DoD Report No. D-2011-102 DOS Report No. AUD/CG-11-44

A Joint Audit by the Inspectors General of Department of State and Department of Defense

Afghan National Police Training Program Would Benefit From Better Compliance With the Economy Act and Reimbursable Agreements

August 25, 2011

(Public Law 111-383, Section 1235)

Additional Copies

To obtain additional copies of this report, visit the Web site of the Department of Defense Inspector General at http://www.dodig.mil/audit/reports or contact the Secondary Reports Distribution Unit at (703) 604-8937 (DSN 664-8937) or fax (703) 604-8932. You may also obtain a copy from the Web site of the Department of State, Office of Inspector General at http://oig.state.gov or by e-mailing a request to OIG-Reports@state.gov.

Suggestions for Audits

To suggest or request audits, contact the Department of Defense Office of the Deputy Inspector General for Auditing by phone (703) 604-9142 (DSN 664-9142), by fax (703) 604-8932, or by mail:

ODIG-AUD (ATTN: Audit Suggestions)
Department of Defense Inspector General
400 Army Navy Drive (Room 801)
Arlington, VA 22202-4704

DEPARTMENT OF DEFENSE hotline

To report fraud, waste, mismanagement, and abuse of authority.

Send written complaints to: Defense Hotline, The Pentagon, Washington, DC 20301-1900
Phone: 800.424.9098 e-mail: hotline@dodig.mil www.dodig.mil/hotline

Acronyms and Abbreviations

ANP	Afghan National Police
ASFF	Afghanistan Security Forces Fund
CNAT	Counter Narcotics Advisory Teams
CSSP	Corrections System Support Program
CSTC-A	Combined Security Transition Command–Afghanistan
DOS	Department of State
DSCA	Defense Security Cooperation Agency
INL	Bureau of International Narcotics and Law Enforcement Affairs
JSSP	Justice Sector Security Program
PAE	Pacific Architects and Engineers
PSC	Personal Services Contract
U.S.C.	United States Code
USD(C)/CFO	Under Secretary of Defense (Comptroller)/Chief Financial Officer, DoD
USD(P)	Under Secretary of Defense for Policy

INSPECTORS GENERAL

Department of Defense
400 Army Navy Drive
Arlington, Virginia 22202

Department of State
2201 C Street N.W.
Suite 8100, SA-3
Washington, D.C. 20522

August 25, 2011

MEMORANDUM FOR UNDER SECRETARY OF DEFENSE FOR POLICY
UNDER SECRETARY OF DEFENSE (COMPTROLLER)/CHIEF FINANCIAL OFFICER, DOD
UNDER SECRETARY OF STATE FOR MANAGEMENT
ASSISTANT SECRETARY OF STATE FOR THE BUREAU OF ADMINISTRATION
ASSISTANT SECRETARY OF STATE FOR THE BUREAU OF INTERNATIONAL NARCOTICS AND LAW ENFORCEMENT AFFAIRS
ASSISTANT SECRETARY OF STATE FOR THE BUREAU OF RESOURCE MANAGEMENT AND CHIEF FINANCIAL OFFICER
DIRECTOR, DEFENSE SECURITY COOPERATION AGENCY

SUBJECT: Afghan National Police Training Program Would Benefit From Better Compliance With the Economy Act and Reimbursable Agreements (Report No. D-2011-102 and AUD/CG-11-44)

We are providing this report for review and comment. In 2006, DoD assumed responsibility for funding the Afghan National Police training program, while the Department of State (DOS) continued to provide contract administration oversight for contracted civilian advisors, mentors, and trainers. However, DoD and DOS needed improved processes and procedures to ensure compliance with the Economy Act and reimbursable agreements. Specifically, DOS officials improperly obligated an estimated $76.65 million of DoD-provided Afghanistan Security Forces Fund appropriations for the Justice Sector Support Program, Corrections System Support Program, Counter Narcotics Advisory Teams, and personal services contracts.

DoD Directive 7650.3 requires that recommendations be resolved promptly. We considered management comments on a draft of this report when preparing the final report.

Under Secretary of Defense (Comptroller)/Chief Financial Officer, DoD, comments; Director, Defense Security Cooperation Agency, comments; and the Assistant Secretary of State, Bureau of Resource Management and Chief Financial Officer, comments were responsive, and no additional comments are required.

Assistant Secretary of State, Bureau of International Narcotics and Law Enforcement Affairs comments on Recommendations 1.a-e were either not responsive or partially responsive, and comments on the final report are required by September 26, 2011. Please see the recommendations table on page ii of this report.

If possible, send a .pdf file containing your comments to audjsao@dodig.mil and to Ms. Evelyn R. Klemstine, Assistant Inspector General for Audits, at klemstinee@state.gov. Copies of your comments must have the actual signature of the authorizing official for your organization. We are unable to accept the /Signed/ symbol in place of the actual signature. If you arrange to send classified comments electronically, you must send them over the SECRET Internet Protocol Router Network (SIPRNET).

We appreciate the courtesies extended to the staff. Please direct questions to Mr. Michael Roark at (703) 604-9187 (DSN 664-9187) or Ms. Evelyn Klemstine at (202) 663-0372.

Daniel R. Blair
Deputy Inspector General for Auditing
Department of Defense
Office of Inspector General

Evelyn R. Klemstine
Assistant Inspector General for Audits
Department of State
Office of Inspector General

DoD Report No. D-2011-102 (Project No. D-2011-D000JA-0009.002)
DOS Report No. AUD/CG-11-44 (Project No. 11AUD3020) August 25, 2011

Results in Brief: Afghan National Police Training Program Would Benefit From Better Compliance With the Economy Act and Reimbursable Agreements

What We Did

We conducted this audit in response to requirements in the FY 2011 National Defense Authorization Act. This third report in a series expands on DoD Report No. D-2011-080 and DOS Report No. AUD/CG-11-30, "DoD and DOS Need Better Procedures to Monitor and Expend DoD Funds for the Afghan National Police Training Program," July 7, 2011, in which we determined whether the Department of State (DOS) properly obligated DoD funds in support of the Afghan National Police (ANP) training program. DoD Report No. D-2011-095 and DOS Report No. AUD/CG-11-42, "Afghan National Police Training Program: Lessons Learned During the Transition of Contract Administration," August 15, 2011, addressed how well DOS and DoD officials planned and executed the transfer of management and oversight of the training program contracts.

What We Found

DOS Bureau of International Narcotics and Law Enforcement Affairs (INL) officials improperly obligated an estimated $76.65 million of Afghanistan Security Forces Fund appropriations that DoD provided to support the ANP training program. Specifically, INL officials obligated an estimated $75.60 million of funds for two INL rule of law programs and one INL counternarcotics program and $1.05 million of funds for personal services contracts contrary to either Economy Act or reimbursable agreement limitations.

This occurred because DoD did not appropriately monitor INL obligations, and INL did not have adequate procedures to ensure it obligated funds in accordance with the Economy Act and reimbursable agreements.

As a result, DoD and DOS might have violated the Antideficiency Act. In addition, the ANP training program did not receive an estimated $75.60 million of DoD financial support. DoD could realize a benefit if the funds were returned and put to better use supporting the ANP training program.

What We Recommend

Among other recommendations, we recommend that INL officials identify and return the total amount of Afghanistan Security Forces Fund appropriations that were improperly used on other programs.

We also recommend that Defense Security Cooperation Agency and DOS Bureau of Resource Management and Chief Financial Officer officials perform a joint investigation of the potential Antideficiency Act violations for the $1.05 million of funds obligated for personal services contracts and the estimated $75.60 million of funds obligated without considering Economy Act limitations and reimbursable agreement requirements.

Management Comments and Our Response

Comments from DoD officials on the draft were responsive, and no additional comments are required. Comments from DOS officials were either not responsive or partially responsive and comments on the final report are required by September 26, 2011. Although not required to comment, the Comptroller, U.S. Central Command, provided comments, which are reprinted at the back of the report. Please see the recommendations table on the next page.

Recommendations Table

Management	Recommendations Requiring Comment	No Additional Comments Required
Under Secretary of Defense (Comptroller)/Chief Financial Officer, DoD		2
Assistant Secretary of State, Bureau of Resource Management and Chief Financial Officer		3
Assistant Secretary of State, Bureau of International Narcotics and Law Enforcement Affairs	1. a-e	
Director, Defense Security Cooperation Agency		3

Please provide comments by September 26, 2011.

Table of Contents

Introduction **1**

Objectives 1
Background 1
INL Programs That Shared the Afghanistan Training Centers 2
Review of Internal Controls 4

Finding. DOS Improperly Obligated DoD Funds for DOS Programs and Personal Services Contracts **5**

INL Improperly Obligated Afghanistan Security Forces Fund Appropriations 5
DoD Needed Better Procedures to Monitor INL Obligations 8
INL Procedures for Obligating Economy Act Orders and Reviewing Invoices Needed Improvement 9
INL and DoD Potentially Augmented Appropriations 10
ANP Training Program Did Not Receive All Benefits 10
Management Comments on the Finding and Our Response 11
Recommendations, Management Comments, and Our Response 12

Appendices

A. Scope and Methodology 16
Use of Computer Processed Data 18
B. Prior Coverage 19
C. FY 2011 National Defense Authorization Act, P.L. 111-383, Section 1235 21

Management Comments 23

Under Secretary of Defense (Comptroller)/Chief Financial Officer, DoD Comments 23
Assistant Secretary of State, Bureau of Resource Management and Chief Financial Officer Comments 25
Assistant Secretary of State, Bureau of International Narcotics and Law Enforcement Affairs Comments 26
Defense Security Cooperation Agency Comments 29
U.S. Central Command Comments 30

Introduction

Objectives

We conducted this audit in response to requirements in Section 1235 of Public Law 111-383, "Ike Skelton National Defense Authorization Act for Fiscal Year 2011," (the FY 2011 Act), January 7, 2011. Following a January 7, 2011, meeting with Senate Armed Services Committee staff, we revised the audit objective and agreed to issue at least two reports to meet the intent of the FY 2011 Act requirements. This report expands on DoD Report No. D-2011-080 and DOS Report No. AUD/CG-11-30, "DoD and DOS Need Better Procedures to Monitor and Expend DoD Funds for the Afghan National Police Training Program," July 7, 2011, in which the audit objective was to determine whether DOS properly obligated DoD funds in support of ANP training program requirements and in accordance with Federal laws, regulations, and reimbursable agreements.[1] A second report, DoD Report No. D-2011-095 and DOS Report No. AUD/CG-11-42, "Afghan National Police Training Program: Lessons Learned During the Transition of Contract Administration," August 15, 2011, addressed whether the Federal Government and contractor plans to transition the contract administration of the ANP training program from DOS to DoD were complete and feasible. It also addressed whether DoD was prepared to provide management and oversight of the new DoD contract. See Appendix A for a discussion of the audit scope and methodology, Appendix B for prior audit coverage related to the audit objective, and Appendix C for an excerpt of the FY 2011 Act requirements.

Background

From 2003 through 2006, the DOS Bureau of International Narcotics and Law Enforcement Affairs (INL) was primarily responsible for funding, directing, and providing oversight of the ANP training program. Broadly defined, the ANP training program included basic and advanced training courses for in-country ANP training, as well as life support and security at the central and regional training center locations. Under DOS, the training courses were held at the central training center in Kabul and at seven regional training centers throughout Afghanistan. Since 2004, DOS has contracted[2] with DynCorp International (DynCorp) to provide advisors, mentors, and trainers for the ANP training program. The contractor personnel also provided life support at the training centers, including security, food, and housing.

---

[1] Additional revised objectives for the first report included determining whether DOS properly approved contractor invoices and determining the status of management actions taken in response to recommendations made in the February 2010 joint audit report. The first report also partially addressed requirements B and C of the FY 2011 Act.

[2] In February 2004, DOS awarded DynCorp the Civilian Police contract (S-LMAQM-04-C-0030), a $1.75 billion indefinite-delivery, indefinite-quantity contract with firm-fixed-price and cost-plus-fixed-fee elements. The contract consisted of 1 base year, 4 option years, and four extensions through January 2012. According to DOS officials, the total contract value as of April 30, 2011, was approximately $4.66 billion.

In 2005, DoD began to assume the lead role on behalf of the United States for reforming the ANP, and in 2006, DoD assumed responsibility for funding the ANP training program with Afghanistan Security Forces Fund (ASFF) appropriations. DoD funded task orders S-AQMPD-05F-4305 (task order 4305), S-AQMMA-08F-5375 (task order 5375), and S-AQMMA-10F-2708 (task order 2708). DOS continued to provide contract administration oversight for the DynCorp civilian advisors, mentors, and trainers through reimbursable agreements between DoD and DOS. These reimbursable agreements included a description of how INL should use the funds, the amount of funds provided, and DoD and INL responsibilities.

Several offices within DoD are responsible for developing the reimbursable agreements and transferring the funds to DOS. Specifically, officials from the Under Secretary of Defense for Policy (USD[P]) stated they develop the reimbursable agreements, officials from the Under Secretary of Defense (Comptroller)/Chief Financial Officer, DoD (USD[C]/CFO), oversee DoD financial policy, and officials from the Defense Security Cooperation Agency (DSCA) provide financial and technical assistance. Finally, the Commander, North Atlantic Treaty Organization Training Mission–Afghanistan (NTM–A)/Combined Security Transition Command–Afghanistan (CSTC–A), has overall responsibility for determining and executing program requirements and allocating funds, and the CSTC–A Comptroller is responsible for formulating and executing the budget and monitoring the status of the ASFF appropriations, including funds provided for the ANP training program.

Under the authority of the Economy Act, section 1535, title 31, United States Code (U.S.C) (31 U.S.C. § 1535), DoD provided funds to INL. The Economy Act allows an agency to place an order with another agency for goods or services if the:

- amounts are available,
- ordering agency decides it is in the best interest of the United States,
- agency filling the order is able to provide or get by contract the ordered goods or services, and
- goods or services cannot be provided by contract as conveniently or cheaply by a commercial enterprise.

INL Programs That Shared the Afghanistan Training Centers

In addition to the ANP training program, personnel from three other INL programs were co-located at several of the regional training centers. The programs were the Justice Sector Security Program (JSSP), the Corrections System Support Program (CSSP), and the Counter Narcotics Advisory Teams (CNAT). Various DOS contractors supported these programs, including DynCorp, Pacific Architects and Engineers (PAE), and Civilian Police International.

JSSP and CSSP are considered rule of law programs. Rule of law is most commonly understood to be a foundational element for the establishment and maintenance of

democracy and economic growth, and the vehicle through which fundamental political, social, and economic rights are protected and enforced. The concept assumes the existence of effective and legitimate institutions, primarily a country's national government, to administer the law as well as to guarantee personal security and public order. Rule of law also requires citizen confidence in the fairness and effectiveness of its application, including procedural fairness, protection of human rights and civil liberties, and access to justice. The absence of significant government corruption is considered a prerequisite for effective rule of law to be established, because only in corruption's absence is the supremacy of law upheld.

Justice Sector Security Program

The JSSP mission is to build the capacity of Afghanistan's criminal justice system through training and mentoring of justice sector personnel. JSSP consists of justice advisors, legal consultants, and corrections officers located at various sites throughout Afghanistan. JSSP provides support to the Afghan Attorney General's office through training and mentoring, as well as advising the Afghan Attorney General on various issues, including anticorruption enforcement, police and prosecutor coordination, gender issues, and administrative and legal reform. The provincial JSSP advisors focus on police and prosecutor training, justice sector coordination, and public awareness of legal rights. The JSSP also provides support to the Afghan Ministry of Justice and its key directorates, including the Policy and Strategy Unit, which provides policy and organizational reform advice to the Justice Minister.

Corrections System Support Program

CSSP was originally part of JSSP, but INL established it as its own program in 2005 because of an increase in the number of inmates and limited international attention paid to the Afghan corrections system. The CSSP's main objective is advise, mentor, and train the Afghan Ministry of Justice Central Prison Directorate in developing a safe and humane prison system that will not radicalize prisoners. The CSSP training courses have included emergency response team training, English language programs, and special training for handling female inmates.

Counter Narcotics Advisory Teams

CNAT provides a year-round public outreach campaign to reduce poppy cultivation and opium production throughout Afghanistan's provinces. CNAT uses small teams, usually consisting of 8 to 10 Afghans and 2 international advisors, to advance counternarcotics awareness. Afghan teams work closely with the Afghan Ministry of Counter Narcotics, and the advisors also support governor-led counternarcotics efforts. The Afghan team members conduct community outreach, identify local leaders, meet with farmers and other stakeholders, and work within traditional leadership structures to raise public awareness and influence planting decisions, build ownership, and invest in the fight against drugs. Provincial counternarcotics officials and community leaders are offered classroom training and project-based mentoring.

Review of Internal Controls

DoD Instruction 5010.40, "Managers' Internal Control Program (MICP) Procedures," July 29, 2010, requires DoD organizations to implement a comprehensive system of internal controls that provide reasonable assurance that programs are operating as intended and to evaluate the effectiveness of the controls. In addition, DOS Foreign Affairs Manual (FAM), 2 FAM 021.1, requires DOS to establish and maintain cost-effective systems of management controls over all DOS operations to ensure that activities are managed effectively, efficiently, economically, and with integrity, and to provide reasonable assurance regarding the prevention of or prompt detection of errors, irregularities, and mismanagement.

We identified that DoD and DOS did not have adequate procedures to ensure that INL officials properly obligated DoD-provided ASFF appropriations for the ANP training program in accordance with the Economy Act and reimbursable agreement limitations. In addition, INL did not have adequate procedures to review invoices prior to payment. DoD could realize a benefit if the funds were returned and put to better use supporting the ANP training program. We will provide a copy of the report to senior officials responsible for internal controls at DoD and DOS.

Finding. DOS Improperly Obligated DoD Funds for DOS Programs and Personal Services Contracts

INL officials improperly obligated an estimated $76.65 million of ASFF appropriations that DoD provided to support the ANP training program. Specifically, INL officials obligated an estimated $75.60 million of funds for two INL rule of law programs and one INL counternarcotics program and $1.05 million of funds for personal services contracts (PSCs)[3] contrary to either Economy Act or reimbursable agreement limitations. Part of the improper obligations related to CSSP security salaries that INL paid, despite supporting data that indicated that the contractor did not provide the services. This occurred because DoD relied on INL to monitor obligations, and INL did not have adequate procedures to ensure it obligated funds in accordance with the Economy Act and reimbursable agreements. In addition, INL paid for the CSSP security salaries that DynCorp did not provide because INL did not have adequate procedures to review invoices prior to payment. As a result, DoD and DOS might have violated the Antideficiency Act, and the ANP training program did not receive an estimated $75.60 million of DoD financial support. DoD could realize a benefit if the funds were returned and put to better use supporting the ANP training program.

INL Improperly Obligated Afghanistan Security Forces Fund Appropriations

INL officials improperly obligated ASFF appropriations that DoD provided to support the ANP training program. Specifically, INL obligated the funds for three INL programs, JSSP, CSSP, and CNAT, and for PSCs, which was contrary to either the Economy Act or reimbursable agreement limitations. The Economy Act, 31 U.S.C. § 1535, requires that a condition or limitation applicable to the amounts for procurement of the agency placing the order applies to the making of the contract. Therefore, INL needed to comply with the original limitations of the DoD-provided funds, which were specifically designated for Afghanistan security forces requirements and could only be used to award PSCs in certain circumstances. The reimbursable agreements also imposed specific limitations on obligating DoD funds in support of the ANP training program.

Improper Obligation and Use of DoD Funds for Three INL Programs

INL officials improperly obligated an estimated $75.60 million[4] of DoD-provided ASFF appropriations to support the JSSP, CSSP, and CNAT programs. Personnel supporting these programs were stationed at several regional training centers throughout

[3] A PSC creates an employer-employee relationship between the Government and the contractor.

[4] To obtain our estimate, we used the amount for life support for program personnel and student capacity at the Afghanistan regional training centers, some security salaries, and additional expenses using the DynCorp demobilization plan for task order 5375 (January 30, 2011), the task order 5375 statement of work and modifications, and statements from a DOS and contractor official. The estimate is sufficient to quantify the scope of the programs. See Appendix A for the specific estimation methodology.

Afghanistan. Life support at these regional training centers included, but was not limited to, housing, food, and overhead expenses.

The INL use of DoD funds to pay the life support, salaries, and other expenses did not comply with Economy Act and reimbursable agreement limitations. In accordance with the Economy Act, INL was required to use DoD-provided ASFF appropriations only for purposes permitted by Public Law 109-234, "Emergency and Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Recovery," June 15, 2006. The public law states that ASFF appropriations are to be used to "provide assistance, with the concurrence of the Secretary of State, to the ***security forces*** [emphasis added] of Afghanistan, including the provision of equipment, supplies, services, training, facility and infrastructure repair, renovation, construction, and funding." However, the JSSP, CSSP, and CNAT are rule of law and counternarcotics programs, not security forces programs.

Afghanistan rule of law programs were designed to develop justice sector institutions, improve the Afghan government's credibility and legitimacy, and reduce support for insurgent factions. Counternarcotics programs were designed to build the infrastructure necessary to indict, arrest, try, convict, and incarcerate drug traffickers. Although security forces, rule of law, and counternarcotics programs are related and depend on one another, the JSSP, CSSP, and CNAT support the Afghan rule of law and counternarcotics programs as opposed to the ANP training program, and more specifically, the Afghanistan security forces. Further, according to a Congressional Research Service report, "Afghanistan: U.S. Foreign Assistance," August 12, 2010, INL received International Narcotics Control and Law Enforcement funds specifically for rule of law and counternarcotics programs. The reimbursable agreements also did not authorize INL to use DoD-provided ASFF appropriations for JSSP, CSSP, and CNAT. Since December 18, 2007, the reimbursable agreements have required that training and support (life support) costs for DOS training programs not be funded by DoD-provided ASFF.[5] Therefore, INL should not have used DoD-provided funds for JSSP, CSSP, or CNAT because they are INL programs and the Economy Act requires that the original limitations of the appropriations remain when the funds are transferred.

INL should not have used DoD-provided funds for JSSP, CSSP, or CNAT.

Data were not available to determine the exact amount of DoD-provided ASFF that INL used for JSSP, CSSP, and CNAT, and instead, we estimated this amount to be about $75.60 million. INL officials should identify and return to DoD the exact amount of DoD-provided ASFF appropriations improperly obligated for JSSP, CSSP, and CNAT. This amount should include, but not be limited to, life support, salaries, vehicles, fuel, maintenance, personal protective equipment, uniforms, immunizations, and travel. In addition, INL should identify and return to DoD any other ASFF appropriations that it improperly obligated and spent on other INL programs.

[5] The 2007 reimbursable agreement lists the training for judges, prosecutors, and corrections officers as the other programs.

Payment for CSSP Security Salaries That Were Not Provided

Part of the estimated $75.60 million in improper obligations were for CSSP security salaries that INL paid, but the data indicated that the contractor did not provide the services. Specifically, INL paid $0.37 million to DynCorp on five invoices associated with task order 5375 for security staff, despite data that indicated PAE provided its own security for CSSP.[6] PAE officials stated that DynCorp never provided direct security for CSSP. Additionally, PAE spreadsheets showed that PAE had provided their own security since January 2007. Based on this information, DynCorp should not have submitted invoices to INL that included charges for CSSP security salaries, and INL should not have paid those invoices.

Improper Obligation and Use of DoD Funds for PSCs

INL officials did not comply with Economy Act limitations for DoD-provided ASFF appropriations when they obligated approximately $1.05 million for at least five PSCs from 2006 through 2009.[7] An agency may not use the Economy Act as a way to go beyond its own appropriation authority. Under FAR 17.501(d), an agency is not to use an interagency agreement to make acquisitions that conflict with any other agency's authority or responsibility. Therefore, for INL to properly use DoD funds to award the PSCs, the PSCs have to be within the scope of DoD's authority.

Awarding PSCs Outside DoD's Authority

INL awarded PSCs that were outside DoD's authority. DoD had the authority to award PSCs to (1) individuals performing work outside the United States if the Secretary of Defense deemed it necessary and appropriate, and (2) experts and consultants worldwide if the Secretary of Defense determined that the PSC was advantageous to the United States and such services could not be adequately provided by DoD. Although some of the PSCs INL contracted for were located outside the United States, DoD officials we interviewed were unaware INL had awarded PSCs, so DoD officials could not have deemed the PSCs to be necessary and appropriate. Therefore, to fit within DoD's authority to award PSCs:

- they had to be considered experts or consultants,
- DoD had to determine them to be advantageous, and
- DoD could not adequately provide the services.

According to the Office of Personnel Management regulation,[8] a consultant is a person who provides "advice, views, opinions, alternatives, or recommendations on a temporary and/or intermittent basis on issues, problems, or questions presented by a Federal official." Additionally, an expert is defined as a person that is specifically qualified by

---

[6] The costs for task order 4305 were billed at a summary level, and we could not determine whether INL paid for CSSP security under that task order.

[7] According to INL records, the PSCs were for senior police advisors, a telecom advisor, and a program manager advisor/contracting office representative.

[8] 5 U.S.C. § 3109 (d) requires the Office of Personnel Management to prescribe criteria governing the circumstances in which it is appropriate to employ a PSC. The Office of Personnel Management criteria are in 5 Code of Federal Regulations, Section 304.102.

education and experience to perform difficult and challenging tasks in a particular field beyond the usual range of achievement of competent persons in that field. However, INL officials did not provide documentation that the PSCs were experts or consultants, that DoD determined them to be advantageous, or that DoD could not have adequately provided the services. In addition, as stated above, DoD officials we interviewed were unaware that INL awarded PSCs; therefore, DoD officials could not have determined the PSCs to be advantageous nor determined that DoD could not have adequately provided the services.

Awarding PSCs Not Specifically Requested in the Reimbursable Agreements

INL officials stated that the reimbursable agreements did not prevent them from awarding PSCs using DoD-provided ASFF appropriations. Although the reimbursable agreements did not specifically state that INL could not award PSCs, it also did not state that they could. The only reimbursable agreement that INL could have misinterpreted as DoD requesting the PSCs was the 2006 reimbursable agreement. Specifically, the agreement states:

> The acquisition will appropriately be made under existing DoS contracts, entered into before placement of the order, to meet the requirements of DoD for the same or similar supplies or services; alternatively, DoS has the capability or expertise, which is not available within DoD, to enter into a contract for such supplies or services.

Although INL officials stated this wording allowed them to award PSCs, the Economy Act, which takes precedence over the reimbursable agreement language, required that the PSCs be within the scope of DoD's appropriation authority. In addition, according to Comptroller General opinion B-259499, August 22, 1995, an agency may use PSCs under its own authority in carrying out an Economy Act agreement if the other agency does not have PSC authority and if the PSCs existed before the Economy Act agreement was signed. However, INL contracted for these PSCs after the agreement was signed.

To ensure proper use of funds, USD(C)/CFO, in coordination with USD(P), should develop policies and procedures to ensure that specific language on the use of PSCs is included in all future DoD interagency agreements. If DoD provides another agency funding and authorizes the use of PSCs, then DoD should also include specific language in the agreement to prevent the use of PSCs that exceed DoD's authority.

DoD Needed Better Procedures to Monitor INL Obligations

DoD officials did not adequately monitor whether INL officials obligated DoD funds in accordance with the Economy Act and reimbursable agreements. Officials from USD(P), USD(C)/CFO, and DSCA stated that they were not aware that DOS used DoD-provided ASFF appropriations for DOS programs and PSCs.

DoD officials acknowledged that they relied on INL to track the funds.

DoD officials acknowledged that they relied on INL to track the funds. In addition, although the reimbursable agreements required that INL provide DoD a quarterly status report showing fund use, the reports did not always include enough detailed information to conclude whether the funds were obligated and expended in accordance with the reimbursable agreements.

DoD should develop procedures to more closely monitor work performed in accordance with the reimbursable agreements. This should ensure that DoD complies with the current DoD Regulation 7000.14-R, "DoD Financial Management Regulation," volume 3, chapter 8, which requires that the requesting activity [DoD] review all charges from the performing activity [DOS] to ensure that amounts comply with the reimbursable orders and are supported with a copy of the order or contract and evidence of performance. This issue was discussed in DoD Report No. D-2011-080 and DOS report No AUD/CG-11-30, "DoD and DOS Need Better Procedures to Monitor and Expend DoD Funds for the Afghan National Police Training Program," July 7, 2011; therefore we are not making a recommendation.

INL Procedures for Obligating Economy Act Orders and Reviewing Invoices Needed Improvement

INL did not have adequate procedures to ensure that INL officials properly obligated DoD funds transferred under the Economy Act, including obligating funds for the award of PSCs. The INL Financial Management Handbook includes a section titled, "Economy Act Reimbursement Agreements," which states that funds provided to INL under the Economy Act carry the authorities of the authorizing legislation. It further states that the agency providing the funds should provide the legislative authorities so that INL would know how to use the funds. However, the INL handbook does not provide additional procedures to ensure that INL officials obtained and followed the authorizing legislation, specifically for PSCs. Further, in the section of the INL handbook titled, "Personal Service Contract Personnel," it simply states that INL PSC policy follows U.S. Agency for International Development policy.[9] However, that policy does not apply to interagency agreements. Therefore, the INL handbook lacks detailed guidance to ensure that INL personnel properly awarded PSCs when using funds provided under the Economy Act. INL officials should develop specific policies and procedures for obtaining the requesting agency's legislative authorities and ensuring that INL officials responsible for obligating funds under Economy Act orders validate that the requesting agency has the necessary authority and that INL officials comply with those authorities.

The INL handbook lacks detailed guidance to ensure that INL personnel properly awarded PSCs.

In addition, INL did not have adequate procedures for reviewing contractor invoices. Specifically, INL officials did not always perform a detailed review of contractor timesheets prior to payment and relied on an INL post-payment review team to identify

[9] See 48 Code of Federal Regulations chapter 7, appendix D for policy.

overpayments made to DynCorp during its review of all paid invoices. Specifically, an official from INL stated that the team reviewed the timesheets only to ensure that the calculations were accurate. Because INL and DynCorp records indicated that INL paid $0.37 million to DynCorp for CSSP security salaries that were not provided, INL officials should review all available supporting documentation and recover any overpayment. In addition, there is a risk that INL could have paid for other CSSP services that were not provided. Therefore, INL should review all invoices for task orders 4305 and 5375 and identify and recover any additional CSSP security salary overpayment. The 5375 task order was scheduled to be completed on June 30, 2011. Therefore, we are not recommending that INL improves its pre-payment review of invoices.

INL and DoD Potentially Augmented Appropriations

INL might have improperly augmented either DoD or DOS appropriations by $76.65 million, which could result in potential Antideficiency Act violations.[10] Specifically, when INL officials obligated an estimated $75.60 million of DoD-provided ASFF appropriations for JSSP, CSSP, and CNAT, as well as $1.05 million for PSCs, INL and DoD potentially violated the Purpose Statute,[11] which requires that entities apply appropriations only to the objects for which the appropriations were made, except as otherwise provided by law.

According to Comptroller General opinion B-308944, July 17, 2007, both the requesting and performing agencies could be at risk for the potential Antideficiency Act violations. Whether an agency can correct the violations to avoid an Antideficiency Act violation depends on the availability of appropriate funds. Therefore, DOS and DSCA officials should jointly open an investigation to determine whether Antideficiency Act violations have occurred and take appropriate action. If an Antideficiency Act violation occurred, DOS and DoD need to immediately report all relevant facts and a statement of actions taken by the agency head to the President and Congress.

ANP Training Program Did Not Receive All Benefits

The ANP training program did not receive an estimated $75.60 million of DoD financial support because of INL's improper obligation of DoD funds for the JSSP, CSSP, and CNAT. DoD could realize a benefit if the estimated $75.60 million of DoD funds were returned and put to better use supporting the ANP training program. We are not recommending that DOS return the $1.05 million for PSCs to DoD because DoD and DOS received a benefit from those funds.

[10] An Antideficiency Act violation occurs when entities make expenditures or incur obligations in excess of the amounts available for appropriation.
[11] 31 U.S.C. § 1301(a).

Management Comments on the Finding and Our Response

INL Comments

The Acting Assistant Secretary stated that "INL continues to develop and strengthen the operational systems and controls necessary to support significant growth in program funding and scope." In addition, the Acting Assistant Secretary stated that INL was concerned that the report did not mention that INL programs operated under near-combat conditions, DoD officials agreed with the expenditures before they were made, INL relied on DoD officials to determine the appropriate use of funds, and DoD's delay in awarding its contract impacted maintaining program operations. In addition, the Acting Assistant Secretary stated that the report did not mention the "effect of notwithstanding authority to overcome some limitations cited in the report." For the full text of the Acting Assistant Secretary's comments, see the Management Comments section of this report.

Our Response

We acknowledge that conditions in Afghanistan were, and are, volatile. However, the "near combat conditions" do not justify or permit INL to disregard applicable laws, regulations, and reimbursable agreement requirements. For example, the reimbursable agreements prohibited INL from using DoD funds for training and life support costs for DOS training programs at the regional training centers, and they required that any changes to the reimbursable agreements be in writing. The 2009 reimbursable agreement further stated that the points of contact listed in the agreement did not have the authority to change the terms of the agreements. INL did not provide any supporting documentation that officials within DoD had agreed in writing that INL could use DoD funds for INL programs. Furthermore, the DoD officials we interviewed stated that they did not approve the use of DoD funds for INL programs.

We agree that DoD had programmatic control of the funds, and we addressed the DoD control weaknesses in this report. However, that does not absolve INL officials from their responsibility for ensuring that they properly obligated the funds. Internal INL e-mails indicated that INL officials were informed in 2009 that DOS was improperly using DoD funds for DOS programs. However, INL officials did not take any action to correct the improper obligation or prevent future improper obligations from occurring.

We do not see how DoD's delay in awarding the 2010 contract impacted INL practices that had been occurring as early as 2007. The INL comments did not provide us with sufficient information to assess whether we did not consider "the 'notwithstanding' authority to overcome some limitations cited in the report."

U.S. Central Command Comments

Although not required to comment, the U.S. Central Command Comptroller provided comments to the report and suggested that with the recent alignment of DoD and DOS missions and funding legislation, it would be very useful if the report expanded on real examples that could be implemented to improve cooperative financial oversight of

transferred funds. For the full text of the Comptroller's comments, see the Management Comments section of the report.

Our Response

We agree that expanding on "real examples that could be implemented to improve cooperative financial oversight of transferred funds" would be useful. In the DoD and DOS joint audit report "DoD and DOS Need Better Procedures to Monitor and Expend DoD Funds for the Afghan National Police Training Program (Report No. D-2011-080 and AUD/CG-11-30)," July 7, 2011, we recommended actions to DoD for improving the monitoring and transferring of funds, such as developing, implementing, and documenting adequate controls to ensure that funds are used for specific purposes, in accordance with laws, and to document the appropriate use. In addition, we recommended that procedures be developed to ensure that all future reimbursable agreements require the ordering agency to identify excess funds within a specified time frame after the period of performance has ended. Finally, we recommended that procedures be developed to ensure that the appropriate officials monitor obligations and expenditures of funds in accordance with the reimbursable agreements and applicable laws and regulations.

Recommendations, Management Comments, and Our Response

1. We recommend that the Assistant Secretary of State, Bureau of International Narcotics and Law Enforcement Affairs, in coordination with the Assistant Secretary of State, Bureau of Resource Management and Chief Financial Officer:

a. Identify and return to DoD the amount of Afghanistan Security Forces Fund appropriations that were improperly obligated and spent on the Justice Sector Support Program, Corrections System Support Program, and Counter Narcotics Advisory Teams. These costs would include, but not be limited to, life support, salaries, vehicles, fuel, maintenance, personal protective equipment, uniforms, immunizations, and travel. The appropriations that are deemed to be improper should be returned to DoD by September 30, 2011.

b. Review all available supporting documentation related to CSSP security salaries and recover any overpayments related to the $0.37 million paid to DynCorp for CSSP security salaries and identify and recover any additional payments made for CSSP security salaries on task orders 4305 and 5375.

c. Determine whether the Bureau of International Narcotics and Law Enforcement Affairs improperly obligated DoD-provided Afghanistan Security Forces Fund appropriations for any other INL programs that were receiving support on the DoD-funded task orders. If so, identify and return to DoD the applicable Afghanistan Security Forces Fund appropriations by September 30, 2011.

d. Develop and implement policies and procedures to ensure the appropriate Bureau of International Narcotics and Law Enforcement Affairs officials take into account any appropriation limitations placed on funds transferred by other U.S. Government agencies before obligating the funds for personal services contracts.

e. Develop and implement policies and procedures to ensure that the Bureau of International Narcotics and Law Enforcement Affairs officials responsible for obligating funds under an Economy Act order obtain the other agency's legislative authorities and validate that the ordering agency had the necessary authority to obligate the funds for those purposes.

INL Comments Required

The INL Acting Assistant Secretary agreed to identify and return any Afghanistan Security Forces Funds that were not in direct support of the ANP training and mentoring program and exclusively supported JSSP, CSSP, and CNAT programs. He further stated that INL would determine the appropriate amount and return the funds within a reasonable period.

He stated that INL believed the estimate of $76.65 million in the report significantly overstated the amount improperly obligated because the estimate used JSSP and CSSP student capacity from the DynCorp demobilization plan instead of using the actual student occupancy and services received. The INL Acting Assistant Secretary also stated that INL did not agree with the interpretation of "security forces."

Our Response

The INL Acting Assistant Secretary's comments on Recommendations 1.a were partially responsive. We recognize that student occupancy and actual services received would be better data on which to estimate the amount of funds improperly obligated. However, INL did not provide documentation on the actual student capacity and services received when requested. As stated in the report, the estimate was used to quantify the scope of the programs. Accordingly, we recommended in 1.a that INL determine the actual dollar amount, which INL agreed to complete.

However, the Assistant Secretary's statement that INL would analyze, identify, and return the funds in a "reasonable period" was not responsive. Specifically, the recommendation required INL perform this analysis by September 30, 2011. We informed INL officials of the improper use of DoD funds for INL programs in May 2011 and believe that 4 months is reasonable. If INL cannot complete this work by September 30, 2011, it should provide DOS IG with a specific date when the funds will be returned, along with its final analysis for DOS IG review.

In addition, the INL Acting Assistant Secretary's comments on recommendations 1.b-e were not responsive. Specifically, he did not directly comment on recovering potential overpayments made to DynCorp for CSSP security salaries, performing reviews to determine whether INL inappropriately funded other INL programs with DoD funds, or

state whether INL would implement controls to prevent future improper obligations. We request that INL provide comments on the final report for recommendations 1.a-e.

2. We recommend that the Under Secretary of Defense (Comptroller)/Chief Financial Officer, DoD, in coordination with the Under Secretary of Defense for Policy, develop procedures to ensure that all future reimbursable agreements either specifically request or prohibit the use of personal services contracts. If the agreements request the use of personal services contracts, ensure that the agreements also direct the buying agencies to comply with the DoD requirements for awarding the contracts.

USD(C)/CFO Comments

The Director of Operations, USD (C)/CFO, partially agreed with Recommendation 2. He stated that the Office of the Secretary of Defense agreed with the recommendation that DOS specifically request the use of personal services contracts and include the purpose of these services in future agreements. He also stated that the Office of the Secretary of Defense did not agree with the recommendation to require that DOS use DoD contracting rules. Further, he stated that all future agreements entered into on behalf of DoD by DOS would comply with statutory requirements and include sufficient safeguards to protect DoD interests.

Our Response

The Director's comments were responsive to our recommendation, and no additional comments are required. While he stated the Office of the Secretary of Defense disagreed that DOS should use DoD contracting rules, that was not our recommendation. Our recommendation was to require DOS to comply with the DoD requirements for awarding PSCs if the agreements requested the use of PSCs.

3. We recommend that the Assistant Secretary of State, Bureau of Resource Management and Chief Financial Officer, and the Director, Defense Security Cooperation Agency, perform a joint investigation of the potential Antideficiency Act violations for the $1.05 million of funds obligated for PSCs and the estimated $75.60 million of funds obligated without considering Economy Act and reimbursable agreement limitations.

Bureau of Resource Management Comments

The Assistant Secretary of State, Bureau of Resource Management and Chief Financial Officer neither agreed nor disagreed with the recommendation. He stated that he would work with both the INL Assistant Secretary of State and the Director, DSCA, to review the purpose and use of reimbursed funds and assess the validity of the obligations incurred by DOS for the ANP training program.

Our Response

The Assistant Secretary of State's comments were responsive; however, we request that he provide the results of their review and determination to DOS IG on whether or not to initiate an Antideficiency Act investigation. The Assistant Secretary's actions met the intent of the recommendation, and therefore no additional comments are required.

DSCA Comments

The Director, DSCA, agreed with the recommendation and assigned an official to the Antideficiency Act investigation.

USD(C)/CFO Comments

The Director of Operations, USD (C)/CFO, agreed with the recommendation.

Our Response

The Directors' comments were responsive, and no additional comments are required.

Appendix A. Scope and Methodology

We conducted this performance audit from September 2010 through July 2011 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. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

To accomplish our audit objectives, we coordinated with or interviewed officials from the USD(P), USD(C)/CFO, DSCA, U.S. Central Command, U.S. Forces–Afghanistan, North Atlantic Treaty Organization North Atlantic Treaty Organization Training Mission–Afghanistan/Combined Security Transition Command–Afghanistan (CSTC–A), and CSTC–A Comptroller. Additionally, we coordinated with or interviewed DOS officials from INL, including the Office of Afghanistan and Pakistan Programs, Office of Resource Management, and Afghanistan, Iraq, and Jordan Support Division; the Bureau of Resource Management and Bureau of Administration, Office of Logistics Management, Office of Acquisitions Management. We also coordinated with DynCorp, PAE, and Civilian Police International contractor personnel.

We obtained and reviewed the INL Office of Resource Management budgetary tracking spreadsheet and supporting documentation to determine whether INL obligations were proper. Specifically, we coordinated with DoD IG and DOS IG Offices of General Counsel to identify the applicable criteria. In addition, we obtained and evaluated supporting documentation for nonstatistically selected PSCs to determine whether the PSCs complied with the applicable criteria.

We were unable to obtain detailed data to determine the amount of DoD-provided funds that INL obligated to support JSSP, CSSP, and CNAT. Therefore, we used various summary documentation to estimate the amount of funding to quantify the scope of the programs for the users of this report. We estimated that the daily life-support rate for individuals residing at the regional training center was either $118.95 or $121.45, depending on the individual's job. This daily rate was based, in part, on the contractor's cost proposal for task order 5375 and statements from the DOS Office of Acquisitions Management and DynCorp officials. We multiplied the daily rate for specified time periods for the following categories:

- The number of JSSP and CSSP personnel stationed at the regional training centers, as reported by the CSSP and JSSP contractors.
- The number of CNAT personnel located at the regional training centers, as stated by the CNAT contractor.
- The capacity of JSSP and CSSP students at the regional training centers, as reported in the DynCorp demobilization plan (January 30, 2011),[12]

[12] A demobilization plan is a drawdown of task order or contract activities. DynCorp developed a demobilization plan for the transition of the ANP training program task order from DOS to DoD.

- The number of JSSP security staff provided by DynCorp based on the task order 5375 statement of work and contractor's cost proposal as well as confirmation from DynCorp officials.

In addition, we estimated the JSSP security staff salaries based on the task order 5375 statement of work and salary rates included in the contractor's cost proposal. We estimated daily expenses for JSSP security personnel; such as medical supplies, cell phones, and phone cards, and included an additional employee relations expense for the life support estimate as outlined in the cost proposal. We estimated the CSSP security salaries based on DynCorp invoices.

Finally, because INL also obligated other funds for JSSP and CSSP using multiple contract modifications, we subtracted that amount from our estimated total amount. See Table 1 for a summary of our methodology for estimating the amount of DoD-provided ASFF appropriations that INL used for the JSSP, CSSP, and CNAT.

Table 1. Estimation Methodology

Description	**Total** (in millions)
Life Support	
JSSP Personnel	$4.05
CSSP Personnel	7.33
CNAT Personnel	0.25
JSSP Student Capacity	28.79
CSSP Student Capacity	22.07
JSSP DynCorp Security Personnel	3.88
Additional Security Expenses	
JSSP Security Salaries	9.04
JSSP Medical Supplies	0.11
JSSP Cell Phones	0.14
JSSP Phone Cards	0.04
CSSP Security Salaries	0.37
Total Estimate*	76.06
Less DOS Amount Obligated	0.46
Estimated DoD Funds Improperly Obligated	$75.60
*Note: Because of rounding, individual expenses do not sum to the Total Estimate	

Upon completing our initial fieldwork, we coordinated with DoD and DOS officials to address issues we observed during the audit, provided recommendations, and verified actions taken, where appropriate.

Use of Computer-Processed Data

We used computer-processed data obtained from the INL Office of Resource Management budgetary tracking spreadsheet to determine the amount of PSCs that were funded with DoD funds. We also relied on the budgetary tracking spreadsheet to determine what ANP training program contracts and modifications were funded with DoD funds. To assess the reliability of the obligation amounts on the budgetary tracking spreadsheet, we nonstatistically selected and reviewed two PSC contracts to ensure that the obligation amounts reported on the budgetary tracking spreadsheet were correct. We also reviewed all contract modifications and generally matched the amounts to the spreadsheet. We did not identify any significant discrepancies, and therefore, we determined that the budgetary tracking spreadsheet obligation amounts were generally reliable for the purposes of this report.

In addition, we used computer-processed data from DynCorp's cost proposal for task order 5375 to estimate the number of security staff, as well as the security staff's daily rates, meals, and other expenses. A DOS contracting specialist and DynCorp official confirmed the data. The data were sufficiently reliable to use as an estimate of the costs of INL programs funded by ASFF appropriations. We also used computer-processed data obtained from PAE contractor personnel related to the number of CSSP and JSSP personnel at the regional training centers from February 2007 through June 2011. We assessed the reasonableness of the data by comparing it to the Statement of Work for task order 5375. The data provided by PAE were generally reliable to use as an estimate of INL programs funded by ASFF appropriations. Finally, we used data obtained from a DynCorp system to determine the amount that DynCorp billed on task order 5375 for CSSP security salaries. We obtained the supporting timesheets for two of the security charges and did not identify any discrepancies. In addition, we obtained all the invoices related to those charges and determined that the timesheet charges were included in the invoices. Therefore, we determined the data were generally reliable for the purposes of this report.

Appendix B. Prior Coverage

During the last 5 years, the Government Accountability Office (GAO), the DoD IG, the DOS IG, the Special Inspector General for Afghanistan Reconstruction, and the Special Inspector General for Iraq Reconstruction have issued 13 reports discussing ANP challenges or other contractual oversight issues. Unrestricted GAO reports can be accessed over the Internet at http://www.gao.gov. Unrestricted DoD IG reports can be accessed at http://www.dodig.mil/audit/reports. Unrestricted DOS IG reports can be accessed at http://oig.state.gov. Unrestricted Special Inspector General for Afghanistan Reconstruction reports can be accessed at http://www.sigar.mil. Unrestricted Special Inspector General for Iraq Reconstruction reports can be accessed at http://www.sigir.mil.

GAO

GAO Report No. GAO-09-280, "Afghanistan Security – U.S. Programs to Further Reform Ministry of Interior and National Police Challenged by Lack of Military Personnel and Afghan Cooperation," March 9, 2009

GAO Report No. GAO-08-661, "Afghanistan Security – Further Congressional Action May Be Needed to Ensure Completion of a Detailed Plan to Develop and Sustain Capable Afghan National Security Forces," June 18, 2008

DOS IG

DOS Report No. AUD/IQO-07-48, "Accounting for Government-Owned Personal Property Held by Selected Contractors in Afghanistan," August, 2007

DoD IG

DoD Report No. SPO-2011-003, "Assessment of U.S. Government Efforts to Train, Equip, and Mentor the Expanded Afghan National Police," March 3, 2011

DoD Report No. SPO-2009-007, "Report on the Assessment of U.S. and Coalition Plans to Train, Equip, and Field the Afghan National Security Forces," September 30, 2009

DOS IG and DoD IG

DoD Report No. D-2011-095 and DOS Report No. AUD/CG-11-42, "Afghan National Police Training Program: Lessons Learned During the Transition of Contract Administration," August 15, 2011

DoD IG Report No. D-2011-080 and DOS Report No. AUD/CG-11-30, "DoD and DOS Need Better Procedures to Monitor and Expend DoD Funds for the Afghan National Police Training Program," July 7, 2011

DOS Report No. MERO-A-10-06 and DoD Report No. D-2010-042, "DOD Obligations and Expenditures of Funds Provided to the Department of State for the Training and Mentoring of the Afghan National Police," February 9, 2010

DOS Report No. ISP-IQO-07-07 and DoD Report No. IE-2007-001, "Interagency Assessment of Afghanistan Police Training and Readiness," November 14, 2006

Special Inspector General for Afghanistan Reconstruction

SIGAR Audit-10-12, "ANP Compound at Kandahar Generally Met Contract Terms but Has Project Planning, Oversight, and Sustainability Issues," July 22, 2010

SIGAR Audit-10-11, "Actions Needed to Improve the Reliability of Afghan Security Force Assessments," June 29, 2010

SIGAR Audit-09-1, "Contract Oversight Capabilities of the Defense Department's Combined Security Transition Command – Afghanistan (CSTC-A) Need Strengthening," May 19, 2009

Special Inspector General for Iraq Reconstruction

SIGIR 10-008, "Long-standing Weaknesses in Department of State's Oversight of DynCorp Contract for Support of the Iraqi Police Training Program," January 25, 2010

Appendix C. FY 2011 National Defense Authorization Act, P.L. 111-383 Section 1235

111TH CONGRESS 2d Session	HOUSE OF REPRESENTATIVES	HASC No. 5

IKE SKELTON
NATIONAL DEFENSE AUTHORIZATION ACT
FOR FISCAL YEAR 2011

COMMITTEE PRINT

OF THE

COMMITTEE ON ARMED SERVICES
HOUSE OF REPRESENTATIVES

LEGISLATIVE TEXT AND
JOINT EXPLANATORY STATEMENT

TO ACCOMPANY

H.R. 6523

PUBLIC LAW 111–383

DECEMBER 2010

SEC. 1235. REPORTS ON POLICE TRAINING PROGRAMS.

(a) DOD INSPECTOR GENERAL REPORT ON AFGHAN NATIONAL POLICE TRAINING PROGRAM.—

(1) REPORT REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Inspector General of the Department of Defense shall, in consultation with the Inspector General of the Department of State, submit to the appropriate committees of Congress a report on the Afghan National Police training program.

(2) REVIEW.—In preparing the report required by paragraph (1), the Inspector General of the Department of Defense shall conduct a review of the Afghan National Police training program that focuses on developments since the Inspector General of the Department of Defense and the Inspector General of the Department of State released the report entitled ''Department of Defense Obligations and Expenditures of Funds Provided to the Department of State for the Training and Mentoring of the Afghan National Police'' (DODIG Report No. D–2010–042, DOSIG Report No. MERO–A–10–06, February 9, 2010).

(3) ELEMENTS OF REPORT.—The report required by paragraph (1) shall include the following:

(A) A description of the components, planning, and scope of the Afghan National Police training program since the United States assumed control of the program in 2003.

(B) A description of the cost to the United States of the Afghan National Police training program, including the source and amount of funding, and a description of the allocation of responsibility between the Department of Defense and the Department of State for funding the program.

(C) A description of the allocation of responsibility between the Department of Defense and the Department of State for the oversight and execution of the program.

(D) A description of the personnel and staffing requirements for overseeing and executing the program, both in the United States and in theater, including United States civilian government and military personnel, contractor personnel, and nongovernmental personnel, and non-United States civilian and military personnel, contractor personnel, and nongovernmental personnel.

(E) An assessment of the cost, performance metrics, and planning associated with the transfer of administration of the contract for the Afghan National Police training program from the Department of State to the Department of Defense.

Under Secretary of Defense (Comptroller)/Chief Financial Officer, DoD Comments

OFFICE OF THE UNDER SECRETARY OF DEFENSE
1100 DEFENSE PENTAGON
WASHINGTON, DC 20301-1100

COMPTROLLER
(Program/Budget)

8/11/2011

MEMORANDUM FOR DEPARTMENT OF DEFENSE INSPECTOR GENERAL

SUBJECT: Draft Report on Afghanistan National Police Training Program Would Benefit From Better Compliance With the Economy Act and Reimbursable Agreements (Project No. D2011-D000JA-0009.002)

The Office of the Secretary of Defense (OSD) appreciates the opportunity to provide comments at Attachment A concerning recommendations 2 and 3 of the above referenced report, which recommend that the Under Secretary of Defense (Comptroller) and the Under Secretary of Defense (Policy) take action to address payments made by the Department of Defense (DoD) to the Department of State (DOS) Bureau of International Narcotics and Law Enforcement for the Afghan Police Training Program.

The draft report recommends that we prohibit the DOS from using DoD funds provided under future agreements for personal services contracts, or require them to specifically request these services through the agreement. If we agree to allow the personal service contracts, it is further recommended that we require DOS to comply with DoD requirements for awarding contracts. Your report also includes a separate recommendation to perform a joint investigation of a potential Antideficiency Act violation. The OSD partially concurs with comment.

William H. Campbell
Director of Operations

Attachment:
As stated

OUSD Comments
Subject: Draft Report on Afghanistan National Police Training Program Would Benefit From Better Compliance With the Economy Act and Reimbursable Agreements (Project No. D2011-D000JA-0009.002)

Recommendation:
2. We recommend that the Under Secretary of Defense (Comptroller)/Chief Financial Officer, DoD, in coordination with the Under Secretary of Defense for Policy, develop procedures to ensure that all future reimbursable agreements either specifically request or prohibit the use of personal services contracts. If the agreements request the use of personal services contracts, ensure that the agreements also direct the buying agencies to comply with DoD requirements for awarding the contracts.

Response:
2. Partial Concur with comment. Current agreements require the Department of State (DOS) only procure services for specified training programs consistent with the purpose of the Afghanistan Security Forces Funds. We concur with the recommendation for the DOS to specifically request the use of personal services contracts, and to include the purpose of these services in future agreements. We do not concur with the recommendation to require the DOS use Department of Defense contracting rules. However, all future agreements entered into on behalf of DoD by DOS will comply with statutory requirements and include sufficient safeguards to protect our interests.

Recommendation:
3. We recommend that the Assistant Secretary of State, Bureau of Resource Management and Chief Financial Officer, and the Director, Defense Security Cooperation Agency, perform a joint investigation of the potential Antideficiency Action violations for the $1.05 million of funds obligated for PSCs and the estimated $75.6 million of funds obligated without considering Economy Act and reimbursable agreement limitations.

Response:
3. Concur.

Assistant Secretary of State, Bureau of Resource Management and Chief Financial Officer Comments

United States Department of State

Chief Financial Officer

Washington, D.C. 20520

AUG 04 2011

Department of Defense
Deputy Inspector General for Auditing
Attention: Mr. Daniel R. Blair
400 Army Navy Drive (Room 801)
Arlington, VA 22202-4704

Department of State
Assistant Inspector General for Audits
Attn: Ms. Evelyn R. Klemstine
1700 N. Moore Street, Suite 720
Rosslyn, VA 22209

Dear Mr. Blair and Ms. Klemstine:

We appreciate the opportunity to comment on the official joint DoD and DoS OIG draft report, "Afghan National Police Training Program Would Benefit From Better Compliance with the Economy Act and Reimbursable Agreements (D0D Project No. D2011-D000JA-0009.002 DOS Project No. 11 AUD3020)".

In Response to recommendations 1 and 3 of the official draft report, the Assistant Secretary of State, Bureau of Resource Management and Chief Financial Officer will work with the Assistant Secretary of State, Bureau of International Narcotics and Law Enforcement Affairs and the Director, Defense Security Cooperation Agency to review the purpose and use of reimbursed funds and assess the validity of the obligations incurred for the Department for the Afghan National Police Training Program.

Sincerely,

James L. Millette

Assistant Secretary of State, Bureau of International Narcotics and Law Enforcement Affairs Comments

United States Department of State

Washington, D.C. 20520

AUG 09 2011

UNCLASSIFIED

TO: OIG – Harold Geisel, Acting

FROM: INL – William R. Brownfield WB

SUBJECT: Comments on the Joint Department of State/Department of Defense Inspectors General Discussion Draft Report, *Afghan National Police Training Program Would Benefit From Better Compliance With the Economy Act and Reimbursable Agreements (DoD Project No. D2011-D000JA-0009.002 DOS Project No. 11AUD3020, dated July 25, 2011*)

The Bureau of International Narcotics and Law Enforcement Affairs (INL) continues to develop and strengthen the operational systems and controls necessary to support our significant growth in program funding and scope. INL appreciates working with the oversight community to help strengthen the Bureau's processes and controls. However, INL has a number of concerns regarding the referenced discussion draft. INL notes that relevant and exigent factors are absent from the draft such as: (1) the near combat conditions under which our programs have operated, the impact of rapidly changing environments, program demands and leadership personnel, and the practices developed by DoD and INL officials during the course of the ANP training programs; (2) the expressed concurrence of DoD officials prior to expenditures; (3) the reliance on DoD officials to determine the appropriate use of program funds since DoD officials had programmatic control; (4) the impact of the delay in DoD awarding its contract and the subsequent National Security priority in maintaining the operation of the program; and (5) the effect of "notwithstanding" authority to overcome some limitations cited in the report.

INL Response to Recommendation 1 a. thru e. (August 2011): INL agrees that funds improperly obligated should be returned to DoD. However, INL believes that the estimate of $76.65 million significantly overstates the amount deemed to be improper. The estimated life support obligations for the JSSP and CSSP students are based on capacity estimates contained in the DynCorp demobilization plan. The estimate is not based on student occupancy and services received. INL

UNCLASSIFIED

does not agree with the restrictive interpretation of "security forces." INL agrees to identify and return any Afghanistan Security Forces Funds that were not in direct support of the Afghanistan National Police training and mentoring program and were exclusively in support of the Justice Sector Support Program (JSSP), Corrections System Support Program (CSSP), and Counter Narcotics Advisory Teams (CNAT) programs. INL will analyze the issue in detail, determine the appropriate amount, and will return funds as a result of that analysis within a reasonable period.

Drafted by: INL/RM/AOS – [redacted], x3-8036, 8/8/2011
Cleared by:
INL/FO – [redacted] (ok)
INL/FO – [redacted] (ok)
INL/AP – [redacted] (ok)
INL/AP – [redacted] (ok)
INL/AP – [redacted] (ok)
INL/RM – [redacted] (ok)
INL/RM – [redacted] (ok)
A/LM/AQM – [redacted] (ok)
A/FO – [redacted] (info)
M – [redacted] (ok)
L/LEI – [redacted] (ok)
DCFO – [redacted] (info)

Defense Security Cooperation Agency Comments

DEFENSE SECURITY COOPERATION AGENCY
201 12TH STREET SOUTH, STE 203
ARLINGTON, VA 22202-5408

AUG 0 5 2011

MEMORANDUM FOR OFFICE OF THE INSPECTOR GENERAL OF THE DEPARTMENT OF DEFENSE

SUBJECT: Afghan National Police Training Would Benefit From Better Compliance With the Economy Act and Reimbursable Agreements (DoD IG Project No. D2011-D000JA-0009.002 and DOS IG Project No. 11AUD3020)

Subject draft report was provided July 25, 2011, for comment concerning recommendation 3. In this recommendation, you indicated that "the Assistant Secretary of State, Bureau of Resource Management and Chief Financial Officer, and the Director, Defense Security Cooperation Agency, perform a joint investigation of the potential Antideficiency Act violations for the $1.05 million of funds obligated for [personal services contracts] PSCs and the estimated $75.60 million of funds obligated without considering Economy Act and reimbursable agreement limitations."

I support your recommendation and have identified [redacted] as my point of contact for this investigation. He may be reached at [redacted].

William E. Landay III
Vice Admiral, USN
Director

U.S. Central Command Comments

UNITED STATES CENTRAL COMMAND
7115 SOUTH BOUNDARY BOULEVARD
MACDILL AIR FORCE BASE, FLORIDA 33621-5101

8 August 2011

TO: CENTCOM Inspector General, CCIG

SUBJECT: J8 Comments on Draft DoD-IG Audit Report # D2011-D000JA-0009.002 Draft Report – Afghan National Police Training Program Would Benefit from Better Compliance with the Economy Act and Reimbursable Agreements

1. CCJ8 has reviewed this follow-on draft report on the DOS Bureau of International Narcotics and Law Enforcement Affairs (INL) management of the Afghanistan Security Forces Fund (ASFF) provided funds for the Afghan National Police (ANP) training contract. We acknowledge that "INL might have improperly augmented either DoD or DoS appropriations by $76.65 million, which could result in potential Antideficiency Act violations."

2. The $76.65 million figure includes $75.60 million obligated for DoS programs' requirements plus $1.05 million that INL obligated for personal services contracts (PSCs). Per page 5 of the report, $75.60 million of DoD-provided ASFF was obligated by INL and may have augmented three INL programs, Justice Sector Security Program (JSSP), Corrections System Support Program (CSSP), Counter-Narcotics Advisory Teams (CNAT). This happened due to personnel from the three other INL programs being co-located at several of the regional training centers. Although these obligations may have augmented DoS appropriations, the appropriateness of DoD ASFF funding documents is not in question.

3. A joint DoD-DoS-IG audit such as this provides a special opportunity to look forward and help all organizations structure future DoD-DoS funding documents. With the recent alignment of DoD and DoS missions and funding legislation it would be a great service if this combined DoD-DoS report would expand on real examples that could be implemented to improve cooperative financial oversight of transferred funds. We believe that addressing USG interdepartmental protocols and processes would be a useful part of the IG's management assistance.

5. Thank you for the opportunity to review this draft report and provide overall comments even though U.S. CENTCOM has no specific recommendations. My point of contact for this information is [redacted].

ROBIN A. GALLANT, Col, USMC
CENTCOM Comptroller

FRAUD, WASTE, ABUSE, OR MISMANAGEMENT
of Federal programs
and resources hurts everyone.

Call the Office of Inspector General
HOTLINE
202-647-3320
or 1-800-409-9926
to report illegal or wasteful activities.

You may also write to
Office of Inspector General
U.S. Department of State
HOTLINE
Post Office Box 9778
Arlington, VA 22219

Please visit our Web site at oig.state.gov

Cables to the Inspector General
should be slugged "OIG Channel"
to ensure confidentiality.

Department of State Office of Inspector General
2201 C Street, N.W.
Suite 8100, SA-3
Washington, D.C. 20522-0308

Department of Defense Office of Inspector General
400 Army Navy Drive
Arlington, VA 22202-4704

The report is available online at: http://www.dodig.mil and also available at http://oig.state.gov