleaned through our programmatic performance metrics, which are based upon common reporting indicators. Furthermore, the strategy fully takes into account the Government of Afghanistan's rule-of-law objectives.

See SIGAR
Comment 1.

Below please find responses to SIGAR's specific recommendations.

SIGAR Recommendation 1: *That the Secretary of State, in coordination with other US. agencies managing rule-of-law programs in Afghanistan, ensure that a new strategy is finalized that includes an agreed-upon scope of activities and a performance management plan to evaluate US. progress in meeting strategy objectives.*

The Embassy concurs with this recommendation, with one qualification. Performance management plans should apply to programs, not strategies. As detailed further in this letter, both State and USAID have processes and procedures in place to measure program performance and effectiveness. We concur that any new rule-of-law strategy should draw on this existing material as well as other available data to evaluate strategy implementation and effectiveness.

SIGAR Recommendation 2: *That the Secretary of Defense track the activities and funding going forward and report this information to the Secretary of State, in recognition of State's capacity as lead coordinator of US. rule-of-law development assistance in Afghanistan.*

The Embassy defers to the Secretary of Defense on this recommendation.

SIGAR Recommendation 3: *That the Secretary of Defense, the Attorney General, the Secretary of State, and the USAID Administrator, taking into account the challenges to measuring performance in Afghanistan, revise performance management plans for all ongoing rule-of-law programs and develop and implement plans for planned programs that include appropriate performance indicators, baselines, and targets, and ensure program progress is consistently monitored and reported.*

The Embassy does not concur with SIGAR's recommendation to "revise performance management plans for all ongoing rule-of-law programs." Performance management is part of how we do business. Our programs utilize a

number of performance management techniques that ensure program objectives are being met and progress is being made. Program managers regularly review various data and reporting documents to adjust programs as needed. Moreover, rule-of-law programs and topics and the role of Embassy Kabul elements (including Embassy sections, USAID and offices representing other departments) feature prominently in Embassy Kabul's February 2015 Integrated Country Strategy (ICS). The ICS includes action plans and identifies indicators and milestones for measuring performance.

See SIGAR
Comment 2.

The Embassy's International Narcotics and Law Enforcement (INL) section began implementing Performance Measurement Plans (PMPs) for its key Afghanistan programs in the fall of 2011, with most PMPs completed by late 2012. In October 2013, INL refreshed its PMPs to align better with subsequent State Department performance measurement guidance. As part of the refresh process, INL re-mapped activities, outputs, outcomes, and impacts to the program objectives, connecting them in an explicit logical framework, and added performance targets. INL's and USAID's PMPs are living documents which are continually assessed and updated to reflect the changing realities on the ground.

Consistent with USAID policy, as codified in detail by Automated Directives System (ADS) Chapter 203, USAID's standard practice is to require Implementing Partners (IPs) to develop Activity Monitoring and Evaluation Plans (AMEP) for all Agency programs, and to report regularly on them. The Mission also has a Performance Management Plan (PMP), to which individual AMEPs contribute. USAID ensured that AMEPs for its key rule-of-law activities were developed by IPs shortly following their award in 2010. Subsequently these were updated periodically in response to USAID's monitoring data needs.

Currently, USAID's future rule-of-law programming is in the procurement phase. The solicitation includes extensive language requiring bidders to submit detailed AMEPs as part of their proposals. AMEPs must include quantitative and qualitative measurable targets, as well as information on the indicator definitions data sources, data collection methodology and analysis, and frequency of collection. The solicitation also instructs bidders to include language in their proposals explaining how they will avoid program duplication, enhance programmatic synergies, and coordinate with other donors, U.S. government agencies and implementing partners.

Once the winning bidder is selected, USAID's rule-of-law team will work closely to finalize the AMEP, which will be informed by a baseline assessment. The assessment findings, which are based on extensive interviews with key justice sector stakeholders, will inform the planning and implementation of project deliverables and the development of monitoring and evaluation indicators.

Upon completion of the procurement for the rule-of-law program, USAID/Afghanistan will provide to SIGAR the documents supporting actions taken in regard to development of the Annual Monitoring and Evaluation Plan (AMEP) to include quantitative and qualitative measurable targets, information on the indicator definitions, and data collection methodology. USAID's target date for completion is December 31, 2015.

SIGAR Recommendation 4: That the Secretary of Defense, the Attorney General, the Secretary of State, and the USAID Administrator conduct reviews to assess whether ongoing and future rule-of-law programs are sustainable and determine whether and how those programs will be continued. If programs are to be continued or new programs are to be initiated, the agencies should obtain Afghan government commitment to help support them through a formal, written agreement prior to the expenditure of US. Taxpayer funds.

The Embassy concurs with the recommendation with respect to the State Department and USAID, but notes that in many instances we already conduct such reviews and have formal written agreements with the Afghan government.

U.S. experience in other countries has shown that rule-of-law foreign assistance efforts require long-term, enduring commitments. Recognizing the need for long-term donor support as well as the current realities of the Afghan economy, INL designs and implements foreign assistance programs that build host government capacity to sustain criminal justice systems. Some programs, such as advisory and training programs, are discontinued once skills are successfully transferred. Other programs, such as operations and maintenance support, are directly transitioned to the Afghan government, including funding for such activities.

See SIGAR
Comment 3.

The Embassy's INL section works diligently to strengthen Afghan government capacity to assume ownership of and sustain rule-of-law programs. INL and the Afghan government, through a Letter of Agreement (LOA), have

committed to support capacity building in future programs. The LOA explicitly states the U.S. and Afghan governments will work to extend Afghan sovereignty.

USAID has already completed evaluations of its RLS-F and RLS-1 rule-of-law projects. The findings of these evaluations have already informed the design of the Mission's forthcoming rule-of-law project. USAID also notes it has already concluded a formal written agreement in the form of a Strategic Objective Agreement (SOAG)/306-SOAG-306-05-0006.00-1 with the Afghan government in 2005 that specifically covers the Mission's rule-of-law assistance.

In addition to the SOAG, the Mission's Office of Democracy and Governance initiated a process specifically designed to obtain and maintain the Afghan government's commitment throughout the lifespan of the future rule-of-law project. USAID requested key institutional stakeholders in the Afghan justice sector, such as the Supreme Court and the Ministry of Justice, participate in the procurement process. Involving Afghan government staff in the procurement process not only brings much needed local perspective and expertise, but also gives the Afghan government a stake in the outcome.

After the project is awarded, the Supreme Court and the Ministry of Justice will be asked to sign official implementation letters that, in accordance with ADS Chapter 200, will include detailed procedures, terms of cooperation, and funding commitments. Finally, USAID and its selected implementing partner will hold periodic meetings with Afghan government institutions and other project stakeholders at the start of the project to ensure its activities are meeting stakeholder needs. The implementing partners are also required to achieve certain milestones, such as instituting training systems developed and used by local legal professionals and strengthened budget execution capacity in the judiciary to ensure sustainability upon completion of the project. USAID knows from experience that investing in Afghan professionals and giving them a stake in the successful outcome in assistance projects will ultimately help achieve sustainability.

Upon completion of the procurement for the rule-of-law program, USAID/Afghanistan will provide to SIGAR the documents for supporting actions discussed in the response to this recommendation including the official implementation letters signed with the Supreme Court and the Ministry of Justice with the details on procedures, terms of cooperation and funding commitments.

Also, USAID will develop and incorporate provisions in the award document for the rule-of-law program, requiring the implementing partner to take steps necessary to ensure sustainability upon completion of the project. USAID's target date for completion is December 31, 2015.

We appreciate the opportunity to comment on this draft report.

Sincerely,



Charles Randolph
Program Coordinator
Coordination Directorate

Attachment: Annex A Technical Comments

SIGAR's Response to Comments from State and USAID

- 1) We disagree with State and USAID's statement that the current draft 2013 rule of law framework is in accordance with the 2010 Quadrennial Diplomacy and Development Review. As noted in the report, the 2010 Quadrennial Diplomacy and Development Review directs State and USAID to build and assess strategies on "clear performance metrics and high-quality evaluations" in order to provide information about the success or failure of strategies against their objectives. The 2013 strategy does not detail a plan for assessing the performance of the strategy or detail performance metrics and evaluations that should be used to assess the success or failure of the strategy against its objectives. Although State and USAID used performance metrics to help build the 2013 strategy, this does not address measuring the performance of the strategy going forward.
- 2) State and USAID note that Embassy Kabul's 2015 Integrated Country Strategy "includes action plans and identifies indicators and milestones for measuring performance." Based on this comment, we revised our first recommendation to reflect this point and the importance of the next rule of law strategy having a plan for measuring performance, including performance metrics to assess the strategy's progress in meeting its objectives. We support State and USAID's approach to measure the performance of the 2015 Integrated Country Strategy.
- 3) We acknowledge that some programs, such as advisory and training programs, are limited in scope and should be discontinued once the skills have been transferred to the Afghans. However, as we reported with regards to the Sustainability Guidance, it is also important for State and USAID, working with Afghan partners and other donors, to determine whether the Afghans will have the interest and resources to maintain the investment and "capacity" they acquired from the programs over time. State and USAID's interests in the long-term results of their programs do not end with the completion of their programs or the transfer of operations and maintenance to the Afghan government.

APPENDIX VI - ACKNOWLEDGMENTS

Eugene Gray, Senior Program Manager

James Smith, Analyst-in-Charge

Michael Graham, Program Analyst

This performance audit was conducted
under project code SIGAR-095A.

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.

Obtaining Copies of SIGAR Reports and Testimonies

To obtain copies of SIGAR documents at no cost, go to SIGAR's Web site (www.sigar.mil). SIGAR posts all publically released reports, testimonies, and correspondence on its Web site.

To Report Fraud, Waste, and Abuse in Afghanistan Reconstruction Programs

To help prevent fraud, waste, and abuse by reporting allegations of fraud, waste, abuse, mismanagement, and reprisal, contact SIGAR's hotline:

- Web: www.sigar.mil/fraud
- Email: sigar.pentagon.inv.mbx.hotline@mail.mil
- Phone Afghanistan: +93 (0) 700-10-7300
- Phone DSN Afghanistan: 318-237-3912 ext. 7303
- Phone International: +1-866-329-8893
- Phone DSN International: 312-664-0378
- U.S. fax: +1-703-601-4065

Public Affairs

Public Affairs Officer

- Phone: 703-545-5974
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