



# OFFICE OF INSPECTOR GENERAL

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## AUDIT OF USAID/AFGHANISTAN'S CONSTRUCTION OF HEALTH AND EDUCATION FACILITIES PROGRAM

AUDIT REPORT NO. F-306-11-002-P  
MARCH 27, 2011

KABUL, AFGHANISTAN



*Office of Inspector General*

March 27, 2011

**MEMORANDUM**

**TO:** USAID/Afghanistan Mission Director, Earl W. Gast

**FROM:** OIG/Afghanistan Director, Tim Cox /s/

**SUBJECT:** Audit of USAID/Afghanistan's Construction of Health and Education Facilities Program (Report Number F-306-11-002-P)

This memorandum transmits our final report on the subject audit. In finalizing the report, we considered your comments to the draft report and included the comments (without attachments) in appendix II.

This report contains 15 recommendations to assist USAID/Afghanistan to improve its oversight of the Construction of Health and Education Facilities Program. Based on the information provided by the mission in response to the draft report, we consider that final actions have been taken on recommendations 5, 6, 7, 8, 11, and 12 upon issuance of this report. In regard to recommendations 1, 2, 3, 4, 9, 10, 13, 14, and 15, management decisions have been reached and determinations of final action will be made by the Audit Performance and Compliance Division upon completion of the planned corrective actions. Based on mission comments the mission concurs with the unallowability of \$258,982 for the construction of religious structures and intends to collect the unallowable costs from the implementer.

I want to thank you and your staff for the cooperation and courtesy extended to us during the audit.

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# SUMMARY OF RESULTS

To help respond to unmet health and education needs in Afghanistan, USAID/Afghanistan entered into a \$57 million cooperative agreement with the International Organization for Migration (IOM) in January 2008, effective through January 2011, to implement the Construction of Health and Education Facilities Program. The agreement was subsequently extended through June 2012. According to the mission, as of September 30, 2010, USAID/Afghanistan had obligated \$57 million and disbursed \$10 million for program activities.

The objective of the audit was to determine whether USAID/Afghanistan's program was achieving its main goals of strengthening the Government of Afghanistan's ability to provide health services to its citizens and train competent teachers by constructing provincial hospitals, midwife training centers, and provincial teacher training colleges.

While the mission has realized some successes—for example, in strengthening the capacity of local construction companies and adhering to the international building code—the program was not on schedule to achieve its main goals. The audit disclosed the following issues:

- *Construction fell significantly behind schedule.* The program was approximately 18 months behind schedule and was making slow progress toward achieving its goals (page 4).
- *Cost and security issues reduced the scope of new construction.* Achieving the original goals of the agreement was hindered by funding limitations that significantly reduced the number of structures to be constructed (page 7).
- *The mission approved building religious structures.* The mission approved the construction of male prayer buildings and female prayer rooms at four construction sites, violating a prohibition contained in Title 22 of the Code of Federal Regulations (CFR), Section 205(d). The estimated cost of these structures was \$258,982 (page 8).
- *Process needed for release of construction designs.* The mission has not provided guidance to IOM on providing completed designs for buildings that will not be constructed to the relevant ministry. The mission has not yet provided the completed designs for two hospitals and four provincial teacher training centers to the Ministries of Education and Public Health (page 9).
- *Materials testing did not comply with guidance.* IOM did not consistently comply with its quality control manual in testing construction materials (page 9).
- *Sustainability of facilities is questionable.* The ability of the Ministries of Education and Public Health to maintain the completed structures is questionable because of competing priorities for ministry funds, which could further hinder achievement of the program's main goals (page 11).
- *The mission did not carry out required environmental assessments.* USAID/Afghanistan did not comply with USAID's environmental procedures, and did not complete an environmental assessment as required (page 12).

- *The implementer had no approved marking plan.* IOM did not submit a branding and marking plan as required by the agreement (page 13).
- *A subcontractor incurred unallowable security costs.* A construction subcontractor was paying off-duty Afghan Nation Police for security services without approval from the mission. However, the amount involved was small: approximately \$9,200 (page 14).
- *Repairs to earlier construction program reduce funds available for the current program.* Approximately \$316,000 that could have been spent on new structures was used to refurbish a clinic and reconstruct a school that had suffered damage as a result of defective designs and construction under a prior USAID/Afghanistan program (page 14).

To address these issues, our report includes 15 recommendations for USAID/Afghanistan:

1. Obtain a revised implementation plan from IOM identifying revised completion dates for all structures, recovery actions to increase the speed of construction, potential barriers to timely completion of construction, and actions that could be taken to mitigate delays (page 7).
2. Extend the agreement with IOM to ensure that the warranty period for all completed structures falls within the agreement period (page 7).
3. Review the eligibility of the cost of the prayer buildings and prayer rooms included in the provincial teacher training centers and recover any costs found to be unallowable (page 9).
4. Include in technical representatives' designation letters a reminder of USAID's policy on funding religious activities (page 9).
5. Develop a process for releasing completed designs (page 9).
6. Obtain evidence that IOM has standardized its quality control procedures at all construction sites (page 11).
7. Obtain evidence that IOM has updated its quality control manual to include all tests performed and acceptance criteria used for quality control (page 11).
8. Develop and implement a process whereby the agreement officer's technical representatives verify and review quality control tests (page 11).
9. After preparing an analysis of the Government of Afghanistan's ability to fund maintenance for the structures turned over under the program, (1) make a determination of the need for a separate operation and maintenance program and (2) revise as appropriate the 611(e) certification previously prepared for the Construction of Health and Education Facilities Program (page 12).
10. Complete the required environmental assessments required by 22 CFR 216 (page 13).
11. Provide adequate supervision to reasonably ensure compliance with USAID's environmental procedures (page 13).
12. Direct IOM to submit a formal marking plan as required by the agreement (page 13).

13. Determine the adequacy of IOM's marketing plan (page 13).
14. Identify and recover the unallowable costs billed to the mission for the use of off-duty Afghan National Police officers (page 14).
15. After identifying all clinics built under a previous USAID construction program that may have a design flaw that creates a fire hazard, notify the Ministry of Public Health and provide a remedy for the design flaw (page 16).

The audit scope and methodology are described in Appendix I (page 19)

The Office of Inspector General evaluated the mission's response to the draft report and determined that final action has been achieved on 6 of the 15 recommendations (Recommendations 5, 6, 7, 8, 11, and 12). A management decision has been reached on the other 9 recommendations. The mission's written comments on the draft report are included in their entirety, without attachments, as Appendix II to this report (page 21).

# AUDIT FINDINGS

## Construction Fell Significantly Behind Schedule

According to the original cooperative agreement, IOM was to complete all construction between June and December 2009.

Because of the circumstances described below, the mission was not able to complete any of the structures in accordance with the original delivery dates. Furthermore, the mission will not be able to deliver four of the structures in accordance with the revised timeline, and a fifth structure—a 100-bed hospital—may also miss its anticipated delivery date. Table 1 shows the status of construction as a percentage of completion, as well as the estimated completion dates.

**Table 1. Status of Facility Construction and Delivery Dates as of August 31, 2010**

| Facility                                   | Percent Complete as of 8/31/2010 | Original Agreement Delivery Date | Current Agreement Delivery Date (Modification 10) | Estimated Completion Date by IOM |
|--|----------------------------------|----------------------------------|---|----------------------------------|
| <b>Health Facilities</b>                   |                                  |                                  |   |                                  |
| 100-bed hospital-Paktya                    | 7                                | 12/31/2009                       | 6/14/2012   | 2/23/2012                        |
| 20-bed hospital-Paktika                    | 6                                | 6/30/2009                        | 9/22/2011   | 6/11/2011                        |
| Midwife training center-Bamyan             | 25                               | 10/31/2009                       | 10/29/2010  | 12/15/2010                       |
| Midwife training center-Badakhshan         | 30                               | 10/31/2009                       | 10/30/2010  | 11/27/2010                       |
| Midwife training center- Khost             | 83                               | 10/31/2009                       | 8/29/10/10  | 11/15/2010                       |
| <b>Provincial Teacher Training College</b> |                                  |                                  |   |                                  |
| Wardak                                     | 6                                | 12/31/2009                       | 9/16/2011   | 6/15/2011                        |
| Faryab                                     | 7                                | 11/30/2009                       | 9/16/2011   | 6/15/2011                        |
| Parwan                                     | 7                                | 12/31/2009                       | 9/16/2011   | 10/20/2011                       |
| Nangahar                                   | 7                                | 12/31/2009                       | 6/19/2011   | 8/8/2011                         |

These construction delays resulted from (1) delays in completing designs, (2) security threats at certain project sites, (3) limited availability of skilled labor, (4) limited availability of quality materials, (5) land title issues, (6) weather, and (7) work interruptions caused by local elections and holidays. These issues are detailed below:

- *Design delays.* When the agreement was originally awarded, IOM was expected to use existing designs for the health and education structures. After the award, the mission decided that all structures had to be designed in accordance with international building code standards for seismic zones. The existing designs could not be modified to meet the stricter international building code, and as a result, new designs had to be developed.

Changes in construction locations also contributed to design delays. For example, the location for the 20-bed hospital for Paktika was switched twice, delaying delivery of the final design.

Completion of designs was also delayed by a mission decision to require the use of a type of concrete block that was not available in Afghanistan. IOM began designing the midwife training centers using 8-inch concrete blocks, which were commercially available in Afghanistan. In February 2009, after the design process began, the mission directed IOM to revise the design to use 12-inch concrete blocks because the mission believed that these would provide for a stronger structure. IOM began the redesign process and at the same time investigated the availability of 12-inch concrete blocks in Afghanistan. Ultimately, IOM was unable to find a source for the 12-inch block in Afghanistan, and the mission directed IOM to revert to the 8-inch blocks in May 2009, wasting approximately 3 months in the design process.

Finally, constant changes in the scope of work delayed completion of the designs. For example, the original agreement called for two types of provincial teacher training colleges—one for 200 students and one for 300 students. However, after the cooperative agreement was signed, the Ministry of Education required designs with classroom capacity for 600 students and dormitory capacity for 200 students. This change practically doubled the size of the buildings and added time to the design process. As well, the design of a 50-bed hospital, which was ultimately removed from the agreement, was changed after award of the agreement from a traditional provincial hospital to a women's hospital.

Collectively, these design issues delayed the start of construction by approximately 1 year. The mission did not approve the first designs until February 2010, with the last designs approved in May 2010.

- *Security threats.* Security for transporting materials to work sites has been problematic for certain locations. The volatile security situation throughout the south and southeast regions of the country stopped all deliveries to work sites and delayed preconstruction activity from July through September 2008. For example, work on a 20-bed hospital in Paktika was suspended because of security concerns and lack of road access. Furthermore, the discovery of unexploded Soviet-era ordnance at the construction site of the Wardak provincial teacher training college delayed construction by approximately 1 month. According to IOM, the general security situation has continued to deteriorate across the country, requiring sites to stop work for varying periods.



**Unexploded ordnance discovered at the Wardak construction site delayed construction by a month. (Photo courtesy of IOM)**



- *Unavailability of skilled labor.* According to IOM, it has experienced delays because of a lack of skilled labor to fill both construction and office positions. Regarding skilled construction labor, IOM stated that local subcontractors were unfamiliar with building to international building code requirements. For example, two construction companies resigned soon after receiving IOM subcontracts because of their inability to comply with IOM's quality control requirements. Their resignations resulted in the subcontracts being tendered again. Furthermore, IOM contended that it had had problems recruiting qualified engineers to serve in high-threat areas such as Khost Province.
- *Unavailability of quality materials.* Obtaining quality materials also delayed construction. For example, after the foundation was poured for the midwife training center in Badakhshan Province, it was discovered that the steel reinforcing rods used were not of high enough quality. A stop-work order was issued so that a solution could be developed; subsequently, a second foundation was poured over the existing one. In addition, construction of the provincial teacher training college in Parwan Province lagged because of the quality of concrete delivered by a local concrete plant: even though the vendor certified the concrete mix, the samples sent to the lab ultimately failed the required compression strength tests. As a result, this project was delayed 1 month. Finally, one subcontractor commented that it had to slow its work schedule when it had to import concrete block from Kabul because none was available locally.
- *Delayed deeds, contested land titles.* IOM also experienced delays in getting adequate land titles, and sometimes even when it thought it had the proper title, work could not proceed because villagers contested ownership of the land. For example, geotechnical surveys—a prerequisite to starting construction—were delayed because the provincial departments were slow in providing deeds. As another example, after getting a land title for construction of the midwife training center in Bamyan Province, when the subcontractor arrived to begin construction, local community members contested the title because the Government of Afghanistan had not made final payment for the property, delaying construction for over 3 months. The last land title for the program was obtained in February 2009—over 1 year after the program started.
- *Unscheduled work interruptions.* Unscheduled work interruptions, such as forced evacuations of IOM staff and security threats preceding the 2009 and 2010 elections, also affected the program. IOM's country office staff was evacuated for security reasons for over 2 months in 2009, contributing to delays in construction. Furthermore, the Afghan presidential election process in August 2009 delayed construction activities because of terrorist attacks and threats at and around construction sites. Finally, security threats associated with the 2010 parliamentary elections affected material deliveries as well as the ability of staff to get to construction sites. According to IOM, the annual Ramadan and Eid holidays slowed construction as employees were slow to return from holidays.
- *Bad weather.* As in all construction projects, weather also caused delays. All of the construction sites closed during the winter.

These issues collectively put the program approximately 18 months behind schedule.

Construction delays hampered the delivery of the program's intended benefits: improved access to health services and improved teacher training. In addition, the delays experienced by the program affected the warranty period for one structure. Each structure completed by IOM

has a 1-year warranty. The original schedule permitted all of the warranties to expire by the end of the agreement. However, the 100-bed hospital was not expected to be completed until the final month of the agreement, and there was no plan to cover the 1-year warranty period for this structure.

To address the issues discussed above, we make the following recommendations:

***Recommendation 1.*** We recommend that, after the current construction season, USAID/Afghanistan obtain a revised implementation plan from the International Organization for Migration identifying revised completion dates for all structures, recovery actions to increase the speed of construction, potential barriers to timely completion of construction, and actions that could be taken to mitigate delays.

***Recommendation 2.*** We recommend that USAID/Afghanistan extend its agreement with the International Organization for Migration to ensure that the warranty period for all completed structures falls within the agreement period.

## **Cost and Security Issues Reduced the Scope of New Construction**

According to IOM's original agreement, it was to design and construct five hospitals, three midwife training centers, and ten provincial teacher training colleges.

Modifications to the agreement reduced the scope of work to design and construct two hospitals, three midwife training centers, and five provincial teacher training colleges. (For one of the colleges, IOM will construct dormitories only, and for a second college, IOM will construct only a water well and a boundary wall.) The agreement still requires the design of two hospitals and four provincial teacher training colleges.

The scope of the agreement was reduced because of cost and security issues.

Both the decision to make all structures compliant with international building codes for seismic areas and an increase in the size of the provincial teacher training colleges would have increased the cost of the program by an estimated \$49 million if all the original structures were constructed. When the agreement was originally signed, the assumption was that IOM would use existing designs for construction. However, once the mission imposed the new international building code requirement after the award of the agreement, IOM had to modify the designs to be compliant. After several attempts to modify the hospital designs, it was determined by the mission and IOM that IOM would have to start over with new designs. A joint decision was ultimately made to contract with an architectural design firm that specialized in health facilities to do the work at a cost of approximately \$2 million that had not been budgeted for. Construction costs increased as well. In addition, the Ministry of Education requested a significant change to the design of the provincial teacher training colleges that increased costs. The original agreement called for either a 200- or a 300-student facility. The ministry subsequently requested that all provincial teacher training colleges be designed and constructed for a capacity of 600 students, significantly increasing costs.

In addition, some structures were removed from the agreement because the proposed sites were in high-threat zones. For example, the proposed provincial teacher training colleges in Zabul, Khost, and Paktika Provinces were in locations that were not secure, and transport of

supplies on roads in these provinces would be problematic.

As a result, the impact of the program in terms of increased access to medical services through construction of hospitals and midwife training centers and through training of new teachers at the newly constructed colleges will be reduced. As of completion of fieldwork, the mission was contemplating funding additional structures under the agreement; however, no decision had been finalized. Since the security issues are beyond the mission's control and since the mission has implemented new procedures for making structures compliant with international building codes as part of future programs, we are not making any recommendations at this time.

## **Mission Approved Building of Religious Structures**

Title 22 of the Code of Federal Regulations, Section 205(d), "Participation by Religious Organizations in USAID Programs," states that USAID funds may not be used for the acquisition, construction, or rehabilitation of structures to the extent that those structures are used for inherent religious activities.

However, at the request of the Ministry of Education, USAID funded male prayer buildings and female prayer rooms at the provincial teacher training colleges. We estimate the cost of these religious structures at \$258,982 as shown in Tables 2 and 3.

**Table 2. Cost of Prayer Buildings for Men at Provincial Teacher Training Colleges**

|                               |                  |
|-------------------------------|------------------|
| Construction cost at Wardak   | \$42,626         |
| Construction cost at Faryab   | 44,601           |
| Construction cost at Parwan   | 45,429           |
| Construction cost at Nangahar | 50,626           |
| Design cost for five sites    | 2,500            |
| <b>Total</b>                  | <b>\$185,782</b> |

**Table 3. Cost of Prayer Rooms for Women at Provincial Teacher Training Colleges**

|                               |                 |
|-------------------------------|-----------------|
| Construction cost at Wardak   | \$18,000        |
| Construction cost at Faryab   | 18,000          |
| Construction cost at Parwan   | 18,000          |
| Construction cost at Nangahar | 18,000          |
| Design cost for five sites    | 1,200           |
| <b>Total</b>                  | <b>\$73,200</b> |

IOM's technical proposal clearly indicated that these religious structures would be incorporated into the designs of the provincial teacher training colleges, but USAID staff failed to recognize these structures as being ineligible for USAID funding. Furthermore, discussions with mission staff and review of program documentation indicated a lack of knowledge concerning this issue.

Funding for the religious structures violated the prohibition in 22 CFR 205(d) and diverted resources that could have been used for other, allowable purposes under the program. Therefore, we make the following recommendations.

**Recommendation 3.** *We recommend that USAID/Afghanistan review the eligibility of the cost of the prayer buildings and prayer rooms included in the provincial teacher training centers and recover any costs found to be unallowable.*

**Recommendation 4.** *We recommend that USAID/Afghanistan include in technical representatives' designation letters a reminder of USAID's policy on funding religious activities.*

## **Process Needed for Release of Construction Designs**

According to the IOM technical proposal it submitted for the program, IOM will provide construction drawings to the relevant ministry. However, the mission has not provided guidance to IOM on providing completed designs for buildings that will not be constructed to the relevant ministry.

The mission has not yet provided the completed designs for two hospitals and four provincial teacher training centers to the Ministries of Education and Public Health. The completed designs are site specific and include drawings, specifications, design analysis, design calculations, and bills of quantities with adherence to the international building codes and compliance with seismic requirements. Releasing the designs would allow the ministries to solicit other donors for these projects.

The mission did not release the completed designs to the ministries because there was no process to do so. The mission's Office of Infrastructure Engineering and Energy expressed concerns over liability issues associated with releasing the designs; however, the mission's Regional Legal Advisor indicated that a liability release statement could be prepared to address these concerns.

The designs for the structures not being built cost the mission approximately \$544,000. If the designs are not released, these costs will be wasted. Therefore, we make the following recommendation.

**Recommendation 5.** *We recommend that USAID/Afghanistan develop a process for releasing completed designs.*

## **Materials Testing Did Not Comply With Guidance**

The audit disclosed several instances of noncompliance with IOM's quality control manual, which is incorporated into the cooperative agreement and approved by the mission:

- The manual required specific tests of construction materials to be performed at specified intervals, but we noted instances where there was no evidence that required tests were performed. For example, of 49 required 7-day concrete compression strength tests

reviewed, IOM could only provide evidence that 35 tests were performed. As another example, of 49 required concrete slump tests<sup>1</sup> reviewed, IOM could only provide evidence that 36 were performed. Further, of 40 required 28-day concrete compression strength tests reviewed, IOM could only provide evidence that 37 tests were performed.

- The manual required that tested materials meet minimum acceptance criteria. However, for both 7-day concrete compression strength tests and slump tests, IOM approved materials that did not meet the minimum acceptance criteria in the manual. The criteria that IOM used to accept the materials may be valid, but the criteria should be reviewed and incorporated into the quality control manual.
- The manual required that the IOM reviewer and quality control manager approve lab results using a standard submittal form, but the standard form for approving lab results was not used for 6 of the 37 28-day compression strength tests reviewed.
- The manual required that a standard form to record test results be maintained and that the results be forwarded to the agreement officer's technical representative (AOTR). However, review of records at six construction sites disclosed that only one site used the standard form, while the other sites used a variation of the form that was more detailed. With no standardized form used to track slump tests, sites created their own form to track results.

Furthermore, the cooperative agreement also required that IOM and the mission's quality assurance contractor—International Relief and Development, Inc. (IRD)—approve test results. However, none of the slump tests reviewed for the Bamyan midwife training center included evidence that tests were approved as required.



**Concrete cylinders prepared at the Gardez 100-bed hospital site await compression strength tests. (Photo by OIG, November 2, 2010)**

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<sup>1</sup> A slump test is commonly used to measure the workability of freshly made concrete whereby a conical mould is filled with concrete, rammed and then inverted and emptied over a flat plate. The slump is the difference between the height of the mould and the highest point of the concrete.

The AOTR's files did not contain copies of all tests performed by IOM. Had the mission requested and received all of the test results, it might have detected the inconsistent documentation. Inadequate controls for materials tests can lead to incorporation of substandard material into USAID-funded construction projects, affecting the integrity of the structures.

The mission is aware of these issues and has started to address the following recommendations.

**Recommendation 6.** *We recommend that USAID/Afghanistan obtain evidence that the International Organization for Migration has standardized its quality control procedures at all construction sites.*

**Recommendation 7.** *We recommend that USAID/Afghanistan obtain evidence that the International Organization for Migration has updated its quality control manual to include all tests performed and acceptance criteria used for quality control.*

**Recommendation 8.** *We recommend that USAID/Afghanistan develop and implement a process whereby the agreement officer's technical representatives verify and review quality control tests.*

## **Sustainability of Facilities Is Questionable**

Section 611(e) of the Foreign Assistance Act of 1961, as amended, provides that whenever certain types of funds are proposed to be used for a capital assistance project exceeding \$1 million, the mission director must provide a certification as to the capability of the country to effectively maintain and utilize the project.

While the mission director provided such a certification, current mission staff members do not believe that the Government of Afghanistan can afford to maintain the structures that the mission is financing under the Construction of Health and Education Facilities Program. A post occupancy evaluation of 608 schools and clinics completed under a previous mission program (Schools and Clinics Construction and Refurbishment Program) disclosed a lack of maintenance of the structures turned over to the Ministries of Education and Public Health. IOM and the mission's quality assurance contractor questioned the ministries' ability to fund maintenance of the new structures being completed under the program. As well, the audit site visit to Antany Hospital disclosed that basic maintenance tasks such as replacing light bulbs were not being performed.

According to the mission, while there are budget line items for maintenance of existing structures within the ministries, the ministries have competing priorities, such as meeting payroll. Furthermore, the mission commented that the budget for maintaining existing structures is not sufficient to cover maintenance needs. Mission staff also pointed out that, for road programs, the mission historically has had separate programs for maintenance of USAID-funded roads. Finally, according to the ministries, it is the responsibility of the line directors in the provinces to provide budget requests for maintenance, and this does not always happen.

If the structures are not properly maintained, their useful life could be shortened, and critical systems such as generators and electrical systems could fail. While the hospitals and provincial teacher training centers being constructed are covered by a 1-year warranty after being turned over to the ministries, critical systems must be maintained routinely. While availability of funding for maintenance is beyond the mission's control, we make the following recommendation.

**Recommendation 9.** *We recommend that USAID/Afghanistan, after preparing an analysis of the Government of Afghanistan's ability to fund maintenance for the structures turned over under the program, (1) determine the need for a separate operation and maintenance program and (2) revise as appropriate the 611 (e) certification previously prepared for the Construction of Health and Education Facilities Program.*

## **Mission Did Not Carry Out Required Environmental Assessments**

USAID's environmental procedures are included in Title 22 of the Code of Federal Regulations, Part 216, "Environmental Procedures." Section 216.2(d)(1) states that new land development is part of a class of actions that have been determined generally to have a significant effect on the environment. Therefore, an environmental assessment or environmental impact statement, as appropriate, will be required. Under Section 216.2(d)(2), however, if the originator of the project believes that the project will *not* have a significant effect on the environment, than an initial environmental examination will be prepared. If the initial environmental examination determines that the project would have a significant effect, an environmental assessment or environmental impact statement will be prepared.

The mission decided no environmental assessment was required because (1) it was financing only small-scale construction, which the mission defined as construction where the land to be disturbed measured 10,000 square feet or less and (2) the land had already been disturbed by previous construction or by war.

The mission's reasoning was flawed for several reasons. First, 22 CFR 216 does not contain any exemptions for small-scale construction. Even if such an exemption existed, some of the construction the mission financed did not meet the mission's definition of small-scale construction. For example, the provincial teacher training colleges were initially designed to be built on lots measuring 150,694 square feet—far beyond the 10,000 square feet that the mission referred to as small-scale construction. Second, the mission decided not to prepare an environmental assessment before it knew the location of all the construction sites. Therefore, it could not have known whether the land had been disturbed. Third, 22 CFR 216 does not contain an exemption for land "disturbed by war." Finally, most of the construction sites had not been disturbed by previous construction.<sup>2</sup>

This noncompliance with USAID's environmental procedures apparently occurred because mission staff did not understand the procedures. During our audit, mission staff received

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<sup>2</sup> Another problem arose that was related to USAID/Afghanistan's noncompliance with USAID's environmental procedures. The cooperative agreement required IOM to prepare a scoping statement and an environmental assessment for all construction sites. After IOM began preparing the scoping statements, an AOTR told IOM that these would not be required. However, the AOTR lacked authority to waive deliverables required by the cooperative agreement.

training on environmental procedures in which the small-scale construction exemption was provided as guidance, even though no such exemption exists in the relevant regulations. We also noted that the flawed decision to forgo environmental assessments was approved by a former office director, indicating that higher-level supervision and oversight of the application of USAID's environmental procedures are required.

Without proper environmental assessments, USAID/Afghanistan will not be able to ensure that proper environmental safeguards and mitigation steps are implemented. Environmental damage could result. Therefore, we make the following recommendations:

**Recommendation 10.** *We recommend that USAID/Afghanistan complete the environmental assessments required by Title 22 of the Code of Federal Regulations, Part 216, "Environmental Procedures."*

**Recommendation 11.** *We recommend that USAID/Afghanistan provide adequate supervision to reasonably ensure compliance with USAID's environmental procedures.*

## **Implementer Had No Approved Marking Plan**

According to its cooperative agreement, IOM was to propose and submit a plan for implementing the marking provisions in the agreement within 30 days of the effective date of the agreement. The agreement also specifies the content of the plan, which is to include the type of marking proposed and the location of the marking. Furthermore, the agreement specifies how IOM can request waivers as well as the situations in which a waiver would be granted.

The mission and IOM have discussed the types of marking to be used at construction sites and potential sites that may require waivers. Specifically, IOM has proposed temporary and permanent signage for its construction sites, and it has proposed waivers for the Khost midwife training center, the Paktika 20-bed hospital, and the Wardak provincial teacher training center. However, there is no approved marking plan in place.

According to IOM, it did not submit a marking plan because it thought the discussions it had with the AOTR were sufficient.

The program is designed to help the Government of Afghanistan increase access to medical services and increase competency of teachers through construction of the health and education facilities. Unless the construction financed by USAID is appropriately marked, beneficiaries may not be aware of USAID's role.

Even though IOM was making contact with the mission to develop a marking plan by the close of audit fieldwork, we make the following recommendations.

**Recommendation 12.** *We recommend that the mission direct the International Organization for Migration to submit a formal marking plan as required by the agreement.*

**Recommendation 13.** *We recommend that, on receipt of the International Organization for Migration's plan, the mission determine the adequacy of the plan.*



## **A Subcontractor Incurred Unallowable Security Costs**

Mission practice is to approve in advance any memorandums of understanding between IOM or its subcontractors and local Afghan officials for the use of off-duty Afghan National Police (ANP) officers to secure construction sites. The mission informed IOM of this practice after it approved a memorandum of understanding between IOM and the Governor of Paktya Province to provide security for a 100-bed hospital construction site.

IOM did not obtain approval for its memorandum of understanding for the use of off-duty ANP officers at the construction site in Faryab Province as required. According to IOM, there was confusion as to what was required to obtain approval for using the off-duty police officers. Subsequently, IOM submitted the memorandum of understanding to the agreement officer for approval. The agreement officer denied approval of the memorandum and revoked approval for a prior memorandum of understanding IOM had in Ghanzi Province because the agreements did not comply with Afghan laws which had changed since the original memorandum of understanding was approved. Effectively, all security costs incurred for the Faryab construction site were to be disallowed, and all costs for the Ghanzi construction site were to be disallowed effective October 22, 2010.

The impact can be measured in terms of violation of local laws and unallowable costs charged to the mission. While the off-duty police are trained by ANP they are not paid by ANP and therefore are considered private security contractors. As such, they must be registered with the Ministry of Interior according to new regulations implemented by the Government of Afghanistan. In terms of unallowable costs, in Faryab, eight off-duty police were contracted for \$250 per month per person for a monthly cost of \$2,000 per month. In addition, a supervisor at \$300 per month was also contracted. Unallowable security costs total \$2,300 per month. With a start date of June 2010, the estimate unallowable costs that could have been billed totaled \$9,200 through the end of September.

***Recommendation 14.*** *We recommend that USAID/Afghanistan identify and recover the unallowable costs billed to the mission for the use of off-duty Afghan National Police officers.*

## **Repairs to Correct Defects Under a Previous Program Reduced the Funding Available for New Structures**

The purpose of the Construction of Health and Education Facilities Program is to increase access of Afghan citizens to quality basic health services and to increase the quality and number of teachers at educational facilities. However, because of faulty designs and construction done under the Schools and Clinics Construction and Refurbishment Program, approximately \$316,000 in funds for the current program were authorized by the agreement officer to repair or replace two structures that were damaged or destroyed. Details of these cases follow:

- *Qawchin Clinic.* Construction of Qawchin Clinic was completed by IOM under the mission's Schools and Clinics Construction and Refurbishment Program in October 2006 at a cost of

\$75,246. On December 15, 2007, the clinic caught fire as result of a faulty design and poor construction. In terms of design, the exhaust from the clinic's stoves should have been ventilated through the wall rather than through the roof. Furthermore, the installation of the ventilation pipes for the stoves was not done properly as the exhaust pipes were in direct contact with the wood roof trusses. According to IOM, it delivered stoves for a total of 12 structures. Based on interviews with current mission staff and review of mission files, there is no evidence that the mission followed up with IOM or the Government of Afghanistan to ensure that similar flaws do not exist in the other 11 structures. IOM estimates it would cost approximately \$200 per structure to remedy the problem.

- *Sherzad Girl's School.* Construction of the Sherzad girl's school was completed in February 2006 under the mission's Schools and Clinics Construction and Refurbishment Program at a cost of \$100,000. In April 2009, the school was damaged by an earthquake and determined to be uninhabitable. The school was designed and built using unreinforced masonry walls, which do not withstand earthquakes. Under the current program, the mission replaced the existing school with a seismic-resistant structure.



**This wall in the Sherzad Girl's School shows vertical cracks caused by the earthquake. (Photo courtesy of USAID/Afghanistan)**

The defective structures were designed and constructed when the mission did not have adequate staff to provide engineering oversight. Furthermore, the mission was under extreme pressure to construct numerous schools and clinics. As a result, the quality of the structures suffered as monitoring was typically done by staff without an engineering or construction background. The mission instituted new policies in November 2008 requiring participation of the Office of Infrastructure Engineering and Energy in the design, construction, and oversight of all structures. Specifically, all new structures must meet international building codes. Finally, the mission is currently reviewing all structures it constructed under prior programs in zones of high to moderate seismic activity to assess the safety of the structures.

The renovation of the roof for the clinic and construction of a boundary wall cost an estimated \$48,000, and construction of the new school cost approximately \$268,000. These funds otherwise could have been used for new structures under the Construction of Health and Education Facilities Program.

While the mission has instituted new procedures for construction of new structures, we nonetheless make the following recommendation.

***Recommendation 15.*** *We recommend that USAID/Afghanistan, after identifying all the clinics built under the Schools and Clinics Construction and Refurbishment Program that may have design flaw that creates a fire hazard, notify the Ministry of Public Health of the potential danger and provide a remedy for the design flaw.*

# EVALUATION OF MANAGEMENT COMMENTS

Based on an evaluation of the mission's response to the draft report, the Office of Inspector General determined that final actions have been taken on recommendations 5, 6, 7, 8, 11, and 12. Management decisions have been reached on recommendations 1, 2, 3, 4, 9, 10, 13, 14, and 15. For those recommendations without final action, the mission intends to perform the following actions.

For recommendation 1 the mission has directed International Organization for Migration (IOM) to prepare a revised implementation plan indicating completion dates for all structures and the recovery actions required to mitigate delays. This action is scheduled for completion by May 30, 2011.

For recommendation 2 the mission will extend the CHEF Cooperative Agreement from June 30, 2012 to June 30, 2013, through the end of the last project warranty period of IOM for the completed structures. The action is scheduled for completion by May 30, 2011.

For recommendation 3 the mission has required IOM to redesign the women's prayer room into two rooms including a visiting room and living room which is similar to the layout at the men's dormitory. Furthermore the mission has halted construction on the mosque structures and the mission will document the recovery of USAID funds disbursed to date for this structure. Action is scheduled for completion by September 30, 2011.

For recommendation 4 the mission will issue a notice to all COTRs/AOTRs regarding USAID's policy on funding religious activities by May 30, 2011.

For recommendation 9 the mission will obtain the Annual Operations and Maintenance Budgets for all CHEF projects from IOM, submit them to the relevant ministries, and verify that the ministries have adequate funding to operate and maintain the facilities. The Mission will then revise the 611(e) if necessary. This action is scheduled for completion by September 30, 2011.

For recommendation 10 the mission agrees to complete environmental assessments for the CHEF projects that are currently under construction by September 30, 2011 in order to determine if existing environmental mitigation plans are sufficient.

For recommendation 13 the mission is currently reviewing the marking plan and intends to issue a final determination of the acceptability of the plan by May 30, 2011.

For recommendation 14 the mission has determined that based on a legal review of the situation that the security guard costs are indeed allowable. According to the mission, the Acquisition Officer's (AO) decision dated October 21, 2010 was arguably a prudent response to a new and misunderstood development in Afghan law. However, since the time of the AO's October 21 decision, the mission's understanding of these matters has evolved. Decree 62, issued by President Hamid Karzai on August 17, 2010, broadly banned Private Security Contractors (PSCs) and stated that henceforth the Afghan Ministry of the Interior (MoI) would provide security services. Since this decree was issued, USAID/Afghanistan has been working to better understand Afghan law in this area and the full implications of the Decree. The Regional Legal Advisor has concluded that IOMs Ghazni province arrangement was legal under

Afghan law because while Decree 62 prohibited the use of PSCs, the Afghan law on Firearms, Ammunition and Explosives nonetheless continues to permit an organization to use individuals who have been duly licensed by the MoI to carry firearms to provide their security. The mission pointed out that the other arrangement in Faryab, while arguably unallowable, is within the AO's discretion to retroactively approve the agreement making the costs allowable. Since the arrangement in Faryab was in fact legal, the AO has decided to approve this arrangement as well. The AO will issue a revised ruling to IOM by May 30, 2011.

For recommendation 15 the mission agrees to officially notify the Ministry of Public Health about the potential hazard of the stove chimneys and provide a recommendation for proper installation by May 30, 2011

# SCOPE AND METHODOLOGY

## Scope

The Office of Inspector General Afghanistan Country Office conducted this performance audit 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 in accordance with our audit objective. We believe that the evidence obtained provides that reasonable basis. The objective of the audit was to determine whether the activities funded under USAID/Afghanistan's Construction of Health and Education Facilities Program were achieving the program's main goals to strengthen the Islamic Republic of Afghanistan's ability to provide health service to its citizens and to train competent teachers by constructing hospitals, midwife training centers, and provincial teacher training centers.

USAID/Afghanistan awarded a 4-year, \$56.7 million cooperative agreement to International Organization for Migration (IOM) to implement the Construction of Health and Education Facilities Program (the program). As of September 30, 2010, USAID/Afghanistan had obligated \$57 million and disbursed \$10 million for program activities.

The audit was performed in the Islamic Republic of Afghanistan (Afghanistan) from September 14 through November 8, 2010, and covered the program's activities implemented by the contractor from January 2008 to November 2010. In Kabul, fieldwork was conducted at USAID/Afghanistan, IOM's home office, four subcontractor home offices, a test laboratory used by IOM for quality control assessments, and the office of the mission's construction quality assurance contractor International Relief and Development Inc. (IRD). We also conducted site visits to a renovated hospital in Kabul; midwife training centers under construction in Badakhshan and Bamyan Provinces; provincial teacher training colleges under construction in Faryab, Parwan, and Wardak Provinces; and a 100-bed hospital under construction in Paktya Province.

As part of the audit, we assessed the significant internal controls used by USAID/Afghanistan to monitor program activities. The assessment included controls related to whether the mission (1) conducted and documented site visits to evaluate progress and monitor quality, (2) required and approved an implementation plan, (3) reviewed progress reports submitted by the contractor, (4) compared reported progress with planned progress and the mission's own evaluations of progress, and (5) reviewed and tested the quality control and quality assurance plans used by IOM and IRD. We also reviewed the mission's Federal Managers' Financial Integrity Act report for fiscal year 2010 and prior audit reports for any issues related to the audit objective.

## Methodology

To answer the audit objective, we interviewed officials from USAID/Afghanistan, IOM, and IRD, as well as IOM's construction subcontractors. We also reviewed and analyzed relevant documents and data at the mission, IOM, and subcontractors. Documents included the quality control plan, the agreement between USAID/Afghanistan and IOM, and financial data. Furthermore, we reviewed IOM site visits and other monitoring reports, progress reports, and financial records.

To determine the reliability of computer-processed data received from the mission in support of its obligated and disbursed amounts, we reviewed prior audits of the mission's financial statements and internal controls. Furthermore, we verified the results of quality control tests by selecting a judgmental sample of construction sites and reviewing supporting documentation at the sites and IOM's country office. Since the testing was based on a judgmental, not a statistical, sample, the results and conclusions related to this analysis were limited to the items tested and could not be projected to the entire audit universe.

# MANAGEMENT COMMENTS



March 9, 2011

## MEMORANDUM

**TO:** Tim Cox, OIG/Afghanistan Director

**FROM:** USAID/Afghanistan Mission Director, Earl W. Gast /s/

**SUBJECT:** Audit of USAID/Afghanistan's Construction of Health and Education Facilities (CHEF) Program (Audit Report Number F-306-11-XXX-P)

**REFERENCE:** T. Cox/E. Gast memo dated January 15, 2011

Thank you for providing the Mission the opportunity to review the subject draft audit report and respond to the findings and recommendations therein. We appreciate the professionalism and objectivity exhibited by the audit team in conducting the audit and preparing thoughtful recommendations. This memo provides the Mission's response to the recommendations in the audit report.

### **MISSION RESPONSE TO AUDIT RECOMMENDATIONS:**

***Recommendation 1.*** *We recommend that, after the current construction season, USAID/Afghanistan obtain a revised implementation plan from the International Organization for Migration identifying revised completion dates for all structures, recovery actions to increase the speed of construction, potential barriers to timely completion of construction, and actions that could be taken to mitigate delays.*

The Mission agrees with the recommendation and has directed International Organization for Migration (IOM) to prepare a revised implementation plan indicating completion dates for all structures and the recovery actions required to mitigate delays. IOM's implementation plan is revised and approved by the Mission annually per Section A.5, 1 of the CHEF Cooperative Agreement. The most recent implementation plan revision has been received by the Mission and is currently in review.

This action is scheduled for completion by May 30, 2011.



Additionally, in October 2010, the Mission directed the IOM to develop a program matrix that measures construction progress of all projects against agreement delivery dates, analyzes delays, and proposes recovery actions for timely completion of the structures. The program matrix is updated every two weeks and is the basis for bi-weekly CHEF Program progress meetings between USAID and IOM.

Management Decision:

The Mission believes that appropriate actions are being taken to address this recommendation and therefore requests OIG's concurrence of the actions.

***Recommendation 2.*** *We recommend that USAID/Afghanistan extend its agreement with the International Organization for Migration to ensure that the warranty period for all completed structures falls within the agreement period.*

The Mission agrees with the recommendation. The CHEF Cooperative Agreement is being extended from June 30, 2012 to June 30, 2013, through the end of the last project warranty period of IOM for the completed structures. Certain manufacturer warranties for equipment included in the structures may have a duration longer than this extension.

This action is scheduled for completion by May 30, 2011.

Management Decision:

The Mission believes that appropriate actions are being taken to address this recommendation and therefore requests OIG's concurrence of the actions.

***Recommendation 3.*** *We recommend that USAID/Afghanistan review the eligibility of the cost of the prayer buildings and prayer rooms included in the provincial teacher training centers and recover any costs found to be unallowable.*

The Mission agrees with the recommendation to review the eligibility of the cost of the subject buildings and rooms included in the Provincial Teacher Training Colleges (PTTCs) and to document the recovery of any unallowable costs.

Four PTTCs are being constructed under the CHEF Program. Each PTTC includes one room within the women's dormitory building that was originally designated as a "prayer room". The Mission proposes to convert this room into two rooms, a visiting room and living room which is similar to the layout at the men's dormitory. Based upon direction from Regional Legal Advisor, this conversion satisfies the RLA's interpretation of regulations governing allowable costs.

The PTTC plans also included a free standing building that was originally designated as a "mosque". Although the mission anticipates this building will be used for multiple purposes, both religious and non-religious, the original intent as a mosque means that the construction costs are unallowable. Consequently, the construction was halted on the mosque structures and the

Mission will document the recovery of USAID funds dispersed to date for this structure (see Attachment 1, USAID Letter to IOM re. Unallowable Assistance to Support Religious Activities).

The action is scheduled for completion by September 30, 2011.

Management Decision:

The Mission believes that appropriate actions are being taken to address this recommendation and therefore requests OIG's concurrence of the actions.

***Recommendation 4.*** *We recommend that USAID/Afghanistan include in technical representatives' designation letters a reminder of USAID's policy on funding religious activities.*

The Mission agrees that COTRs/AOTRs need to be reminded of USAID's policy on funding religious activities. The Mission will issue a notice to all COTRs/AOTRs regarding USAID's policy on funding religious activities.

The action is scheduled for completion by May 30, 2011.

Management Decision:

The Mission believes that appropriate actions are being taken to address this recommendation and therefore requests OIG's concurrence of the actions.

***Recommendation 5.*** *We recommend that USAID/Afghanistan develop a process for releasing completed designs.*

The Mission agrees. In consultation with Regional Legal Advisor, the Mission has developed Transfer Agreements (see Attachment 2) for the release of completed CHEF designs to the relevant ministries and other; donors. The Transfer Agreements release USAID of all liability for construction of CHEF designs by others.

This action was completed on March 09, 2011.

Management Decision:

The Mission believes that appropriate actions have been taken to address this recommendation and therefore requests OIG's concurrence of the actions.

***Recommendation 6.*** *We recommend that USAID/Afghanistan obtain evidence that the International Organization for Migration has standardized its quality control procedures at all construction sites.*

The Mission agrees with the recommendation. IOM has demonstrated the use of standardized quality control procedures through continuous revisions (see Attachment 3, CHEF Quality Control Revision Table) that have been made to their Quality Control Manual (QCM) which is in its 7<sup>th</sup> revision (see Attachment 4, CHEF Quality Control Manual, 7<sup>th</sup> Revision) IOM's Quality Control and Safety Manager makes regular visits to all construction sites to ensure compliance with the QCM revisions. In addition, IOM has recently completed a 2 day Quality Assurance/Quality Control (QA/QC) Workshop held in Kabul on 6 and 7 February 2011 to further improve QA/QC procedures at all construction sites. The workshop was attended by 51 attendees from IRD's quality assurance team, IOM's quality control team, ministry officials, IOM's subcontractors, and USAID.

This action was completed on November 22, 2010 when IOM submitted the QCM 7<sup>th</sup> Revision and this action is closed.

Management Decision:

The Mission believes that appropriate actions have been taken to address this recommendation and therefore requests OIG's concurrence of the actions.

**Recommendation 7.** *We recommend that USAID/Afghanistan obtain evidence that the International Organization for Migration has updated its quality control manual to include all tests performed and acceptance criteria used for quality control.*

The Mission agrees with the recommendation. As stated above, IOM has continuously revised their QCM to include all additional testing that is performed along with the acceptance criteria.

This action was completed on November 22, 2010 when IOM submitted the QCM 7<sup>th</sup> Revision and this action is closed.

Management Decision:

The Mission believes that appropriate actions have been taken to address this recommendation and therefore requests OIG's concurrence of the actions.

**Recommendation 8.** *We recommend that USAID/Afghanistan develop and implement a process whereby the agreement officer's technical representatives verify and review quality control tests.*

The Mission agrees with the recommendation that the Agreement Officer's Technical Representatives (AOTRs) verify and review quality control tests.

USAID/Afghanistan's Mission Order 302.03 dated July 7, 2010 mandates that USAID construction projects for schools and hospitals are continuously monitored by an independent Quality Assurance/Quality Control (QA/QC) firm which reports directly to the AOTR. The QA/QC services are provided by International Relief and Development (IRD) under the Mission's Human Resources and Logistics Support II Program. IRD provides the AOTR with weekly QA/QC reports which includes the work progress, all quality control testing and test

results, and all deficiencies. IRD also informs the AOTR immediately when specific deficiencies have been identified at the construction sites. The AOTR is responsible for review of the QA/QC Reports and to follow up with IOM to resolve deficiencies.

This action was completed in late November 2010 when IRD incorporated all quality control testing, test results, and all deficiencies into the weekly QA/QC reports (see Attachment 5, IRD Weekly QA/QC Reports for four example CHEF projects)

Management Decision:

The Mission believes that appropriate actions have been taken to address this recommendation and therefore requests OIG's concurrence of the actions.

***Recommendation 9.*** *We recommend that USAID/Afghanistan, after preparing an analysis of the Government of Afghanistan's ability to fund maintenance for the structures turned over under the program, (1) determine the need for a separate operation and maintenance program and (2) revise as appropriate the 611 (e) certification previously prepared for the Construction of Health and Education Facilities Program.*

The Mission agrees with this recommendation.

The CHEF projects require IOM to provide the relevant ministries with an Operations and Maintenance (O&M) Plan for each CHEF project prior to completing and handing over the facility. The O&M Plan for each CHEF project includes:

- 1) O&M Manuals for equipment installed.
- 2) O&M training of ministry representatives for equipment installed.
- 3) An Annual O&M Budget, detailing the cost for the operation and maintenance of the facility.

The Mission will obtain the Annual O&M Budgets for all CHEF projects from IOM, submit them to the relevant ministries, and verify that the ministries have adequate funding to operate and maintain the facilities. The Mission will then revise the 611(e) if necessary.

This action is scheduled for completion by September 30, 2011.

Management Decision:

The Mission believes that appropriate actions are being taken to address this recommendation and therefore requests OIG's concurrence of the actions.

***Recommendation 10.*** *We recommend that USAID/Afghanistan complete the environmental assessments required by Title 22 of the Code of Federal Regulations, Part 216, "Environmental Procedures".*

The Mission agrees to complete environmental assessments for the CHEF projects that are

currently under construction in order to determine if existing environmental mitigation plans are sufficient. If additional environmental mitigation plans are required, the Mission agrees to amend Section A-13, 2.2 of the CHEF Cooperative Agreement to include the additional environmental actions.

This action is scheduled for completion by September 30, 2011.

The Mission will also monitor and evaluate the implementation of the mitigation measures and at the time of the Substantial Completion Inspection for each facility, the AOTR will confirm final completion of the environmental actions.

Management Decision:

The Mission believes that appropriate actions are being taken to address this recommendation and therefore requests OIG's concurrence of the actions.

***Recommendation 11.*** *We recommend that USAID/Afghanistan provide adequate supervision to reasonably ensure compliance with USAID's environmental procedures.*

The Mission agrees with the recommendation to provide adequate supervision to reasonably ensure compliance with USAID's environmental procedures. On November 1, 2010, the Mission added a second Mission Environmental Officer position to assist with supervision of USAID's environmental procedures.

This action has been completed and closed.

Management Decision:

The Mission believes that appropriate actions have been taken to address this recommendation and therefore requests OIG's concurrence of the actions.

***Recommendation 12.*** *We recommend that the mission direct the International Organization for Migration to submit a formal marking plan as required by the agreement.*

The Mission agrees. IOM submitted a formal marking plan (see Attachment 6, CHEF Marking Plan) to the Mission for approval on December 12, 2010.

This action has been completed and this action is closed

Management Decision:

The Mission believes that appropriate actions have been taken to address this recommendation and therefore requests OIG's concurrence of the actions.

***Recommendation 13.*** *We recommend that, on receipt of the International Organization for Migration's (marking) plan, the mission determine the adequacy of the plan.*

The Mission agrees. IOM's marking plan is under review by the Mission to determine the adequacy of the plan.

This action is scheduled for completion by May 30, 2011.

Management Decision:

The Mission believes that appropriate actions are being taken to address this recommendation and therefore requests OIG's concurrence of the actions.

***Recommendation 14.*** *We recommend that USAID/Afghanistan identify and recover the unallowable costs billed to the mission for the use of off-duty Afghan National Police officers.*

The Mission has consulted with the USAID Regional Legal Advisor (RLA) and for the reasons set forth below, the RLA in conjunction with the Agreement Officer (AO) has concluded that the costs in question are allowable.

There are two MOUs involved in this matter. IOM had a security MOU with the Governor of Ghazni Province permitting it to use "off-duty police officers" to protect its operations there. These "off-duty police officers" are in reality Afghan nationals trained and licensed to carry firearms by the Afghan National Police (ANP). IOM properly submitted this MOU in advance to the USAID AO for approval, which was granted. The second MOU was between IOM and the Governor of Faryab Province and similarly used "off-duty police officers" to guard IOM operations there. This MOU was not submitted in advance of hiring the off-duty police officers and costs were incurred.

As OIG/Afghanistan correctly points out, IOM subsequently to making the arrangements for the off-duty police officers submitted the Faryab MOU to the AO for approval. According to the Audit Findings, "The agreement officer denied approval of the memorandum [for Faryab Province] and revoked approval for a prior memorandum of understanding IOM had in Ghazni province because the agreements did not comply with Afghan laws which had changed since the original memorandum of understanding was approved."

The AO's decision dated October 21, 2010 was arguably a prudent response to a new and misunderstood development in Afghan law. However, since the time of the AOs October 21 decision, the Mission's understanding of these matters has evolved. Decree 62, issued by President Hamid Karzai on August 17, 2010, broadly banned Private Security Contractors (PSCs) and stated that henceforth the Afghan Ministry of the Interior (MoI) would provide security services. Since this decree was issued, USAID/Afghanistan has been working to better understand Afghan law in this area and the full implications of the Decree. The RLA has concluded that IOMs Ghazni province arrangement was legal under Afghan law because while

Decree 62 prohibited the use of PSCs, the Afghan law on Firearms, Ammunition and Explosives nonetheless continues to permit an organization to use individuals who have been duly licensed by the MoI to carry firearms to provide their security.

According to this analysis, there was no basis to disapprove the Ghazni MOU since it was a legal arrangement that had been properly submitted in advance to the AO. Costs related to the Faryab MOU could arguably be disallowed because the MOU was not submitted to the AO in a timely fashion. However, it is within the AOs discretion to retroactively approve the arrangement. In this case, since the requirement to submit any MOU for prior approval was not an express part of the agreement with IOM, and since the arrangement was in fact legal, the AO has decided to approve this arrangement as well.

The AO will issue a revised ruling to IOM by May 30, 2011.

**Management Decision:**

The Mission believes that appropriate actions are being taken to address this recommendation and therefore requests OIG's concurrence of the actions.

***Recommendation 15.*** *We recommend that USAID/Afghanistan, after identifying all the clinics built under the Schools and Clinics Construction and Refurbishment Program that may have design flaw that creates a fire hazard, notify the Ministry of Public Health of the potential danger and provide a remedy for the design flaw.*

The Schools and Clinics Construction and Refurbishment Program (SACCARP) was an unrelated Mission program completed in 2006. SACCARP included construction and repair of schools and health clinics throughout Afghanistan. The scope of work for the health clinics accommodated installation of electric heaters by a third party after completion of construction. The Ministry of Public Health requested wood stoves be substituted for electric heaters and because most of the clinics were already handed over, the ministry took responsibility for installing the stoves. Unfortunately, at least one stove chimney was installed incorrectly. The Mission agrees to officially notify the Ministry of Public Health about the potential hazard of the stove chimneys and provide a recommendation for proper installation.

The target date for completion of this action is May 30, 2011.

**Management Decision:**

The Mission believes that appropriate actions are being taken to address this recommendation and therefore requests OIG's concurrence of the actions.

**Attachments**

1. USAID Letter to IOM re. Unallowable Assistance to Support Religious Activities
2. Transfer Agreements for Release of Completed CHEF Program Designs
3. CHEF Quality Control Manual Revision Table

4. CHEF Quality Control Manual, Revision 7 dated November 22
5. IRD Weekly QA/QC Reports for four example of CHEF projects
6. CHEF Marking Plan



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