RECURRING PROBLEMS IN AFGHAN CONSTRUCTION

MONDAY, JANUARY 24, 2011

Commission on Wartime Contracting

Washington, D.C.

The Committee met, pursuant to notice, at 9:30 a.m., in Room 216, Hart Senate Office Building, Hon. Thibault, Co-Chairman of the Commission, presiding.

Present: Commissioners Ervin, Green Henke, Schinasi, Tiefer.

THIBAULT:

Good morning. Welcome. I'm Michael Thibault, co-chairman of the Commission on Wartime Contracting in Iraq and Afghanistan. My fellow co-chair, Christopher Shays, is in Afghanistan today with Commissioner Dov Zakheim to gather information on another matter of concern to this commission.

The other commissioners at the dais are Clark Kent Ervin, to my right; Grant Green, to my left; Robert Henke, to my left; Katherine Schinasi, to my right; and Charles Tiefer, to my right.

We've titled today's hearing Recurring Problems in Afghan Construction. For most Americans, this is a matter that is quite literally out of sight, out of mind, but it's a huge issue involving almost $20 billion taxpayer dollars in just the past three years. Just as critically, construction contracts also involve support for U.S. and allied troops, the future of the battered country of Afghanistan, and America's image in the rest of the world.

Untimely, unsafe, or poor construction has impacts on users. Too often, adverse impacts are felt by American soldiers, marines, and airmen who find themselves jammed into cramped and inadequately protected quarters. The Afghan people we're trying to help have also been ill-

served at times by some of the U.S.-funded construction projects in their country. These issues go beyond delays and cost overruns and are just unacceptable. We'll be probing them today.

The construction we're talking about includes electrical-power facilities, schools, hospitals, clinics, prisons, and facilities for the Afghanistan national army and police. Construction is also undertaken to support our troops and our coalition partners. These projects include barracks, headquarters, facilities, airfields, clinics, and dining facilities—literally, all that is needed to sustain our forces in theater.

Most of the construction is sponsored and directed by the Department of State, the U.S. Agency for International Development (USAID), and the Department of Defense. The DoD effort largely flows through the U.S. Army Corps of Engineers and the Air Force Center for Engineering and the Environment, or what's referred to as AFCEE. The construction is mainly performed by contractors or, for USAID, implementing partners who work under grants as well as under contracts.

We're looking at construction partly because our mandate from Congress requires that we examine contractor support for reconstruction and stabilization operations. We're also looking at construction and doing so in this public setting because there are definitely problems, and there have been recurring problems that need to be addressed.

Now, there are lots of talented and dedicated people working on these construction projects in Afghanistan, and they do much good work. That needs to be said, but there are also many problems, problems that occur over and over, year after year, involving both government and contractor personnel. And when you have recurring problems of the same type, that's nature's way of telling you that your structures, systems, or staff,need reengineering.

The Commission on Wartime Contracting has taken a careful look at construction efforts in Afghanistan. We've concentrated on many of the larger projects such as the $300-million Kabul power plant that may be too complicated and costly for Afghans to run once American involvement declines. But there are also numerous smaller projects that add up to billions more dollars and also need attention.

The main reason for paying attention to construction projects is their large potential for waste. Waste can result from projects that are poorly planned, overseen, and built. Waste can spring from abuse and corruption. And waste can occur when projects are culturally insensitive, unneeded, or unsustainable.

The government of the United States has been guilty of causing or tolerating all these forms of waste at given times. One of the challenges in diagnosing waste and proposing reforms is that it's not always clear where the money goes. An audit released in October by the Special Inspector General for Afghanistan Reconstruction found that DoD, State, and USAID were unable to readily report on how much money they spent on contracting for reconstruction activities in Afghanistan. It's hard to follow the dollars if there isn't that kind of accounting.

The SIGAR (Special Inspector General for Afghan Reconstruction) audit said that nearly $18 billion was obligated for the three agencies for work from fiscal years 2007 through 2009. If federal agencies can't readily account for their spending, that raises questions about contract management and critical contract oversight. We look forward to hearing more about these issues when General Fields, the SIGAR inspector general, testifies today.

I will add that the commission has developed many questions on its own that we'll explore today. We have walked the ground as a commission and as members of the commission and as staff to observe projects throughout Afghanistan. We've talked to federal employees and

contractor representatives. After an effort that started last spring and included two trips to Afghanistan to look specifically at construction, what have we found? In large part: disappointment.

While we did see some very well-run projects, there were many more examples, too many examples, of projects that were not going so well. Too many projects came in over budget and behind schedule, so the amount of waste in our construction efforts quickly rises to staggering proportions. Of course, trying to build clinics, schools, and other projects in a war zone complicates an already daunting management challenge. In addition, timing is critical.

The military describes a contingency mission in simple terms: secure, hold, and build. If the build phase is launched before the secure phase is complete, you invite failure. You give the Taliban or other enemies a chance to sabotage projects and intimidate or kill the construction workers. That increases costs and delays, and it's simply unfair to contractor employees. Meanwhile, border politics that can block or delay shipments to landlocked Afghanistan makes matters worse.

The wartime setting presents real challenges, but we have observed problems and waste even in secure, behind-the-wire projects. An example from my own experience fits in here. I was talking to the contracting officer representative who was overseeing construction of a barracks on a base in Afghanistan. This fellow was an engineer, but he freely told me that his expertise was blowing things up, not building them.

He was a loyal American trying to do his assigned duty, but he was no more qualified to oversee construction of electrical, climate-control, water, or sanitation systems than we are up here on the dais. This was weakness in oversight, one that invites waste and can cause deaths as when American soldiers were electrocuted by faulty wiring in base-shower systems.

Other weaknesses occur in planning, solicitation of contracts, and management. They are recurring, avoidable, and unacceptable. The commission is devoting a great deal of attention to construction issues, both to improve outcomes and to identify lessons that can help in future contingencies.

We've assembled three panels of expert witnesses to help us probe issues involving construction contracts and grants. Panel one is a one-witness panel. The witness is Major General Arnold Fields, United States Marine Corp, (retired), who was appointed Special Inspector General for Afghanistan Reconstruction, or SIGAR, in June of 2008. General Fields will be leaving government service shortly after a career spanning some 40 years.

On behalf of the Commission, sir, I thank you for that long span of dedicated service to our country and I thank you for taking the time to participate in our hearing.

Panel two comprises federal officials with responsibilities for construction, contract management, and oversight. They are Major General Jeffrey J. Dorko, deputy commanding general, military and international operations, U.S. Army Corps of Engineers; William J. McGlynn, principal deputy assistant secretary, International Narcotics and Law Enforcement Affairs, U.S. Department of State; Colonel Wilfred T. Cassidy, United States Air Force, deputy director, Air Force Center for Engineering and the Environment; and J. Alexander Thier, deputy assistant administrator, AfPak Task Force, U.S. Agency for International Development.

Only in the government—and I'm a government person—can we get titles so long that sometimes I forget the name of the person I'm talking to. But we respect them, and appreciate all of you on the federal panel.

Panel three comprises construction contractors with projects in Afghanistan, a critical part of this hearing. Michael E. McKelvy, president, Government, Environmental & Nuclear

Division, CH2M Hill; Charles Mouzannar, executive vice president, AMEC that's spelled A-M-E-C Earth & Environmental, Inc.; William Van Dyke, president, Black & Veatch Special Projects Corporation; and Larry D. Walker, president, the Louis Berger Group, Inc.

Also appearing with this panel is Bruce McCarron, regional director, United Nations Office for Project Services or UNOPS. UNOPS is USAID's implementing partner for the Ghazi Boys School project. I will note that the United Nations has made Mr. McCarron available to provide information today without prejudice to the status, privileges, and immunities enjoyed by the UN and Mr. McCarron as a UN official.

We appreciate his participation and that of all the witnesses I have named. Before we would start, I would remind us all that commissions like ours are typically created to study problems and propose improvements. This inevitably leads to more focus on shortcomings and failures at the outset than on successes. Both sides of the coin are, though, important.

Our mandate from Congress instructs us to identify lessons learned in Iraq and Afghanistan to help point the way to better outcomes now and in the future. We'll be calling out good efforts, best practices, and notable successes by both government and contractors in that part of our final report in July; that's only appropriate.

We don't intend to short-change anyone where credit is due or to exempt anyone where criticism can help pave the way forward for better results. We've asked witnesses to offer brief oral summaries of their testimony. The full text of their written statements will be entered into the hearing record and posted on the commission's website. We ask the witnesses to submit, within 15 days, responses to any questions for the record and any additional information they may offer to provide.

Now, if the witness for our first panel, General Fields, will rise and raise his right hand, I will swear you in.

General Fields, do you solemnly swear or affirm that the testimony you will give in this hearing is the truth, the whole truth, and nothing but the truth?

FIELDS:

I do, sir.

THIBAULT:

Thank you, sir. Please be seated. Thank you, General Fields.

Let the record show that the witness answered in the affirmative.

General Fields, please begin.

FIELDS:

Thank you very much Co-chairman Thibault, distinguished members of the commission.

I'm very pleased to be here and to discuss SIGAR's work to assess results of construction work and facilities carried out in Afghanistan. As the commission I'm confident knows, over $56 billion since 2002 has been invested in Afghanistan or appropriated there for the reconstruction of the country in the interests of Afghanistan and the people of the United States.

About $29 billion of this fund or these appropriations has been made available for the Afghanistan Security Forces with the intent to build the force to a level of capability to defeat insurgents and to provide security for the nation of Afghanistan.

There's also a train, equip, and basing component to this funding. This reconstruction element of Afghanistan in terms of the Afghanistan Security Forces is largely under the management and supervision of the combined security training command of Afghanistan. That command serves under the auspices of the commander of U.S. forces, Afghanistan.

Facilities are a critical component of the reconstruction of the Afghanistan Security Forces or the building of the Afghanistan Security Forces. Since 2005, $11.4 billion has been made available or is intended for the security forces infrastructure. Much of this money has come by way of appropriations since 2005 through 2010 and will also include appropriations yet to be approved for 2012. Seven-billion dollars of this money is appropriated or will have been appropriated between 2010 and 2012.

We have conducted 34 overall audits in SIGAR, of which 10 of these audits have been focused on addressing infrastructure projects. They have essentially covered garrisons for the Afghanistan National Army, compounds for the Afghanistan National Police, and the reconstruction efforts under the auspices of the Commander's Emergency Response Program (CERP) designed primarily to provide immediate assistance to the population of Afghanistan.

We have over 90 investigations underway involving infrastructure. They can be categorized in the areas of bribery, contract fraud, faulty construction, and substandard material. Our work in general has identified numerous problems. And we have reflected these problems in the 34 audits that we have conducted and certainly in the 10 that focus primarily on infrastructure and the Afghanistan National Security Forces.

So there is insufficient planning, inadequate contract management, and lack of quality assurance in general, but certainly lack of quality assurance and oversight in the areas where the threat to security is greatest.

In reference to the Afghanistan National Army facilities construction, our audits have raised serious issues overall, but many of these issues were raised last year and prompted us to conduct a contract audit or a more focused audit on the reconstruction areas involving the Afghanistan National Security Forces to determine whether or not plans were sufficiently in place to address the long-term future of the build-up of the Afghanistan Security Forces with emphasis on the infrastructure that underpins the force.

And the other issue of maintenance, whether or not there is sufficient capability put in place either by the U.S. or the international community or by the Afghans to ensure that the United States investment in infrastructure relating to the security forces is not wasted. We discovered that there is not a long-term construction plan for the Afghanistan Security Forces. We feel that the lack of this plan could result in buildings that are inadequate in order to meet the long-term or short-term needs of the security forces.

We conclude that the $11.4 billion is at risk if these matters are not promptly addressed. We feel that there is still some time to address these issues in as much as this $11.4 billion, to which I earlier referenced, has not all been spent. Some of it may still need to be appropriated and, therefore, there is time to address the planning, maintenance, and sustainment issues that we need to address to ensure that the American taxpayer's dollar is not wasted.

Some $800 has already been provided by the U.S. for maintenance of the completed facilities in Afghanistan. And this $800 million covers a period of five years. CSTC-A (Combined Security Transition Command-Afghanistan) has informed us that it might be year 2025 before the international community, including the United States, will be able to disengage from providing this maintenance and such maintenance being taken over by the Afghans.

We are issuing a report this week on our assessment and audit of 69 CERP projects in Laghman Province. Those projects represent $58 million of American taxpayer money obligated between 2008 and 2010. The 69 projects that we audited represent 91 percent of the $58 million. They include matters relating to roads, dams, canals, and bridges.

We found that 27 of these 69 projects valued at $49 million are at risk of failing. We recommended to U.S. forces Afghanistan to improve CERP oversight, promote sustainment in Laghman, establish better planning criteria, and assess whether these projects have met or are meeting the intended purpose.

In closing, our work, Mr. Chairman, and commissioners, point to three principal areas of concern. The first is lack of a comprehensive plan for building infrastructure in support of the Afghanistan Security Forces. Secondly, numerous delays have come about which may not keep pace with the intended goals for building the force. In other words, delays will inevitably impact the intended goals and maybe preclude the United States from contributing fully its share to establishing the force as desired by the expected timeframe.

The apparent inability of the Afghan government to sustain these facilities is another of the major concerns. I have generally summarized in broad terms some major issues that really need to be addressed in order for the American taxpayer's dollar not to be wasted in Afghanistan.

I look forward to further questions and comments as appropriates on these matters. Thank you very much.

THIBAULT:

Thank you, General Fields.

The process we're going to use is each commissioner is going to have a limited period of time to engage in a dialogue.

Before I start I'd like to thank you again for your service, and, in fact, I'd like to lead in with a question. You know, you were asked to stand up a robust organization from scratch. You know, there was nothing in place.

Can you talk about that first year? And that was summer of two years ago, two and a half. Can you talk a little bit about what that first year was like in terms of trying to bring in staff and build momentum?

FIELDS:

Thank you very much, Mr. Chairman. I'm delighted to talk about that because that has been one of my and SIGAR's greatest challenges: to construct this organization from scratch with only legislation at the time that I was appointed to this position, no funding by which to build the organization rapidly as I believe the Congress and the people of the United States intended and expected. So there was no funding for SIGAR until basically October of 2008.

When I took this position and had my dialogue with the senior leadership within the government, the implementers, as well as certainly with the Congress, I determined along with my colleagues, the few that I had at that time, that we needed about $23.2 million in order to build this organization rapidly and to declare it ready within one year, which meant to me by 1 October of fiscal year 2009.

That money did not come rapidly at all, even though by the end of fiscal year 2009 I did have the funding that I originally requested. But it did not arrive in time for me to impact the

organization to the extent that I wanted. So our numbers were few and, unfortunately, our products were few at that point in time.

I really expected, commensurate with my interpretation of the legislation, that there would have been more support without compensation, if you will, by the various agencies mentioned in the legislation. But I later found that in large measure for me to have been supported or the organization, SIGAR, to have been supported by these agencies, there was a fee, in general, required. Had I not had to do that, I feel that we would have gotten this organization off to a much quicker start.

THIBAULT:

Let me explore that a little bit. You said that there was a fee. I will just talk about this commission because we had a good experience, and, so, I'd like you to clarify what you were set with.

We received support from numerous organizations within the Department of Defense and Department of State, and you know, it's never timely enough, but it was really pretty timely and it was funded by those organizations. We funded the travel, you know, and the facilities and the computers and things like that.

And so from a staffing viewpoint we were augmented by individuals that, you know, we never put in a senior management position, but they certainly were strong management individuals and analysts that supported us. And so probably within three or four months, we had that in place. And you're saying that you had to pay for, from these agencies that were identified in the legislation, on a reimbursable basis?

FIELDS:

That is generally correct, sir. And what would have been much more of an advantage to SIGAR—if I could have received that help without reimbursement to those respective agencies—that would have helped the organization to move more quickly through this period where funds in support of the organization were minimum at best.

THIBAULT:

OK. You mentioned and were keen on the opportunities for reimbursement of funds or for preventing the waste of funds is in the waste and abuse part of fraud, waste, and abuse. But when you say you've got 90 active investigations and when you say you really couldn't stand up that first year because of funding and staffing limitations in a year and a half or something therein, you've really started up a significant number.

And you outlined that they cover a wide variety of areas. I'll make a statement. Investigations often take a life of their own and they take a long time because of due process. Do you have the staff to execute those? And are any of those languishing because of the limitation of resources?

FIELDS:

At this time, sir, given the fact that we were basically fully funded for fiscal year 2010 and for that amount of money that I was unable to expend during fiscal year 2009 because it came late in the year, I was able to roll some of that money over into the subsequent fiscal year. And so I have essentially been funded for no less than the past year, year and a half, and I feel

that while our staff continues to grow both on the audit side as well as the investigation side, I do have sufficient forces right now to accomplish the basic mission.

However, we are growing this organization to 132 during this fiscal year and we hope to enter fiscal year 2012 with a staff of 180 full-time employees. And if the Congress so approves, our budget for 2012 will be $44.4 million.

THIBAULT:

So I'm hearing you say that while you were challenged with these words we're using, starting an organization absolutely candid from scratch and that it takes a period of time, and I can appreciate that . . .

FIELDS:

Yes, sir.

THIBAULT:

. . . that in the present mode you are being supported in terms of the resource needs that you have. Going back to these 90 investigations, when might we start to see—realizing there's due process, but public disclosure—that's a lot of alleged wrongdoing and typically out of that at a point where an organization accepts it for investigation.

There's a basis for risk, that there in fact has been wrongdoing. When do we likely start seeing outcomes of those investigations in terms of indictments or plea bargains or those kinds of things that occur?

FIELDS:

Thank you, sir. As you have acknowledged, it does take quite some time to undertake an investigation and to move it completely through the process to include handing it off to the Department of Justice for appropriate consideration. And, there are elements in the process over which SIGAR, nor any other inspector general, really has direct control. So, I appreciate your acknowledgment of that.

We have had investigations undergoing for quite some time. Some of those investigations have in fact yielded some results. I would say that they are modest results right now, about $6 million in terms of money that we could directly associate with an investigation of which we have been a part. But we do feel though that some of the investigations that we have underway right now are about to reach maturity, and I feel that the investment that we thus far made in the investigators that we have been able to hire will reap the intended benefit, sir.

THIBAULT:

So, I am again hearing you say that in the near term, we should expect to start seeing the outcomes of an aggressive investigative effort?

FIELDS:

I would like to say that, sir. And let me seize the moment, Mr. Chairman, to acknowledge the deputy inspector general for SIGAR that I was privileged to hire back in November of this year, who has come to us with 20 years of experience in the FBI and about 15 years of

experience directly relating to IG work associated with the Department of Energy, essentially all in a senior leadership position.

He came from the Department of Energy to SIGAR to bring that talent and experience to bear upon SIGAR. And I want the chairman and the commissioners to know that he is certainly already having an impact on the organization. So, that also contributed to my optimism sir, that these matters will be taken care of.

THIBAULT:

Thank you, General. My time has expired.

Commissioner, Ervin, please?

ERVIN:

Thank you, Mr. Chairman.

Like the chairman, General, I want to start by commending you for your 34 years of service to the nation in the military and for your years of service as the first inspector general of SIGAR. Having been an inspector general twice, and one of those times having been an inspector general at a new organization, starting one from scratch like you, the Department of Homeland Security, I'm particularly aware of and sensitive to and sympathetic to the challenges that you faced in your job.

Building on that line of inquiry regarding what happened at the beginning that the chairman began with, I want you to expand on that a little bit. Given the legislation creating SIGAR and the urgency of the war effort and the length of time that passed from the inception of the war in 2001 and the creation of SIGAR and the amount of money as you noted in your

testimony that we have been spending in Afghanistan, why do you think you got so little support at the inception to do your job?

FIELDS:

Well, sir, I think there are many reasons why the support was not there. And I will only speculate that what I'm about to say was the real reason or were the real reasons for the lack of support. First off, there are mixed emotions within the federal community even among the inspectors general themselves about the efficacy of the concept of a special inspector general. I think that as a concept, if you will, contributed adversely to the more rapid stand up of SIGAR or the level of support that might otherwise have been given to the organization.

The other is we waited too long to address or to focus on oversight for reconstruction in Afghanistan. It would have been much better had SIGAR the advantage that my SIGIR counterpart had of having been stood up very early in the process and bringing, as I understand it, into SIGIR, the Special Inspector General for Iraq Reconstruction, funds at the onset and what I am led to believe were no-year funds at that time.

That was a considerable advantage. Plus there was a nucleus from the provisional authority that existed before we stood up an embassy in Iraq. And so that nucleus of an oversight agency also was good enough upon which to begin to build a longstanding and much more robust inspector general organization. So, I think all of those matters came to bear on this.

I want to also quickly say, commissioner, sir, that while on the one side, the IG community, some of them, may not wish to have supported a special inspector general, but I think that idea is born out of the fact that we do already have existing inspectors general within the Department of State, Department of Defense, and USAID whose job it is to oversee some of

the very measures that SIGAR is overseeing. But the one thing that SIGAR's legislation brought to bear upon the oversight community is the ability to look across agencies.

ERVIN:

Thank you for that answer. Let me build on it by asking your opinion as to the notion of figuring that we're going to have contingencies in the future. I think that's likely to speculate on.

Wouldn't it make sense for there to be a standing special inspector general for reconstruction not tied to any specific contingency, but a standing inspector general that would be available the next time the United States government has a contingency, with the necessary resources in terms of money, in terms of staff, in terms of experience, and expertise so that the next time we have such a contingency, the inspector general can hit the ground running? What's your view of that?

FIELDS:

Yes, sir. I have discussed this issue with my distinguished counterpart, Mr. Stewart Bowen. And it has some value because it would preclude having to stand up a SIGIR or another SIGAR, or a SIGTARP in the case of the troubled asset recovery, program, and so forth.

But the other part of it is whether or not the American people—not a question for me to answer, this is a policy question—but are the American people willing to put in place such an entity which suggests that we will have future emergencies of the magnitude of Iraq and Afghanistan to which the American people will be inclined, if not expected, to provide tax money in support of these efforts.

So, that is the downside of this organization. But I would say, sir, in general, there is value to having a body or an entity like this in place.

ERVIN:

Absent that, that's not going to happen anytime soon, but absent that for the foreseeable future, do you have any advice for your successor about how we can make things better with regard to Afghan reconstruction and the management ongoing work of SIGAR?

FIELDS:

Yes, sir. I do have advice in that regard. First off, I want to reiterate that Mr. Richardson, the deputy inspector general currently for SIGAR comes well equipped to deal with matters in reference to the inspector general community. So, that's very much an advantage to him.

Also, the work that we have done, those 34 audits to which I earlier referred, the six formal inspections that we have conducted, the over 100 recommendations that we have made, I think he will benefit from those by following up with the appropriate entities, the implementers, be it the Department of State, Defense, and USAID, and certainly with the Congress to ensure that these matters are appropriately addressed.

I think he will have a much smoother ride than I have had in this capacity, sir.

ERVIN:

Thank you. Just a couple of other questions for me, I just wanted you to talk generally about the sweep of development since you took this job now that you're leaving.

Do you think the things that we're focused on today in this hearing, the importance of cost controls and sustainability and host-nation buy-in, and support for projects, and taking past performance into consideration as a key foundation of accountability, and feel free to give some examples, are things getting better in Afghanistan or are we basically where we were at the inception of SIGAR in this regard?

FIELDS:

Sir, I'm not confident that there is evidence that we're getting better at it at the implementation level, at the bottom line—I would say at the tactical level, which is really where the work is being accomplished.

However, given the president's or this administration's focus on the new strategy in addressing Afghanistan which emphasizes certain elements to include reconstruction elements such as shoring up agriculture in Afghanistan, but also focusing more on involving the Afghans in the reconstruction of their own country, which also has a focus on contracts elements to it, I think these are all good matters, sir, that will ultimately help to improve reconstruction in Afghanistan.

My most significant recommendation, however, would be that while we were inclined to do something very quickly following the 9/11 matters, and I have used this phrase before and I don't mean it condescendingly to folks who are a lot smarter than I am in addressing these issues, but I believe back in 2002 when we commenced our effort in Afghanistan, we began to kind of throw stuff up on the wall hoping that much of it would stick in order to perhaps build upon and arrive at largely where we currently are in reference to reconstruction in Afghanistan.

I would say we should do a better job on the front end. Take that extra moment to plan better, consider the environment, consider resources—consider limitation.

ERVIN:

Thank you very much, general. My time has expired.

THIBAULT:

Thank you, commissioner.

Commissioner Green, please?

GREEN:

Thank you.

General Fields, as someone who also spend a considerable time in government both in the uniform and as a civilian, let me echo the appreciation that others have expressed for your four decades of service, 34 as a Marine. I guess you're still a Marine, aren't you?

FIELDS:

Once a Marine, always a Marine, sir.

GREEN:

But I think we all appreciate that service very much. I also want to thank you for your very frank and informative opening statement, some of which you orally presented and other that will be entered in the record. You have raised many issues that are of concern to this

commission, projects, even though we've been in country for—we can argue the timeframe, nine years or whatever—projects that are duplicative, not always culturally sensitive.

I even understand we're still trying to figure out in some cases how to build latrines, projects that aren't needed or wanted by the local governments, and certainly, projects that are not sustainable. And you highlight several times in your testimony the issue of supportability and sustainability.

With that in mind, what is your sense of the degree to which the Afghan government, even the national government or local provincial governments are consulted on projects both before we undertake them and during the implementation of the project?

FIELDS:

Thank you very much, sir. I appreciate your compliments regarding my service, sir. And I wish to thank you, sir, for your service. And I wish to thank this commission for what you have done to make reconstruction during wartime a better place so to speak.

Sir, sustainability is one of the critical issues involving reconstruction in Afghanistan. I made my first trip to Afghanistan in this capacity the third week of September of 2008. And the very thing that I was first hit with about right here, coming from the Afghans at all leadership levels, from the ministers, in ministries in Kabul, to the provincial governors, to the people that I might otherwise have met in my visits to over 15 of the provincial reconstruction teams representing about 17 provinces out there, we have not done a good job of including the Afghans in the reconstruction of their country.

They have brought this to my attention every time I have had the privilege to visit Afghanistan. It's a re-occurring story and it's the same kind of feedback to me I get at all levels

suggesting that there must be some script, which I'm confident is not the case. But I get this everywhere I go. So, it is a serious problem. I do not believe, sir, that we have done a very good job at all of including the Afghans and consulting the Afghans before, during, nor after these projects have been instituted.

Now, let me add a bit of perspective to this. Earlier, I said that we have done a poor job early on of planning. And this is certainly the case and it's still the case given the audits that we have conducted.

However, I have seen evidence, sir, of improvement in this regard. I am acquainted with what the Corps of Engineers, for example, as an organization is doing to include the Afghans in the reconstruction efforts for which they are responsible, for which the Corps of Engineers is responsible. They are including in their contracting more emphasis on not just the involvement of the Afghans, but also the sustainment of the projects that are being put in place.

GREEN:

Thank you very much. As Chairman Thibault mentioned in his opening statement, there's a lot of good work that is being done in Afghanistan as well as Iraq for that matter. And I certainly don't call into question the dedication or the focus of those good people, whether government, folks in uniform, or civilians or contractors that are working in Afghanistan, nor do I call into question those who will serve there in the future, but I'm concerned in the current budget climate that we are facing in this country.

How confident are you that the resources will be there for the U.S. and the international community for that matter to continue to provide this kind of support? How will we sustain these programs?

And if I can use very briefly Iraq as an example, once the troops are gone, the focus is off. And at some point, troops will leave Afghanistan. And whether you accept the fact that, let's use O&M, operations and maintenance funding is good through 2014 as one of our other witnesses has indicated, 2015, as you, General Fields, have indicated in your testimony, or 2025, that CSTC-A has laid out there, how confident are you that this country will have the will to continue to provide the kind of support that will be needed to put people in country, whether they be contractors or government people, to provide the necessary oversight and contract support that will be needed?

FIELDS:

Thank you, sir. First, let me address your question from the standpoint of the inspector general for Afghanistan reconstruction. Then, I would like to address it from the standpoint of a citizen and a taxpayer of the United States of America. First, I wish to applaud the government of the United States and the American taxpayer for thus far having been willing to invest this level of funding for reconstruction in Afghanistan.

I reiterate, over $56 billion in a current appropriation request answered by Congress. This figure could reach very quickly as much as $71 billion. So, there has not been a paucity of contribution by the American taxpayer, thus far, in this conflict with all of the debate that underpins reconstruction in Afghanistan. So that's good news.

But there is an expectation—and I often offer this in the context of my leadership of SIGAR—that while we are providing oversight of funding for Afghanistan, we are also providing and somewhat assuring that there will be the confidence among the American people to further this tremendous investment to its ultimate objective.

To maintain that level of confidence, the American taxpayer has to be assured that the funds that are being made available or have been available are being used for the purposes for which the Congress appropriated them. And there is doubt in my mind, doubt in the minds of my auditors and my investigators that this is in fact the case. And so I am concerned from the standpoint of SIGAR that we are not taking full advantage of this opportunity in Afghanistan.

As an American taxpayer, while I have always been willing to pay my taxes commensurate with the needs of the United States of America, I will continue to do that. And I, having been in this capacity, I understand what we are up against. And I have probably a better appreciation for this and the dynamics that underpin it than the person in middle-America. And so it's that person in middle-America that we have to convince that this effort is worthwhile and must continue to be supported by the American taxpayer.

That is a part of my job as SIGAR. It's a part of, I think, the federal government, but I think that the American people right now, from my senses, are becoming a bit weary with this investment in Afghanistan.

GREEN:

Thank you, sir. My time is up.

THIBAULT:

Thank you, commissioner.

Commissioner Tiefer, please?

TIEFER:

Thank you, Mr. Chairman. I want to start by a tribute about this hearing to the chairman, to you, Mr. Thibault.

This hearing, more than the usual hearing, this hearing would not and could not have occurred without him because he has led multiple inspection trips into Afghanistan, not just to the capital, but out Lord knows where, all around to where the construction sites are to bring back information that we needed for this hearing.

And so the value of what he has brought back from his trips is not just what he will say and do in this hearing, but what we all are sharing and doing in this hearing. I could not do what he does, but I can build on it anyway.

Mr. Fields, I'm going to go from the macro picture of some of the previous questions to one of your best audits. It's mentioned in your prepared testimony. It's the one about the Kabul power plant. What's the nickname out there, the white elephant of Kabul. And let's take half of the title. It says that, "Sustainability—sustainability remains a key challenge."

Now, I'm going to ask you about that in connection not only with the Kabul power plant, which was a diesel-generating power plant, but with the decision to do another diesel-generator power plant in Kandahar City as part of the Kandahar power initiative. What is the long-term sustainability problem of these diesel power plants? And what kind of burdens or irritations, call them what you will, does it put on the Karzai government?

What’s the basis on which you said, and I think you said rightly, sustainability for this kind of a plant is a big challenge?

FIELDS:

Thank you, sir. First, I must reiterate that the issue of sustainability we have found to occur largely throughout the overall reconstruction effort, but especially in infrastructure, which would include buildings, roads . . .

THIBAULT:

Excuse me, General, is your microphone on?

FIELDS:

Yes. Yes, it is.

THIBAULT:

OK. Maybe you could speak up a little bit?

FIELDS:

I can certainly do that, sir.

THIBAULT:

Thank you.

FIELDS:

Let me just reiterate what I just said, that the sustainability is an issue that permeates the whole of the reconstruction effort, but especially in infrastructure—buildings, roads, bridges, dams and matters like that. Specifically in reference to the energy sector, we are inclined to shore

this element up because it is one of the four top issues that are brought to my attention by everybody, from President Karzai to the children that I've met in Afghanistan, that they want electricity, they want agriculture, they want education, and they want roads.

Those are the four top reconstruction issues for Afghanistan. So, we rightfully have addressed the issue of providing energy, helping the Afghans to improve their energy situation. The Kabul power plant and the use of generators and fueled by diesel or various and sundry other variations thereof, that's an issue for many reasons.

But let me just address two of them. One, diesel is hard to find and to resource these generators. I've been to the Kabul power plant. It's an amazing plant. I presume that some of the commissioners may have been there as well. I'm impressed by the layout of it, the giant generators and so forth. So, from that standpoint, it is impressive, but that only goes so far because once the contracts end, that currently provide maintenance, to whom will the Afghans turn for that support?

Secondly, there was an issue of the capability of the Afghan government to fund the fuel, the very fuel that is necessary to support these generators. So, we have discovered as a result of our audit work, and we also have an ongoing investigation associated with this with the Kabul power plant, that these two deficiencies put this incredible investment over $300 million in the Kabul power plant alone at considerable risk.

TIEFER:

Let me follow up. That's very beneficial. As I understand the kind of figures about the diesel versus other matters. It's costing 22-cents a kilowatt- hour for diesel fuel in the Kabul power plant and so it's not being used mainly for the electric power of Kabul because they have a

six-cent a kilowatt-hour power over the transmission line from Uzbekistan. And I won't ask you what that investigation is that you're doing, but I'm sorely tempted to ask. I won't, but I'm tempted.

A second question is the delays. The other part of your audit about the Kabul power plant was that title, Contract Delays Led to Cost Overruns for the Kabul Power Plan—delays. Now, that was a Black & Veatch construction project. They supervised it anyway even if the subcontractors did the actual work. And the new diesel power plant for the industrial park in Kandahar is, again, this time sole-sourced as a Black & Veatch plant. Do they have problems working with AID to meet their deadlines?

Is this delay problem that you singled out, and I think rightly so for the Kabul power plant is this likely to be another problem with AID and their sole-source contractor, Black & Veatch?

FIELDS:

Sir, we are aware of this most recent sole-source at the tune of something like $280 million or a figure . . .

TIEFER:

That's right.

FIELDS:

Yes, sir, pretty close there. This is being examined. I don't have the details that you're asking for at this time, sir, but I'm confident as a result of what we are doing, looking into the

sole-source initiative as well as we continue the audits of other similar kinds of investments by way of USAID, some of your questions, I am confident, sir, will be answered.

But we do, as I mentioned in my earlier statement, acknowledge that these delays as a result of poor planning, inadequate expertise, substandard materials, and so forth all come to jeopardize finishing these projects on time and within appropriate budget.

TIEFER:

I'm not going to take much time because I'm coming to the end of it, but I want to confirm, because I think this is a dramatic—it's not a sign of substantive action, but dramatic auditing action—you're going to have an investigation for the Kabul power plant and you're looking into the Kandahar sole-source power initiative. Am I right on that?

FIELDS:

That is correct, sir.

TIEFER:

Thank you, sir.

THIBAULT:

Thank you, commissioner.

Commissioner Henke, please?

HENKE:

General Fields, good morning. I thank you for your dedicated service, both in and out of uniform. Sir, I've got a couple of things I want to highlight from your testimony, which I think is really remarkable. And I thank you for being so clear in your written and spoken word.

The last paragraph of your testimony says, and you mentioned this in your opening, you have three major concerns about building Afghan forces. Number one, there's no comprehensive plan. Number two: your words."The projects are seriously behind schedule, making it doubtful if the construction efforts will keep pace with recruitment and training, so we may be building forces faster than we could put them in barracks simply," and number three, the sustainment issue.

We're building something so large the Afghan government won't be able to pay for it. Their entire revenue this year is on the order of a billion dollars and we're spending billions to build something that will cost billions to sustain. The bottom line of your statement I think is really remarkable. And I want to make sure it does not go unnoticed. These issues, your testimony, "These issues place the entire U.S. investment, the entire U.S. investment of $11.4 billion in ANSF facilities construction at risk."

So, every bit of it is at risk. Is that correct, sir?

FIELDS:

That is correct, sir. And I wish to amplify further what I have previously said. The entire $11.4 billion is at risk for many reasons. The three principal reasons that you pointed out, I would wish to home in on the lack of a plan as a part of that, because if there is no plan that we are pursuing. In other words, we are going somewhere, but we don't know where we are going.

HENKE:

Right.

FIELDS:

. . . and then we'll not know when we will have arrived. And part and parcel to that, of course, is a maintenance plan. And so if this maintenance plan isn't a part of the reconstruction effort, what level of assurance does the American taxpayer have that these facilitates into which we are spending millions of dollars, needless to say, will be maintained? That is where the principal problem lies.

HENKE:

I also want to take it to a different point that, setting the dollars aside, building ANSF forces is important. Why? Because it's the way we can hand off security to the Afghan government and leave. Is that your judgment, sir?

FIELDS:

Sir, that's a policy issue. But, yes, sir, my understanding of it is that we are investing most of the reconstruction funding in the establishment of a substantial and strong Afghanistan security force, police, and army, in order to be able to hand off what we are currently providing by way of our own armed forces in Afghanistan.

HENKE:

Right. So, building ANSF is the single most important reason to bringing U.S. forces home. And the single most important challenge it seems to building facilities is a consistent theme in your testimony, just to a quote a couple of parts, if I may. I'm quoting, "Security issues prevented the Corps of Engineers from regularly visiting a site to provide quality control."

Another quote, a different audit you did, "U.S. Army Corps attributed the lack of adequate project oversight in part to security concerns." Another quote, this time, related to CERP money and PRTs, I believe, and a road project. "Security has also been a factor preventing PRT officials from conducting the necessary oversight."

So it seems to me sir that the number-one reason, the overarching reason why it's tough in Afghanistan is because of the security situation. Is that accurate?

FIELDS:

It is certainly a major contributing factor, sir. While security is important, I would also again reiterate that the lack of a sustainment component to each of the reconstruction initiatives is contributing as well. But, yes, sir, there are cases where there are projects that are underway. They are being overseen by hired Afghans, who in some cases, according to some of our audit work, may not have the necessary skills to provide the kind of oversight necessary . . .

HENKE:

Right.

FIELDS:

. . . and feedback to the implementing agency. So those are certainly significant issues, sir.

HENKE:

Is it accurate to say, General, that the key to the problem is security and that we're trying to build things in a place where the enemy is trying to blow them up and to kill us while we're doing it? Is that the basic reason?

FIELDS:

That, I would say, sir is the basic reason. But I want to also say, and I understand that I have been privileged to serve in the capacity of inspector general and so when I make a request for something, folks tend to abide by it and, probably sometimes, including taking certain risk that they might otherwise not have taken.

But I want to say that there is only one occasion, maybe, at best, two occasions involving the same province to which I have not been permitted to go at the time that I was in Afghanistan. And that province is Kunduz.

I made at least two requests to go there. It was turned down because of security. I never argue with the embassy or U.S. Forces Afghanistan on that regard.

HENKE:

So you, as the inspector general, have been told, "It's too hot to go there." Is that it?

FIELDS:

Only in that particular case. But I've gone to other hot places, if you will. I've been all over Helmand province, for example, probably, the most-hot province of the 34 provinces of Afghanistan. I've also been up to Kajaki dam and physically examined that situation up there in the midst of a highly insecure environment.

So what I'm suggesting, commissioner, sir, is that this is war and, sometimes we have to push the envelope in order to ensure that the oversight is being providing so that the American taxpayer dollar is not wasted. And I'm not confident that we are pushing that envelope. . .

HENKE:

Right.

FIELDS:

. . . quite to the maximum extent.

HENKE:

So, you're saying, if I hear you right, that it is possible to get out. It is possible to see things. It is possible to provide oversight. You just have to want to do it.

FIELDS:

Yes, sir. I believe that's a part of it. I don't want to suggest that security is never a real issue. It is.

HENKE:

Of course.

FIELDS:

But we just have to manage the risk.

HENKE:

Thank you for the clarity of your statement. When you said that this is war, I think that is helpful to focus on. We can call it a contingency or a counterinsurgency or COIN, but the bottom line is that it's war and, certainly, the people there understand that.

General, in the time I have left, I want to pick a point from your testimony that I have found interesting. The current plan as it is, is to build 884 ANSF facilities through 2012 with the money already provided. Thirteen—excuse me—133 of them are finished, 78 are in progress, and 673 haven't been started.

So, 76 percent of the projects in the current plan as it is, and you have your concerns with the plan, 76 percent of those projects haven't been started. What do you take from that?

FIELDS:

Sir, that information, I just want to reiterate, is accurate, based on our recent audit of infrastructure relating to the security forces and the extent of which a plan is or is not in place in support thereof. That audit will be published by the end of this month of January. And that's a problem. It appears almost impossible.

I mean, nothing is really impossible if we bring resources to bear upon things appropriately, but it appears questionable no less that we in a relatively short period of time in

about two years or less, will have built the magnitude of infrastructure, 884 facilities, with only 133 of those facilities in place as we speak.

HENKE:

Thank you, sir. I'm out of time.

THIBAULT:

Thank you, commissioner.

Commissioner Schinasi, please?

SCHINASI:

Thank you, Mr. Chairman.

And I'd like to start by saying thank you General Fields for the work of your agency, because you brought to light many, many issues that, until we get them fixed, will continue to waste taxpayer dollars and also challenge the success of the mission in Afghanistan overall.

I'd like to talk a little bit about the Commander's Emergency Response Project, the CERP program, as it's known. You spend some time in your statement talking about overall work that the agency has done on CERP. But I would like to turn particularly to a review that you completed last March in the Farah province, the Tojg Bridge. And the title of this report is, Construction is Nearly Complete.

I would think that's the glass half-full argument—80 percent complete. If you don't have a complete bridge, it's not going to do much good getting across it. But the reason I thought that

that review was particularly interesting is because it brings up so many of the issues that we see in so many of the projects.

On the requirement side, the Afghan ministry was not involved in setting up the requirements for this project. But even more telling, I think, what you found was that the Provincial Reconstruction Team, the PRT team there, the lead didn't support this project and it went forward anyway.

Problems in execution, poor quality, don't know if the concrete's going to hold up, test procedures weren't sufficient to tell us whether or not we actually would have a bridge by the time we got finished and, again, the issue of sustainability that my colleagues have raised. We're not sure that the bridge will be sustainable. So, I guess, my first question, having finished this audit in March 2010, I just wonder if that bridge has been completed, if you know the status of that project.

FIELDS:

I'm not sure of the status of the project. I will tell you that our involvement with the Tojg Bridge in Farah province began really with an inspection, short of the specifications of a bona fide audit. But we took interest in it because it was a CERP project for one, the value of which, I think, was at or about a million dollars or probably slightly more.

SCHINASI:

A little bit more than that.

FIELDS:

Yes, slightly more than a million dollars. We turned it into a contract audit. And so those results that you are reviewing as a part of our March report were associated with the fact that we ultimately conducted a contract audit of the Tojg Bridge. I'm not sure of the current status of that bridge, but I will certainly be willing to find out and let you know.

SCHINASI:

The recommendations you made sound very familiar: establish accountability, ensure necessary quality control, you know, address the deficiencies and the documentation. I mean, it continues to amaze me that audit after audit after audit after audit you continue to find the same problems no matter what the size of the project or the location in Afghanistan.

But I'd like to turn to your statement. One of the things that I think was interesting to me is the fact that the U.S. Forces Afghanistan disagreed with your findings that large-scale projects in the CERP program pose any management risks. Were you surprised? Most of the audits that I've read of yours have the agency agreeing with your recommendations and, in most cases, agreeing to take the actions that are necessary to fix the problems that you've uncovered.

Yet in this case, it seemed that the military was disagreeing with your contention that there are risks in large-scale management programs.

FIELDS:

We will still stick to our story that they are at risk for a number of reasons. One of the reasons is that because it's a CERP project and the costs in many cases tend to be high. But the oversight of the project oftentimes, particularly when it's one that costs quite a bit of money, let's say over $500,000, the supervision of the project is normally handed off by an outgoing PRT, for

example, and handed to the incoming PRT and that handoff, we have discovered, precipitates lack of continuity of effort.

Oftentimes, the incoming PRT commander doesn't see the value in the initiative that his predecessor may have seen, and in some cases, have turned off projects or have not necessarily provided the level of supervision that would be necessary for the project to reach its full maturity commensurate with the investment. So we'll stick by our guns in terms of our assessment of such projects.

We did note in our CERP audit, our initial CERP audit, that of all CERP money, 67 percent of the money was being spent on three percent of the projects, that three percent of the projects represented projects $500,000 or more. And we did not feel and still do not feel that such initiatives are commensurate with the Congress's intent of the use of such funds.

SCHINASI:

Let me ask you, on our second panel, we're going to have representatives of the Army building agency, the Air Force building agency, State Department building agency, the USAID building agency. Is there any reason to have yet another group of individuals who are not schooled in building techniques to even have projects of this size in Afghanistan? Is there a need for CERP to be doing construction projects?

FIELDS:

Well, as a former active duty military officer and privileged to have been a combat veteran and so forth, I feel I don't want to get in between the commander's perspective on the

ground. I still value that. And even in my capacity as inspector general, I must take into consideration the needs of the operational commander.

But at the same time, I must take into consideration the extent to which there is the capability within the realm of the commander who might implement, or put in place a CERP project for the benefit of a near-term tactical gain if you will, that there still needs to be that level of oversight so that the American taxpayer dollar is not wasted.

And, therefore, there should be limitations on the extent to which this money can be used for projects that might otherwise be implemented by a more longstanding and resourced organization such as USAID.

SCHINASI:

I think that when the CERP program was originally put in place, it was envisioned that it would be used for projects of about $10,000 with limit maybe at a $100,000. And you note in your statement that the 2011 National Defense Authorization Act has put some limits on CERP funding, but they limit individual projects to a maximum of $20 million. That seems to me to be a far cry from the $100,000 limit that you're referring to with the commander's needs from an operational imperative.

Would you say, is that limit sufficient or would you look for even lower limits given the kind of risks that you've talked about in managing these large projects?

FIELDS:

Well, first off, I'm very pleased to see that the National Defense Authorization Act of 2011 has taken into consideration some of the issues that we have brought to the attention of the Congress by way of our audit work.

I acknowledge the fact that while we reported in previous CERP audits the concern about projects that exceed $500,000 but certainly acknowledge that the Secretary of Defense and the Congress now must do certain things, the Congress to oversee the extent to which these projects are being put in place at various amounts of money, $5 million, the Secretary of Defense must, you know, notify the Congress that such is underway. And there's a $20-million maximum for any individual CERP project.

So, all those things are, I would say, good. And I'm confident that they've gone through appropriate examination by our civilian and military leaders. And it probably suggests the maturing of the reconstruction effort in Afghanistan. And so I will not for the moment, and not ever, actually, debate the efficacy of those decisions.

SCHINASI:

Thank you. My time is up.

THIBAULT:

Thank you, commissioner.

What we're going to do here is if anyone has a final question, we'll follow the order and then say thank you. One of the things I think that's important, General is to reinforce your statement. And several up here have done this about the criticality of who's going to pay for the sustainment.

And Commissioner Henke brought out that the revenue available is a billion dollars or so. So, obviously, the government of Afghanistan is not. And so then you get into the question of everyone tosses out or discusses because it's been mentioned as a highest level of priority by the president, that maybe 2014 is an end year. And I carry a slide around with me that is a 10 November of last year slide from, you say it's CSTC-A and one of these. Is it NPMA or CSTC-A, but now, I'm told to call it the National Training Mission, but it's the same organization.

And this slide shows sustainment pushing for 2015 and 2016, $5 billion a year, total cost that they've put into their pipeline of 5.7, 5.7. And the slide also says, which talks to the cost impact that I don't think people understand is that it says, and I'm going to quote this, "2003 to 2009," (it was six years for their mission) "$20.5 billion to build and sustain the 200,000-soldier and police force, Afghan force."

And then it says, "2010 and 2011," an interesting choice of words, it says, "Two years and $20.8 billion to sustain." So it was 20.5 for '03 to '09 and, now, in the current year and just completed year, two years and $20.8 billion to sustain, and then it says, "And regenerate the 200,000 workforce," which, you know, when we inquired about it, and this was presented, that loosely said or probably fairly accurately said is you had to go find some of the people and retrain them and all that, so all of that money to build and construct and to train. And they say to build and sustain also, to build and sustain an additional 105,000.

So my point is, this is just the training mission and to look at the chart for '15 and '16: 2015, 5.7 or 5.7 for the total of which the significant majority is sustainment. It begs the question, are we really aware of just what we're committing to by building that force? And I'm just sharing that.

And the last thing that I wanted to ask is, you said you had a hundred recommendations. What kind of pushback have you had by agencies that say, "Well, that's great but?" Or what have you found by agencies, either pushback directly or a pushback that is in the form of they haven't done anything with it?

FIELDS:

Yes, sir. First, I will say that, in general, the agencies have been receptive to our recommendations. I would say that about 90 percent of our recommendations have been accepted by the respective agency or agencies. But the extent to which everything that we have offered as a remedy for certain problems may not have been put in place yet. But I'm not prepared to say that they will not be put in place at any point in time.

I'm inclined to say that they will be put in place at some point in time. For example, we recommended that we need a centralized database for contracting in Afghanistan or contracting overall, but specifically when it relates to continuous operations such as those of which Afghanistan is characteristic. To my knowledge, no such system has thus far have been put in place.

THIBAULT:

Thank you. To my knowledge, no such system has been put in place also.

. Commissioner Ervin?

ERVIN:

I just have one. I don't know if it's quick or not, General, but I don't have much time. I want to take advantage of your being here to ask a series of overarching policy questions. That's what I did in the first round, and I want to do that to some degree here.

In your judgment, has the United States government, and by that, of course, I mean, specifically DoD and State and AID, that's our target here, have we become overly reliant on contractors? I think everybody would acknowledge that there's a role for them to play in contingencies, but have we defaulted to them all too often?

What's your judgment about that? Is there organic capacity that ought to be grown in government such that we wouldn't be as dependent on contractors as we presently are and as we will be in future contingencies if action isn't taken now?

FIELDS:

Well, first, I must agree that we are very dependent upon contracting.

ERVIN:

And sir, could you just again speak a little bit more? Thank you.

FIELDS:

Let me say again that I believe that we have become very dependent upon contractors. And I'm not suggesting that that is all bad. We have to examine, you know, the risk, if you will, or the capacity, what capacity exists within the federal structure and what capacity must we tap into in order to bring about a certain capability or end that we're looking for.

So we are going to be involved with contractors, I think, for the duration. So I won't argue that we have too many contractors or too low. I believe that the jury is still out in that regard. What I will argue though is that we don't have enough trained folks within the federal establishment to provide the oversight of the very contractors that we are bringing aboard.

And something that has come to my mind recently is it should be axiomatic that a part of the training regimen of our leaders both on the civil side and in the military ranks should be contract training. And that's something that I never had really as an officer. And I have had contractors under my charge, but of course I've had trained contractor-expertise to assist me in that regard. But I think we need more depth and breadth of contract training as a basic element of the curriculum that's provided to our officers and our staff NCOs.

ERVIN:

Just one other question that is a logical follow up to that: Do you have any particular concern about private security contractors?

FIELDS:

First off, I have benefited from private security contractors as a part of the many visits that I've made in the Afghanistan in this capacity. They have all served me well. So I have not an issue in that regard.

But if I were to suggest an issue, it will only be that we need to ensure that the private security contractors work within the compliance of the contract under which they are hired and that they work and serve in a matter that respects the sovereignty of the nation in which they are providing such support.

ERVIN:

Thank you, general.

THIBAULT:

Thanks, commissioner.

Commissioner Tiefer, please?

You're OK, right?

TIEFER:

Yes. I only wish to join my voices with those of my fellow commissioners in expressing gratitude to you for your service. Before you became SIGAR, the public knew the scandals of wartime contracting in Iraq, but not Afghanistan. Afghanistan was a small blip on the screen as to that issue.

You have been a leading national educator about this. I know young people, like the students I teach government contracting law to at the University of Baltimore Law School. They read in the news a short version of your reports and they learn real-life lessons that in the classroom are impossible to teach. And I commend you for how you have brought to light the persistence in Afghanistan of contracting waste, fraud, and abuse.

Thank you.

FIELDS:

Thank you very much Mr. Tiefer. I am pleased that this work and maybe my contribution to it is having an impact across the board in Afghanistan, but there's an impact, sir, over which you have significant influence to build up and raise up younger folks who can take these positions and bring their intellect to bear upon improving how it is that we do this work.

You know, commissioner and commissioners, when I look at this picture over here, this is a bridge in the province of Kunar. It's called the Guryak Bridge. It's not one that I have personally visited. I have been in the province of Kunar and I have crossed this very river that this bridge is supposed to span. And, no, that is not the way the bridge is supposed to look. It is crumbling.

It was basically handed off from the standpoint of its warranty during August or July of 2010. Poorly built; this is an example of poorly built structures in Afghanistan. As I understand it, it's still under investigation by my investigators and perhaps my auditors as well—poor construction, likely substitute, inferior material used in the bridge. So, we need to correct these matters for the benefit of the American taxpayer and certainly for the people of Afghanistan.

THIBAULT:

Are you good, Charles?

TIEFER:

Oh, yes.

THIBAULT:

All right. Thank you, commissioner.

And, you know, I've been sitting here thinking, General Fields, the whole time, don't forget to ask him about that bridge. So, thank you so much for bringing it out because I'm sitting here and saying how would I like to be someone traveling and what kind of transportation—and maybe I could do it by holding on to the guardrail as you're going down on that, but I don't know.

Commissioner Henke, sir?

HENKE:

General Fields, just a brief couple of questions if I may. Does Afghanistan have now an effective rule-of-law system?

FIELDS:

I don't feel that we are there yet. We are a long way, sir, from an effective rule-of-law system. We are committing resources by way of reconstruction efforts. Of the $56 billion that we are spending towards reconstruction alone, not military operations or other matters, but reconstruction alone, that figure is about $16 billion divided between governance and development.

HENKE:

Right.

FIELDS:

So we're spending a lot of money to shore up the government of Afghanistan. It also involves facilities and so forth, but no, sir, we are not there yet.

HENKE:

Sir, you've made a number of trips to Afghanistan I'm sure. How many times have you had the chance to travel?

FIELDS:

Thank you, sir. In a previous life, I traveled several times to Afghanistan before I took this position and while I was still on active duty. But in this capacity, I've been to Afghanistan eight times, sir.

HENKE:

When you are there, there are times when you're behind the wire and outside the wire . . .

FIELDS:

Yes, sir.

HENKE:

. . . when you're on a base or you're off a base.

FIELDS:

Yes.

HENKE:

You've, I'm sure, stayed at Camp Eggers and various forward operating bases. Sir, is that correct?

FIELDS:

I have stayed certainly at Kabul and I've stayed overnight in several places elsewhere within Afghanistan.

HENKE:

Right. Is there a clear distinction between being behind the wire and outside the wire in terms of your security?

FIELDS:

If your question, sir, is related to the crescendo, if you will, and the concern about security once one departs the forward operating base . . .

HENKE:

Right.

FIELDS:

. . . for example, yes, sir. There's a considerable difference between being inside the compound and exiting the gate no matter under what circumstances.

HENKE:

Right. It seems to me that when you're going outside the wire, you're going into a place where there is no effective rule of law. Inside the base, you're not safe, but you're safer. And there's an effective rule of law there because you're an American citizen on a U.S. base.

As to this issue as it relates to Afghanistan sovereignty and President Karzai has decreed to restrict or constrained private security contractors, does having armed private units support or undermine the legitimacy of the Afghan government?

FIELDS:

Sir, I would say that the answer to that question is oftentimes in the eye of the beholder. But I feel that in as much as we are spending $29 billion on shoring up the Afghanistan National Army and Afghanistan National Police, one might conclude that this investment should already have yielded some level of capability within the security structure of Afghanistan to provide some of the security that we are seeking through other means such as, you know, the contract community.

In terms of the sovereignty of the government and all these matters involving President Karzai's intent to eliminate the PSCs in Afghanistan, it's still under debate. And I would comment only to the extent to say that, yes, we do need to have a secure environment within which to conduct this reconstruction work. The extent to which the Afghan government and other resources in Afghanistan can provide this support, I think we should tap in to that to the extent that the capability exists.

HENKE:

So, relying more on Afghan forces would have the added benefit of supporting the legitimacy of the Afghan government?

FIELDS:

Well, my answer, sir, would be more in the context of building capacity. You know, as long as we are providing a capacity external to Afghanistan in support of this reconstruction effort, we're doing very little to build that very capacity in Afghanistan. So, I think we should begin to lean more on the Afghans for matters like this. It is also a part of the president's strategy: include the Afghans to the maximum extent possible.

The Afghans would wish to take over the whole of the security element. In my visit to one province, Panjshir, the deputy-governor in Panjshir says, "Well, let me handle security for my area. I can do it." And he is a mujahidin and he knows how to do this stuff. And so I think we should give some considerations to that as well.

HENKE:

Thank you, sir.

THIBAULT:

Thank you, commissioner.

Commissioner Schinasi?

SCHINASI:

Thank you. I think anyone who spent any time looking at the acquisition process recognizes pretty quickly that those who have responsibility for a mission's success don't see the value of solid acquisition process in that mission's success.

And so I'm of the opinion that if we can just get across the idea that money wasted is really an opportunity lost to get mission success that we might see some turnaround in the way the agencies and the U.S. government as a whole treats the whole issue of contracting.

I guess my question to you with your Marine Corps-officer hat on in the past and, now, I believe, what you said is your staff is trying to figure out whether the U.S. government is getting the intended outcomes from the dollars spent, have you seen a change in the field in the time that you have been in your position either by military commanders or the civilian program officials that there really is this understanding that money wasted is really a lost opportunity for a mission's success?

And if not, would you have any advice as to how to really drive home that lesson?

FIELDS:

In answer to the part of your question dealing with whether or not the attitude, if you will, by senior leaders is changing or has changed regarding the best benefit that might be reaped from the investment, I would say that in the two and a half years basically that I've been in this capacity, I am beginning to see some change in that regard.

But I tend to address matters like this in three dimensions, the first being at the strategic level, then the operational level, and the tactical level. And it's really at the tactical level where

these matters begin to take root and to have their effect on the people of Afghanistan and the mission that we have undertaken.

I will say that at the strategic level, there is the change in attitude. I think that the strategy that we're executing is an example of that. And I believe that the mechanisms that have been put in place both by the U.S. ambassador to Afghanistan as well as General Petraeus suggest that attention is being turned to these very issues. And so these strategic mechanisms that are in place, policies and so forth, directing and guiding the contracting effort, I think are all leading toward that end.

SCHINASI:

And what will it take to get from the strategic level through the operation and tactical level, which as you say is where it really hits the pedal?

FIELDS:

Exactly. First, it will take some time for these matters to trickle down to the execution level, but I think increased training, increased leadership, stronger leadership at all levels. And I feel though that we have enough policies in place. We just need to ensure that the policies that are in place are in fact implemented by those responsible.

SCHINASI:

How about some constraints on the resource side?

FIELDS:

Well, I think, that if we don't do a better job of cleaning up our act when it comes to oversight in Afghanistan, making better use of the resources that the Congress has very generously provided and the American people, of course, confidence will be lost. And that will be a disadvantage, commissioner, to the outcome of this tremendous effort.

SCHINASI:

Thank you, General Fields.

THIBAULT:

Well, General Fields, I want to thank you for leading off our panel. I want to wish you the very best. I hear February 4th is your last day. So, you know, it was terrific that you were willing to come up here in that environment and be so candid when obviously you've got a lot of work ahead of you in the next very short period of a couple of weeks. And it was good to hear that you have so much confidence in your leadership you've built there going forward. So thank you.

And for all of us, when you walk out of the store for the job you've done, this Marine in front of us should hold his head high.

Thank you, sir.

FIELDS:

Thank you very much, Mr. Chairman.

Thank you very much, commissioners. Thank you for everything that you've done to help me in this path. This is my second privileged opportunity to testify before this commission. And I have enjoyed this and learned from it as I have the one in the past.

Thank you for your effort. And I think you have certainly made a difference. That's my assessment of what you've done, Mr. Chairman and members of the commission.

THIBAULT:

We're going to take about a five-minute break while we swap our panels.

(RECESS)

THIBAULT:

Great. Thank you to the panel. Could I get you all please to stand up with me and we'll put you under oath? You raise your right hand please.

Do you solemnly swear or affirm that the testimony you will give in this hearing is the truth, the whole truth, and nothing but the truth? Thank you. Please be seated.

Let the record show the witnesses answered in the affirmative. It works good for me that we follow the order that we have.

So, Major General Dorko, sir, can you provide your opening comments?

DORKO:

Chairman Thibault, thanks a lot.

Distinguished members of the Commission, I'm Major General Jeff Dorko, the deputy commanding general for military and international operations in the Corps of Engineers.

And, sir, you're right. It does take about half the space on the business card.

I appreciate the opportunity to discuss our construction program in Afghanistan and the associated challenges. And thank you for the critically important work that you all do. Our meetings here in Washington, your visits to our teammates on the ground in Afghanistan help us improve and execute our mission better. And mission accomplishment sits at the top of our list of priorities.

As you all know, that mission in Afghanistan is the design, award, and execution of construction projects in accordance with our construction-agent responsibilities. Since 2001, the Corps of Engineers has managed over 850 major construction projects at a value of over $6 billion in Afghanistan. Workload in Afghanistan—this was pointed out earlier—has ramped up substantially in the last few years.

There's a surge in U.S. forces' increased efforts to build the Afghan national security forces. To manage workload in Afghanistan, the Corps has increased staffing in Afghanistan from around 250 military and civilian personnel in early 2008 to over 800 today. We've activated a second district in the south in Kandahar in August 2009 and we established a Transatlantic Division Headquarters in Winchester, Virginia in October 2009 to provide focus, command and control and unity of effort for the whole CENTCOM AOR.

And we've matured our processes, I really feel, for expanded use of reach-back not just to Winchester, Virginia, but reaching back to all eight divisions in 41 districts and 37,000 people in the Corps of Engineers here back in the U.S.

Challenges remain and I know we're here to talk about all that today: security, corruption, providing adequate contractor oversight in a difficult environment, managing the expanding workload, sustainability of facilities, site selection, site preparation.

We are a learning organization; I think we've learned from the evolving environment, we've learned from our mistakes. And through every phone conversation, every audit, every inspection, every project review board, visits into theater by those of us supporting from the U.S. and after-action reviews, I think we're getting better in mitigating these challenges.

On the heels of our 2009 after-action review, I see one specific initiative by the commander of IJC (International Security Assistance Force (ISAF) Joint Command) has been particularly critical and seminal for our moving forward the issuance and implementation of the construction contracting guidelines for Afghanistan that were issued by the Commander, ISAF Joint Command on 9 October, 2010.

The 10 key principles of construction efforts and the 16 best-practice imperatives in that IJC order, in my mind, are not just doctrinal underpinnings, but they're real drivers for action that just come out of on the ground truths. These principles and guidelines move us from an era of construction where construction effort, I think, was simply trying to de-conflict itself from operations to a situation where construction is better synchronized and integrated with operations. And I think these guidelines put us in a position to undertake projects that we can accomplish.

In the realm of challenges, security, as pointed out earlier, remains a number-one challenge and could be the root cause of other things that impact our ability to execute. The IJC guidelines are hiring of local national quality-assurance representatives, use of remote-sensing methods, and leveraging about every other means at our disposal to inspect and receive feedback on construction progress or helping to reduce the security impact on project completion.

Corruption obviously is another challenge, and we're getting at that by emphasizing rigorous contract administration, minimizing the brokering of contracts by requiring prime

contractors to self-perform significant parts of the work. We coordinate with Task Force 2010 and the CENTCOM Contracting Command on vetting contractors.

We educate our contractors in adopting best practices and we've implemented, for example, a tracking system that conditions progress-payments on prime contractors, verifying that they've paid their subcontractors.

Timely quality oversight closely linked to security is critical and it's tied most of all, it's tied to having the necessary personnel on the ground to manage the workload. It's a big task. It's tough, but we have a large pool of expertise to draw on from back here in the United States with 37,000 Corps of Engineers employees who volunteered to go forward, that we maximize the use of reach-back. We've recently hired new and schedule-A professionals hired from here in the United States.

And most significantly, this is a joint effort. It's all three services, bringing together their unique capabilities and business models seamlessly where I think the whole then ends up being greater than the sum of the parts.

Site selection and preparation have been an issue. The IJC guidelines I think have gone a long way in solving that. And at the other end of the spectrum, I think we've given more attention to things like site grading, drainage planning, geotechnical and hydrological oversight, all those things that need to be done to make sure a project gets off on the right foot.

Suitability and sustainability, I know we'll talk about that. We're using designs more suited to Afghan forces. They provide more easily constructed facilities that cost less and are easier to maintain. And we have contracts in place now to provide operations and maintenance for these facilities, both in the north and the south.

We faced a lot of other challenges, but I think we've come a long way in the last year or so in dealing with them. And I really welcome this opportunity to talk to you so that we all can get better with what we're doing in theater. We welcome your recommendations and the recommendations of everyone we deal with in delivering on our promise to get these projects in on time to the highest possible quality. And I look forward to your questions.

THIBAULT:

Thank you, General.

Mr. McGlynn, please.

McGLYNN:

Chairman Thibault and members of the commission, thank you for the opportunity to appear before you today. For my organization, this hearing is the fifth engagement before this commission since 2008. The Department of State and my bureau appreciate the strong working relationship and productive exchanges we have had. They have improved programs and will ensure better practices.

As you know, the Bureau of International Narcotics and Law Enforcement Affairs (INL) is responsible for supporting rule-of-law and criminal-justice programs throughout the world. In Afghanistan, our programs are important to defeating the insurgency and creating stability.

The key area for today's hearing is renovation contracts for corrections and police training. Both program areas are crucial for the effective operation of the civilian justice program. We have significant endeavors in both areas. These are based on close coordination

with the host government, and they're aimed at building a stronger Afghanistan capacity and one which is eventually self sustaining.

I understand from commission staff that the focus of your interest with us is the Pul-i-Charkhi prison and the Central Training Center for police training, both in or near Kabul. The Pul-i-Charkhi facility houses almost 30 percent of Afghanistan's entire prison population, including its most dangerous criminals and insurgents.

Conditions in the past were overcrowded and inhumane. The prisoners controlled key portions of the prison until 2008 when the government assets of Afghanistan, supported by the United States, retook control. To make it a more secure, effective facility, INL developed a renovation project with the government of Afghanistan in 2009.

As part of the U.S. policy to utilize Afghan companies whenever possible and appropriate, a competitive process with Afghan firms was conducted. Two of them, Al Watan for construction and Basirat for architecture and engineering, won the competition.

The project included renovation of the kitchen, staff barracks, prison industries, and block cells, and elements of this are nearing completion. In the course of the renovation, problems were identified as a result of INL and the State Department Office of Inspector General (OIG) oversight mechanisms.

INL staff reported serious problems concerning the quality and pace of the work. An OIG investigation indicated potential allegations of fraud. My bureau terminated the services of the contracting officer’s representative on May 2010. The department's Office of the Procurement Executives suspended the two firms in August and stop-work orders were issued for the two firms in November 2010.

An Afghan firm is currently assessing the progress of Pul-i-Charkhi, and when its designs are reviewed by INL and other elements of the State Department, a new solicitation for completion of Pul-i-Charkhi will be issued.

Turning to the Central Training Center for police, this has been an important part of our overall police training program in Afghanistan which has been a priority since 2002. INL has implemented a program with the Department of Defense and in fact at the direction of the U.S. Department of Defense and in close cooperation with the Ministry of Interior.

The Central Training Center (CTC) is one of the seven sites where INL police advisers train Afghan police in basic civilian-police skills. Like many renovation projects in Afghanistan, this project has encountered some challenges since initiated in June 2009. In December, for example, a building that was to be razed was declared a historic building or otherwise designated by the government of Afghanistan as inappropriate for being razed. In December 2010, one of the two projects defaulted and project completion has been delayed.

Let me just state a few words about INL contractor oversight before concluding. We have several contract options to provide oversight for operations such as these in all parts of the world. We have an integrated management contract-oversight process, in this case, for the CTC project. This includes a contracting officer's representative supported by 28 experts in Washington. They work closely with eight in-country contracting officers' representatives in Afghanistan and 38 program officers in Washington and Afghanistan. Our model for the Pul-i-Charkhi project is somewhat different, based on an individual contract with an individual firm.

With that, Commissioners, let me just say that—and you know that Afghanistan is a dangerous place to work—we're committed to achieving our objectives and ensuring that U.S. resources are carefully and effectively deployed to meet those goals. Thank you.

THIBAULT:

Thank you, Mr. McGlynn.

Colonel Cassidy, please.

CASSIDY:

Good morning, Chairman Thibault and members of the commission. Thank you for the opportunity to appear before you.

The role of the Air Force Center of Engineering and the Environment, or AFCEE, has evolved over the past 20 years from a center for environmental excellence to providing engineering and environmental services, enabling sustainable Air Force and joint installations globally.

In December of 2003, the chairman of the Joints of Staff of the Chief of Staff of the Air Force asked the AFCEE to provide a bridge for construction services in Central Command's area of responsibility. In January of 2004, AFCEE was approved to support the Coalition Provisional Authority in Iraq. In April 2006, AFCEE started to work in Afghanistan.

To date, AFCEE has awarded over $6 billion in construction and support-task orders required for Central Command of which approximately $1 billion is in Afghanistan. We continue to enjoy a cooperative partnership with the United States Army Corps of Engineers to accomplish mission critical work in the AOR.

AFCEE plans, executes and delivers construction services to the following customers in the warfighting areas: Unites States Central Command, Air Forces Central, and Army Central and Combined Security Transitions Command-Afghanistan. AFCEE utilizes competitive,

indefinite-delivery/indefinite-quantity, or IDIQ-contract vehicles and then competes individual task orders within the IDIQs for construction and services. These IDIQ contractors subcontract portions of the task orders to local national and-third country national companies and individuals.

AFCEE uses a criteria-decision matrix to determine the method of design and construction tailored to the type of contract, firm-fixed-price, or cost-plus-fixed-price, or cost-plus-fixed-fee. The AFCEE project-management model embodies a philosophy of teamwork, leveraging our government, civilian, and military personnel whose primary responsibility is to execute inherently governmental functions.

The AFCEE model utilizes contractors and situations that are not inherently governmental, minimizing our civilian and military footprint by leveraging contractor expertise. We utilize a combination of expatriates, third-country nationals and local nationals. This combination provides diversity and ease of movement by local nationals where security conditions may be such that only local nationals can pass safely. This model provides cost-effective flexibility and accessibility to ensure daily quality-assurance and oversight.

While our in-country military, civilian, and contract employees provide the daily construction oversight, the San Antonio team provides reach-back technical, contracting, financial, and administrative support along with continuity of the AOR construction program.

Our current contract performance in Afghanistan has maintained reasonable schedule and cost-growth controls considering the contingency environment and modifications we've had with the process due to changing requirements or site conditions.

To date, none of our Afghanistan task orders have been terminated for default. AFCEE strives to continue to improve our ability to provide quality and timely construction support for the warfighter. We welcome recommendations to perform our mission better. We understand the

committee is interested in several areas and I look forward to answering your questions. Thank you.

THIBAULT:

Thank you, Colonel.

Mr. Thier? Did I say that right?

THIER:

It's Thier, and in response, Thibault.

THIBAULT:

Yes, thank you; very good. Thank you, Mr. Thier. Please proceed.

THIER:

Thank you, Chairman Thibault and distinguished members of the Commission. My name is J. Alexander Thier. I'm the assistant to the administrator and director of the Office of Afghanistan and Pakistan Affairs at USAID.

First, I want to compliment you on the critical work of this commission. I began working in Afghanistan in 1993 during the time when our country was ignoring the plight of Afghanistan to our mutual peril. I've spent many of the last 18 years working on that country and I've written and testified extensively about the effort that the United States has undertaken in Afghanistan since 2001.

Our mission in Afghanistan has been and remains central to U.S. national security and our civilian assistance efforts are essential to their success. At the same time, I have repeatedly raised concerns about the corrosive effects of corruption, waste, and failed expectations in our efforts there. These are not only issues of fiscal importance but of national security itself. I have long argued that the insurgency is strengthened by corruption, by lack of accountability, and by weak governance.

Indeed, one of the very reasons I took this job five months ago was to improve our performance and accountability. We've owe it to both the American and Afghan people to do so.

This has been a dramatic year for progress at USAID under Dr. Rajiv Shah's leadership. The USAID forward initiative is applying an agenda for accountability, capacity, and leadership at a global level. In the short time that I have been at the agency, thus far we have initiated aggressive reforms in Afghanistan aimed at the very heart of what this commission was mandated to address.

Accountability in the provision of development assistance is among USAID's highest priorities in Afghanistan. Let me give you a few examples of key initiatives that we have put into place this year. USAID has developed the Accountable Assistance for Afghanistan Initiative or "A-Cubed" as we like to call it, to ensure that proper procedures are in place to help protect assistance dollars from waste, fraud, or otherwise being diverted from their development purpose.

As a result, USAID is enhancing its safeguards for development assistance in the following ways:

We're utilizing award mechanisms that provide the most visibility, limiting layers of subcontracting and dramatically increasing competition in bidding and award process. We're

embedding all Afghan companies and personnel working on USAID projects, we're enhancing projects-controls on funds, performing additional project oversight in the high-risk areas using multiple monitoring techniques and utilizing the full arsenal of USG (U.S. government) auditing mechanisms.

One of the biggest problems frankly has been USAID's capacity to fulfill its oversight obligations to the fullest. And so we are increasing our own capacity to undertake the proper oversight and accountability. We have increased our staffing overall in Afghanistan to 305 Americans on the ground and 170 Afghans, with 60 percent of our staff outside of Kabul.

Despite high personal risks, staff with backgrounds in law, financial management, auditing, and contracting are serving throughout the country in PRTs, district support teams and regional platforms and they are getting out more frequently, to evaluate the performance of the programs they oversee. We have ordered a doubling in size of our contracting staff this year which has already tripled since 2007.

To advance U.S. national security objectives, USAID is helping to strengthen Afghan capacity to design, build, and maintain roads, increase the supply of reliable electricity, and to design and construct clinics, hospitals, and schools. I cannot overemphasize the challenges involved in undertaking these efforts as the Afghans, the U.S., and other international partners combat a vicious insurgency and terrorist threat.

Security concerns on construction projects are paramount. In 2010, attacks on civilian efforts rose sevenfold. Managing the safety of U.S., international, and Afghan personnel as well as their associated costs is a central undertaking for us.

Geography—remote, rough, and mountainous terrain also present huge challenges, as does the relative lack of specialized expertise in Afghanistan to undertake complex construction

efforts. And I want to take a moment to acknowledge the immense pressures—political, security, family—that our staff and partners serve under every day. I have personally lost friends and colleagues every year of this long campaign.

There is no question that we as a nation and the agencies represented here before you can and must do better. It is also important not to lose sight of the positive impact these programs are already making. Our investment in schools, clinics, roads, and electricity has dramatically expanded access for millions of ordinary Afghans to education, health care, and the economy.

In conclusion, I want to say that nothing we do in Afghanistan is easy. And the challenges that we face in construction have reflected that. But we, and personally I, am committed to asking better of ourselves and we have already begun making the critical changes needed to improve our efforts and enhance our prospects for success.

Thank you.

THIBAULT:

Thank you, gentlemen.

We'll have a round of questions now and proceed accordingly. This is kind of in the onset of a bit of a softball or an educational situation without trying to criticize. And in fact I'm trying to understand or let you explain, General Dorko and Colonel Cassidy. You know, you have a very large organic organization in Afghanistan where you do some contracting back here in CONUS, a lot, the larger programs and the like. But you do a lot of it over there and the Air Force does most of it out of Texas.

You have a very robust quality-assurance organization in-country in Afghanistan and you use organizations such as Jacobs/Versar to do your quality-assurance to be sure that contractors are doing adequate quality-assurance. You know the difference.

And I guess I'll start with you, Colonel Cassidy, because you're the proverbial new kid on the block in the sense that the Corps has been doing this a long time, you have filled a breach that was critically needed and the Air Force certainly has stepped in and you've taken a little different approach.

Can you talk about what led to that and why you're taking that approach of using companies to provide adequate oversight?

CASSIDY:

Sir, we're using the same methods in Iraq and Afghanistan that we used, that AFCEE uses here stateside or anyplace else around the world. We've got a limited number of military engineers and even civil servants that the FAR allows us to hire out, Title II, which is the day-to-day quality-assurance for the contracts. So, we've chosen to do that.

And we've got about 100 Title-II contract employees in Afghanistan at this point augmenting our team. They do the quality-assurance, making sure that the construction contractor is complying with the quality-control plan and the quality-control that they're supposed to do. And then we have CORs assigned, contracting officer representatives who will make periodic site visits and it will resolve any differences that arise between the Title II and a construction contractor.

But we've done it to minimize our footprint in country. And by using our large IDIQs, our worldwide IDIQ contracts, and we go to a group of prime contractors, there's 40, over 40 on

the list. We've had nine working in Afghanistan at this point and we feel we've been fairly successful with that. We've had our challenges on some projects, but we're moving forward and it's just a different model than what the Corps uses.

THIBAULT:

OK.

General Dorko, you use a model where you do most of it or a good portion of it organically. Is that simply because it's a tried and true Corps model or is there some other aspect that . . .

DORKO:

Yes, the Corps of Engineers is unique. We have two different business models, as Colonel Cassidy pointed out. Our business model meets our requirements as a DoD construction agent. That's one of the two DoD construction agents, the Naval Facilities Engineering Command being the other one, to do all the work that we do in the U.S.

Then there's the additional mission that the Corps has in the water-resources business, the civil-works infrastructure and inland waterways, hydropower and all the other business lines that are on the water infrastructure side in the U.S. that makes up the whole of the Corps of Engineers. And now we're able to draw on all that, that's the 37,000 people I talked about, that we draw on to reach back and deploy, nearly a thousand of those people forward into theater.

So, it's a different business model for the different missions that we have and they complement each other, we're certainly not in competition with one another. And I think that the integration between the two organizations is pretty seamless.

THIBAULT:

OK. OK, thank you.

And you know, you're not in competition with each other, but many of your projects and many of the companies, in fact, that you work with are similar-looking and the same companies. And you know that this pictorial up here is Camp Phoenix and I want to talk about Camp Phoenix because, you know, we talked, the statements are very clear about expectations. And then sometimes the outcomes don't end up with the same situation.

And we had the opportunity to be briefed by your senior officer from Air Force Center of Excellence and that this was—if you look on my right, your left, that's a picture of barracks, the big picture there of barracks that have been boarded up; some are in shell and some are boarded up but that were not completed. And if you look over here, you'll look at the quarters that people call temp quarters but it's where the military has put its people in and out while they're trying to scramble because those barracks aren't done. And it kinds of reads like a comedy of . . .

In fact, when we were briefed here, your onsite officer said that this doesn't represent—he was very candid—he said, "This does not represent the work that AFCEE does. But unfortunately, it was our work on our watch."

And you had a company, name is unimportant, but it's a second tier to your prime, CH2M HILL, called ENCORP that wasn't paying their subs and that I'm just reading off the briefing charts that you presented and that ENCORP, E-N-C-O-R-P, the owner and his company fled the country with roughly $2 million in fees owed to third-tier subs because the construction wasn't working, they didn't know what they were doing, they weren't paying their people and they took the two million bucks and left town.

In order to get the payment and it says here, a third-tier subcontractor that worked for ENCORP removed two of their 750 KVA generators for—and these are your words, not mine—for ransom so that they would get paid. You know, you need generators to do the job and get the work done and they're highballing. You know, you think of security and they're high-balling the generators out of one of the camps that's part of the Kabul cluster. We're not talking about an isolated area.

And then when we asked the question in the model, Jacobs/Versar, we said, "All right, why didn't you know about all these problems," and the Jacobs/Versar person was there and I thought maybe we'd find out that that contractor wasn't in fact doing a good job and in fact your model, he was doing a good job but its contract was not sufficiently funded.

And he had been told by his AFCEE customer to work on two other higher-risks even though you see these pictured projects. And he had done no quality assurance because his contract was sort of a zero sum and he could only do it in other locations. So there was no quality oversight.

The net effect of this, and that's the concern, you know, it's incredible, it's kind of worse than a comedy of errors because it's a case where they're not paying lower-tier subcontractors and once the pressure's on, an unqualified contractor takes his money and leaves. Well, the guy came in and was bragging about is offsite villas that he had in other countries, that's the $2 million.

And with all that as a lead-in, I know the model works but the real question, Colonel Cassidy, is and you said you have some problems, this is a big problem. What happened, sir?

CASSIDY:

Sir, I think Camp Phoenix is probably our worst case. It's one of our first projects in Afghanistan and our focus was purely in Iraq at that point. We were still focused on building up the reserves in Iraq, we did not move AFCEE, did not move enough resources to Afghanistan to watch the project. That caused a lot of problems.

One of the things that we did take is we took our lessons learned from Iraq to Afghanistan. And what we found is that it's different lessons in Afghanistan, different skills for the people, different ability. We had a lot more trouble in Afghanistan with inadequate materials coming in.

They would be stamped that they meet standards, but they wouldn't meet standards. It was kind of the perfect storm, everything coming together that caused a lot of the problems there. I think we've addressed a lot of them. You know, a lot of the issues that we've had and a lot of the cost growth we're seeing at Camp Phoenix is also customer changes and changes of the program as we went forward. But we know we've got problems at Phoenix and we're working to fix those.

THIBAULT:

Well, and I appreciate that because you see this picture, this building next to it—I don't know if you've been there—but there's a building next to it that's been inhabited and yet Project Safe had come in there and written up pages and pages. And I just walked in the room and I'm talking to some of the people living there and they say, "Sometimes when you put the plugs in, if you don't have the right extension, it's just like a sparkler."

And it was written up that there shouldn't be people in there and I said, "So, how come there are individual soldiers in here now and civilians?" They said, because they have no other place to stay.

So there's a significant risk. The one thing I will say about the Air Force on this is your briefings are exceptional. You didn't try to pull any punches about the problem. We picked this randomly, you know.

And so any kind of a commission that starts making the rounds on randomly picked and this tell me what I'm going to bring in at AFCEE projects and start running into issues like this, the words that the structure is there sometimes pales against the actual experience. And our concern in construction is just exactly that, Colonel—that you take your lessons learned. And I commend you for frankly, and your people in theater, acknowledging the issues. But it goes without saying that there are challenges that need addressed right now so these soldiers don't have to live in facilities like that.

CASSIDY:

Yes, sir. And we've also had the contractors; we forced them to bring in increased electrical, mechanical engineers to do the oversight and to do the construction.

THIBAULT:

All right. Thank you. My time is up.

Commissioner Ervin, please.

ERVIN:

Thank you, Mr. Chairman.

I want to start with you, Mr. Thier. In your testimony, in your statement and the written statement and your oral summary of it, you talked a lot about accountability. You really stressed that. And I'm glad you did because I think that's a key word. I think accountability drives performance. The lack of accountability results in poor performance or no performance, and maximum accountability results in good performance.

And I'm trying to square your quite commendable emphasis on accountability in your statement with what I think at least is the most important piece of paper in this 400-plus hearing booklet that our very able staff put together for us. There is a January 10, 2011 article from AP and it's titled, USAID Awards Firm with a Checkered Record—a $266 million no-bid Afghan electricity deal.

And I'll just read the first paragraph and I'll summarize the rest:

"The United States government is counting on an American contractor with a record of cost overruns and missed deadlines, that handled a critical component of General David Petraeus's plan to stabilize a volatile southern Afghanistan, quickly deliver more electricity to this power-starved region."

So, basically what it says is that AID awarded to Black & Veatch, and we're going to hear from Black & Veatch on the next panel, a $266-million contract, a no-bid contract for Kandahar, the birthplace of the Taliban, really the heat of the fight right now, the southern provinces, against a backdrop of AID's having complained about Black & Veatch's performance on a contract to supply power in Kabul, a contract that ballooned in price, as you know, from $100 million to $300 million. It wasn't just a cost overrun issue but was also a timing issue, there were considerable cost delays.

The other interesting piece of paper in our hearing book is the November 29, 2010 justification document that essentially requested up through the channels at AID approval for this no-bid contract and it said, it uses two interesting phrases. It says that for various reasons I will get into and I'm going to ask you a question about this. Of course, I'll give you an opportunity to respond.

Black & Veatch, first, it says it's "uniquely positioned" to undertake this Kandahar project and then it uses the phrase "uniquely qualified." And if you'll really read the rest of the memo, it seems to me that what they really intended to say was "uniquely positioned" because that later explained what "uniquely qualified" means to simply be that that Black & Veatch was already on the ground, it already had existing staff, there wasn't an alternative to them.

And further, my understanding is that the bulk of the work there was subcontracted up by Black & Veatch to Symbion. We don't know what the percentage is; I'd like for you to tell us if you know. But against this backdrop, how can the American people take your claim that AID is taking accountability seriously if a no-bid contract is awarded to a contractor with this record of poor performance, that AID quite rightfully calls the contractor out of work?

THIER:

Thank you, Mr. Ervin.

Let me take you back into I think the decision-making process over the last year as far as the contract for Kandahar power is concerned, that you're referring to first. And then we can go to issues about Black & Veatch performance.

The decision that was made to provide electricity this summer to Kandahar was the decision that was discussed at the highest levels of our government as something that the new

commander of our forces in Afghanistan itself was of absolute paramount importance. It was a top agenda item for our military in their engagement. This year, we have this Operation Hamkari to try and turn Kandahar, the home of the Taliban, away from the insurgency. And this was put out as among the highest priorities.

And within that priority, the idea of generating additional power to the citizens of Kandahar in a visible fashion was made a top priority. So, within that overall priority, the specific priority was placed on delivering more electricity to Kandahar. So, a decision was made that the competitively awarded joint-venture agreement between Louis Berger and Black & Veatch would be used for that work.

It was an agreement that was already in place, Black & Veatch was already in place in Kandahar, they were the half of the joint venture, if you will, that would have been performing the electricity upgrades to provide additional power to Kandahar. And so we moved forward to contract that work to provide additional power to Kandahar under the existing agreement. And that decision was made because that agreement was in place.

At the same time, USAID is working on replacing that single IQC (Indefinite-Quantity contract) that had been awarded to Black & Veatch and Louis Berger four years ago with multiple IQCs held by multiple awardees. In other words, the single IQC that had been put in place for power and roads and other construction projects was going to be broken down into multiple agreements for different things. There would be one for energy, one for roads, and one for vertical structures.

And the reason that I emphasize that is because the agency takes very seriously that it does not believe, for accountability purposes, for competitiveness purposes, that it makes sense to rely on a single-award IQC.

ERVIN:

All right, let me stop you there just to probe a little bit.

THIER:

Sure.

ERVIN:

When did the process start of providing these alternate contracting vehicles going forward? When did this process start?

THIER:

I have to get back to you on the exact date. I'm not certain when it began. There was a commitment at the beginning of 2010 to initiate those procurements, to replace the existing IQC with these multiple IQCs.

ERVIN:

But the initial Kandahar contract began in 2006?

THIER:

2006 or 2007, yes.

ERVIN:

All right, so, it wasn't until 2010, until last year, that we began putting in place alternate mechanism so we wouldn't have to rely on Black & Veatch going forward?

THIER:

As far as I know, yes.

ERVIN:

Four years. Now, on the Symbion issue that I raised with you, do you know what percentage of the contract was subcontracted out by Black & Veatch to Symbion?

THIER:

Sir, if I may, let me explain the decision on Kandahar power because we still haven't gotten to that and then we can talk about . . .

ERVIN:

All right, but please be as brief as you can.

THIER:

Sorry. The reason I'm telling this, sir, is because I think it's very important to understand what happened next. We were going to go with the existing, competitively awarded agreement. However, in August, when this was lined up, it came to our attention for the first time that Louis Berger was in discussion with the Justice Department.

I'm sure this is something that we're going to return to, so I won't burn up a lot of time talking about that agreement here. But it became the decision of USAID that while these negotiations were ongoing with the Justice Department in a settlement agreement, it was neither appropriate to use that joint-venture agreement to move forward on this work nor was it safe to do so because we did not know what was going to happen in the outcome of that negotiating process, and we were worried that the entire effort would be imperiled.

So, the decision we made to award a sole-source contract was merely taking the work out of the joint venture and giving it to the same company that was going to conduct the work under the joint venture. But it was awarded as the sole source instead of going back in August and re-competing the entire venture because we felt simply that that would take too long in order to achieve the effects that we felt from a national security perspective were imperative at that time.

ERVIN:

Thank you. Thank you. That's very succinct. Now, I've been given just a little additional time, so let me just probe further.

I understand the urgency here. That's clear. But what puzzles me is Black & Veatch itself, as AID pointed out, had been a subject to a cost overrun. So, it's not clear to me that the decision to contract with Black & Veatch, even under these exigent circumstances, would result in the more timely completion of the project if the record shows clearly that Black & Veatch did not perform in a timely fashion with regard to the Kandahar plant.

THIER:

The SIGAR did a report, as has already been referenced in this hearing, on Black & Veatch's performance during Tarakhil. And the second part of that, which I think is very important is that when it was found that the project was being delayed, the Tarakhil project, the Kabul power-plant project that you referred to, when that was being delayed, there was a very serious effort at remediation, including replacement of leadership, a lot of additional oversight, and even, according to the SIGAR audit, Black & Veatch then dramatically turned around its performance on that project in the second year.

We felt confident. Clearly, they had severe problems in the initial part, and that is well documented here. We felt that due to a change in leadership over the management, both of the subcontractor as well as Black & Veatch itself and the entire joint venture that Black & Veatch's performance had improved dramatically.

And it was our assessment that that performance improvement and their subsequent work in Kandahar made it so that not only would they complete, you know, this work on time and for the budget, but that they would do so effectively. Otherwise, we wouldn't have gone forward.

ERVIN:

Final question, and as you say, I'm sure that others will pick up the string here, but final question: Just give me a notional sense of when that turnaround in performance on Black & Veatch's part happened.

THIER:

I would have to refer back to the record. It was before my time. I think that it was essentially in the beginning of 2009 that substantial remediation efforts were undertaken to get

the Tarakhil-plant project back on track to improve the monitoring, the oversight and the delivery of the program.

ERVIN:

All right. Well, this AP article says that in January of 2009, and we don't have the source documents, unfortunately, but at least according to this article—it could be right, it could be wrong—but according to this article, in January of 2009 Michael Yates at USAID, the top USAID official in Afghanistan, wrote a letter to Black & Veatch and expressed AID's, quote, "extreme dissatisfaction" with the company's progress on the Kabul plant. In this letter, Yates scolded the company for failing to keep AID informed of construction delays.

And then a few months after this, they didn't say when, but sometime after January, 2009, it talked about many important deadlines missed and USAID has lost confidence in the ability of Black & Veatch and Louis Berger to complete this work.

So, I think the timing is important. And if possible over the course of the hearing, I'd like to know exactly what timeframe you're talking about when you think the performance increased so substantially that it justified this sole-source award.

Thank you, Mr. Chairman, for indulging me.

THIBAULT:

All right. I'll add to that if I might, commissioner, that we'd like you to provide, and our staff will work with your staff, clarifications to those questions for the record because I doubt seriously we'll have the time to totally pursue it here. But I think everything that the commissioner raised is absolutely on the spot.

Commissioner Green?

Or Commissioner Henke has something related.

HENKE:

A quick follow up if I may with Mr. Thier.

THIBAULT:

Sure.

HENKE:

Mr. Thier, you said in your statement that, I quote, "a decision was made to use the joint venture." Who made the decision on that point? And the second thing you said was in the passive, it became the decision to not use the joint venture and to use Black & Veatch. Who made that decision?

THIER:

On the first question, when you say that that a decision was made, you mean . . .

HENKE:

Well, you said it. You said that a decision was made.

THIER:

Right. Sorry. I'm asking you the quote, you're referring to the decision was made . . .

HENKE:

To use the joint venture, your words.

THIER:

The decision to use the joint venture initially took place over a period of months. In dialogue with ISAF (International Security Assistance Force), the Department of Defense, the Department of State, the Afghan government, a decision was moved forward—essentially I would say, a whole-of-the-U.S.-government decision— that this important program to deliver power to Kandahar should move forward more expeditiously than had been understood earlier in the year.

And this included multiple elements. The U.S. military was procuring generators for Kandahar. I'm not positive, I believe it was in the July timeframe that ultimately the decisions were made that also included funding allocation.

HENKE:

I'm still not hearing though who made the decision to use the joint-venture. It may. I don't know, I'll give you a trap door; it may have preceded your time there. Is that right?

THIER:

No, certainly not.

HENKE:

OK.

THIER:

I took over responsibility for the office in August. And so the initial decision to use the joint venture, USAID's decision to use the joint venture for its part of the work certainly preceded . . .

HENKE:

So it was the administrator's decision?

THIER:

I don't know that the decision, which one on the . . .

HENKE:

Would you rally your staff behind you to find out during the hearing and let us know?

THIER:

Certainly.

HENKE:

My second question . . .

THIER:

But the decision—let me be clear, the decision to not use the joint venture . . .

HENKE:

Right.

THIER:

. . . and to use the sole source was the decision of our office.

HENKE:

It specifically was your decision?

THIER:

I certainly am the one who signed ultimately the agreement.

HENKE:

Right. You bottom lined the J&A (justification and approval) to go forward.

THIER:

Exactly, yes.

HENKE:

My question then is in the context of the interagency discussion to go forward with what's an important initiative to bring power to Kandahar, did you raise in the interagency discussion at the highest levels that the urgency of it would drive you to use an unacceptable contractor?

Did you mention that in the decision to use a sole-source contract to do something important, did you or did the administrator or did anyone raise to the national security system, "We're going to have to do this using our contractors that we have big problems with."

THIER:

No, we didn't because as I explained to Mr. Ervin, by that point it was our clear understanding that Black & Veatch had dealt with the past problems that had been identified by USAID and by the SIGAR, and we were confident in their ability to perform.

HENKE:

Thank you.

THIBAULT:

All right.

Commissioner Green, please?

GREEN:

Thank you.

General Dorko, I can't let you off the hook today completely. We have heard, we've read in numerous sources, we heard most recently from General Fields this morning, about the lack of

master plans, you know, whether it's for energy or construction or many of the other things that are going on in the country. Would you talk to us about the impact of lack of master plans on any of the work that the Corps is responsible for or participating in?

DORKO:

Sure, sir. Master planning, obviously, is very important, especially on installations that are growing by leaps and bounds and where more and more construction is being put in where there's already a lot of infrastructure. I mean, master planning is really important so you're not doing things over, you're not moving roads when you want to put a water line in or tearing something up that was just paved.

Some rational approach for the longer-term vision on the life of a particular installation and how it's going to build out is very important. It makes the build-out of that installation much more efficient over time.

And so in cases where installation—and there's installation master planning efforts going on right now. I think USFOR-A (United States Forces Afghanistan), I recall, has 71 master plans for different installations in the works right now with more to come that will give us a stronger framework in which to integrate our construction.

What that does when you build in an area where maybe master planning wasn't done due to the degree that it might have been, it just causes I guess, a lot more day-to-day interface to find out what's going on. If you don't have a master plan or if you don't have the drawings from what has already been put on the ground, it makes the construction of what you're going to do be all that more involved.

It takes the day-to-day coordination with the owners of the installation to make sure that what you're doing isn't undoing something that they've already put in place or isn't getting in the way of something they envisioned in the future. So, master planning is absolutely critical to success on any given installation in the states or in the deployed theater.

GREEN:

But do you feel comfortable with the state of the master plans that you do within country?

DORKO:

Sir, I think you would have to go installation by installation because I think they're probably all at different levels of maturity. And I know it's something right now that the USFOR-A is working on very hard to get master plans for all installations, but obviously, for the larger, more-involved ones in place.

GREEN:

OK. Let me go now to sustainability which we talked to in the earlier panel. You mentioned in your testimony, at least the written testimony, that you have go-no-go criteria regarding project sustainability. Would you explain to us, since there are so many projects that have come to light that don't seem to be sustainable, would you explain to us how that process works with the Corps?

DORKO:

Sure, sir. I guess, I'll approach it a couple of different ways. In terms of sustainability—and that's facilities that for example are buildable by local constructors that have materials that are readily available, that are sensitive to the culture of the area—obviously, if you build a building and put a Western-style sink in the bathroom, that's probably not what's required over there.

If you build a dining facility expecting to put boilers in that are going to be heated by gas in an area where natural gas is probably, or LNG, LPG, is not going to come, that's not the best way to go about it because they naturally burn wood.

And we standardized designs for certain facilities, the ones that you see a lot of for the Afghan National Security Forces, like dining facilities, barracks, headquarters.

GREEN:

Why did it take us so long to get to this point?

DORKO:

In terms of standardizing facilities, sorry, sir, I think it's probably a maturation of our footprint over there. Over the last few years of the record work load that we've experienced here in the States to meet the base-realignment and closure deadlines, we realized, in order to do that, that we couldn't design every single building by itself and that we needed standard designs to quickly got us to a point where we adapt the building facilities.

As we've grown our districts in Afghanistan, where we grew our district, initially, in northern Kabul, another one in August of ‘09 down in Kandahar and established procedures, established our relationships with our customers for the Afghan National Security Forces that

would be CSTC-A, I just think with the rotation of people overtime, it has taken time to get the proper processes in place to make that a reality on the ground.

And I mentioned in my oral testimony about the operations order that was released by the commander of IJC that gives construction-contracting guidelines for Afghanistan. I think that's powerful. It gives a vision and intent on the commanders' part. It gives some key principles that get to things like sustainability.

And then it lays out 16 essentially no-go criteria to make sure that everybody that who is involved in this, all the stakeholders, their interests are recognized and that simple things like picking the right site location, taking security into account, end-user participation, the use of the building, the capacity of the building and then, naturally, what you want that building to look like in the end, all that.

GREEN:

Do you include local participation during the process or is it just the initial sign off for a project?

DORKO:

Sir, we do local participation. I guess, if you're building an Afghan National . . .

GREEN:

I don't mean the builders. I'm talking about the user, the end user.

DORKO:

The end user . . .

GREEN:

Who first tells you, "I don't need sinks," you know?

DORKO:

Yes, sir. Sir, I think the end user for a specific installation is probably [the] particular numbered unit that is going to occupy those barracks at a given time. That unit belongs to the Ministry of Defense. And in the end, I think there's a dialogue to achieve standards that are going to provide buildings that meet life, health, safety codes, and that functionally meet the mission that this organization is going to go in there. And I think that dialogue starts with CSTC-A, and the Ministry of Defense.

GREEN:

OK.

DORKO:

But eventually, you know, on the ground, when we're rebuilding this thing there is interface with the local people that are going to occupy them eventually.

GREEN:

Colonel Cassidy, in your testimony, there is a statement in there I believe that AFCEE does not participate in the process in the host nation project selection. Is that true?

CASSIDY:

That's correct, sir.

GREEN:

How do you guys then integrate the Afghan government, local or national, into your projects? Where is that done?

CASSIDY:

Sir, the projects are selected and prioritized by a joint-program integration office in Afghanistan, in Kabul. They all go through a network there, the entire list of construction projects that are required, and they disperse them out to either us or the Corps to build the projects.

Our local interaction with probably the local government is somewhat limited because by the time we go in there, we are counting on and we're watching it but we're counting on the sites to be made available to us. So, if there are people on the sites, then the controlling authority, whoever the land owner, the person or the unit responsible for the security of the land is also responsible for providing the site.

GREEN:

Well, I'm not so worried about the site. What I'm talking about is let's go to some of these cultural issues, for example. How do you know you're building the right kind of barracks?

CASSIDY:

We've struggled [with] some of the same issues that General Dorko went through. So the barracks on a military post that we are going to use, there are criteria that are set out there. We use the same criteria that the Army does. And as General Dorko said, that's changed overtime.

GREEN:

OK, thank you. My time's up.

THIBAULT:

Thank you, Commissioner.

Commissioner Tiefer, please?

TIEFER:

Mr. Thier, when we discussed last week the going ahead with the Kandahar power initiative, and the fact that you desired to meet the time lines of General Petraeus, there were issues at AID which had to be answered, dealt with by the military. Number three, and it's the second one that particularly interests me. One was the questioning about whether electric power was really going to be such a counterinsurgency tool.

I'm only going to ask you about the second one though. I'm trying to put it into context you remember. And the second one was that it would irritate the Karzai government to take on the energy cost. Now, we've already heard about this for other diesel plants that since it cost up

in Kabul 22 cents, I had said this before, per kilowatt hour for diesel and a fraction of that for alternative sources.

I know in Kandahar they can't get a transmission line in, but it still costs less to do things differently. What was the answer about how the irritation of the Karzai government would be dealt with? Was it by U.S. or donor subsidies for a couple of years, even though it's not sustainable in the long run to do this by diesel? What?

THIER:

Thank you.

I think that the decision was accompanied on our part by intensive thought about how do we make the power supply to southern Afghanistan more sustainable? So while there was a move forward on putting additional diesel-generation capacity in place this year in Kandahar—and that was being done by the Department of Defense, spending their funds on the diesel generators—we agreed to do several things.

First, we wanted to upgrade the distribution network in Kandahar. So whatever power supply was coming in, it would be delivered and it would be more efficient than the current.

TIEFER:

Excuse me. Could you get to what it is that removed the irritation of the Karzai government? Was it money being offered or not?

THIER:

No. So the second piece is that we have agreed, and it's very much our interest to look at the long-term, more-sustainable power supply, and we are in discussions with the Afghan government about both the rehabilitation, further rehabilitation of the Kajaki dam to deliver hydroelectric power, as well as the extension of the northern network, which is largely bringing in cheaper power, as you noted before, from Central Asia; now, as far as Kabul, and delivering that Kabul then further to the south and east of the country.

TIEFER:

OK. Let me go to a separate question, although you've answered in effect that it's an unsustainable power plant, but other things, we'll deal with that, which is similar to Kabul which is not the main power. Kabul Power Plant is not the main power supply for Kabul. It's backup.

I want to ask you about Louis Berger. As you know, last month, they pled guilty, excuse me, they had a plea agreement. They had a plea agreement to criminal charges that they were defrauding the U.S. government, specifically defrauding AID by known false overhead billings of AID.

And their chief financial officer, the chief, Salvatore Pepe, and their controller, Precy Pellettieri, also both pled guilty to the same charges. And according to press reports, AID made them—I'm not criticizing you for doing it. I just want to make sure I got it right; I think you may well made the right decision—made them push out and buy out the chairman of the Louis Berger holding company, Derish Wolff, who's also an owner of 27 percent of the company, which had to be bought by the company.

What is your reaction to the Louis Berger criminal events, so to speak?

THIER:

When I learned about the allegations against Louis Berger in August and the investigations that have been going on for some time by the Justice Department, I was profoundly disappointed and very concerned about the impact of not only the individual issues that Louis Berger had been investigated for, but also, more broadly, how that reflects on our ability to be good stewards of our assistance effort.

I believe that the settlement that was made with Louis Berger was a very positive step in that, not only was USAID able to recover the funds that had been allegedly defrauded from it, but also collected something in the neighborhood of triple damages back for the American taxpayer.

In addition to that, and you noted some of these, there was some fairly severe approach to dealing with Louis Berger in order to bring them back into compliance.

TIEFER:

Right. Those are on the record. I appreciate specifically your reaction.

I want to ask something about the Kandahar power initiative now. AID lumped together in that several different pieces which have been alluded to. The big two pieces are the diesel power plant and the Kandahar industrial park, and also the Kajaki dam, which is not in Kandahar province, but is in Helmand province, which is 100 miles away and which is not diesel powered, that is ahead of us to be built, but is already there as a hydroelectric project.

My understanding is that the work on the Kajaki dam was not done by Black & Veatch, but by Loius Berger, so that what you said earlier technically is correct in that they were on the

ground in Kandahar, but over where the hydroelectric plant was being done in Helmand province, Black & Veatch did not have prior experience with that facility.

You could say the joint venture did, but they were quite clear who did what. Now, your own J&A said, and I'm quoting you, the one you signed, and, quote, "A number of individual contracts for the different components could potentially be issued to conduct the work needed."

Wouldn't that have been—and I am not going to go further as to why you didn't do it or didn't do it. But when we talked about the different components that could potentially be issued, couldn't the Kajaki-dam component, the hydroelectric-turbine component be separately awarded?

THIER:

It may be beyond my technical competence to answer your last question. It is my understanding that the reason that these were grouped together was a question of timing.

TIEFER:

No, I'm trying to figure out. What else could you possibly have been talking about in your J&A when you said the different components could potentially be issued.

You know the components, right? What else could you possibly be talking about than the hydroelectric plant on one side and the diesel plant 100 miles away on the other hand?

THIER:

Sorry. What I'm answering is that, I believe that these were all included at the same time because of our phrase, understanding . . .

TIEFER:

No. I'm not asking why you did. I'm talking about your phrase, "They could potentially be issued." I want to know what the different components were that could potentially be issued.

Isn't it obvious that when you consider that possibility, the different components were the hydroelectric dam on one side and the diesel plant on the other side?

THIER:

It may be that what you're referring to is the transmission line as the additional component that was not included as part of this contract. When we broke down the pieces that were necessary to deliver on the Kandahar power-initiative plan and looked at the timing of those, the transmission line was the piece that was left out of this contract.

TIEFER:

No. This isn't about what was left out. This is about what was put in.

I'm going to be repeating for the fourth time what's in the J&A, and I wonder if I'll have a second round. I wonder if you could check during the break, or your people could check what other could possibly be the components.

THIER:

That would be helpful. Thank you.

TIEFER:

OK. Let me ask you a quick question about the timeline.

Today, in a story in the Associated Press that quotes a letter to Symbion from William Frej, then the agency's Afghan director, about the Kandahar Power Initiative, quote, and this is a February 2010 letter, "The USAID intends to procure services through a full and open competitive procurement process and Symbion is invited to submit a proposal," quote/unquote.

My colleague, Commissioner Ervin, has already worked with you to get the timeline straight. In August, you were on the verge of contracting this after months of a preparatory process with the joint venture.

So where between February and when you started that months of process with the joint venture, at what point did you turn away from the promise of full and open competition between February and August?

THIER:

Sir, we have never turned away from the promise of full and open competition. The plan has been to replace the existing joint venture with these three different . . .

TIEFER:

No. I'm talking about what you . . .

THIER:

. . . multiple-award holders. And the decision, specifically, in terms of those components that went into or were going into the joint venture, those were accelerated due to the issues that I have outlined. But the important . . .

TIEFER:

You mean you weren't talking with Symbion about Kandahar? Or you were talking with Symbion, but between February and August, the decision was made as you say?

THIER:

The timeline of wanting to put in place the newly competed awards did not match with our need to contract the work for Kandahar power this summer when that decision was being made.

TIEFER:

I'm sorry. I'm sorry, but I really am trying my best. Was the statement made to Symbion at February 2010 not about the Kandahar plant?

THIER:

What I'm trying to explain is that we did not yet have the competitive mechanisms in place that are referenced in that letter in time for the decision to be made.

TIEFER:

And when did you change your mind on having the competitive process you said in February 2010 you'd have? How many months between February and August did you change on that?

THIER:

No one changed their mind. What changed was the timeline for our need to contract that work.

TIEFER:

When did you change the timeline?

THIER:

The timeline, the decision to move forward more rapidly with the Kandahar-power work was made roughly between June and August in a series of discussions that I already described to you.

TIEFER:

And so it was between June and August that you came to the verge of contracting?

THIER:

Exactly. And prior to that, we had not anticipated that we would have to move forward with that work before the new competed mechanisms were in place.

THIBAULT:

OK. Thank you. Thank you, commissioner.

Commissioner Henke, please, sir.

HENKE:

Unfortunately, I have to start with a minor housekeeping announcement. But for Mr. Thier and Mr. McGlynn, we asked for your testimony in advance in time to prepare for the hearing. We didn't receive it until Saturday afternoon.

Would you commit to us that in the future, AID and State will get their written testimony to us on time?

Mr. Thier?

THIER:

Absolutely.

MCGLYNN:

Yes, sir, we do.

HENKE:

Mr. McGlynn, I want to talk about the Pul-i-Charkhi prison project. We talked before about the training command in Afghanistan having hundreds, 800 projects on the books to work off. How many projects does INL have in Afghanistan, construction projects, roughly?

MCGLYNN:

We have two significant ones which are, I understand, the focus today, Pul-i-Charkhi main renovation and the Central Training.

HENKE:

OK. So it's two. It's much smaller than the CSTC-A element.

MCGLYNN:

If we span roughly 20 to 25 million a year in construction now, that would be probably the upper . . .

HENKE:

Right. Your statement on page two says, in December '08, you had to, or the Afghan Central Prison Directorate had to form an emergency-response team to train correction staff to retake control of the prison. Briefly, what does that mean, retake control of the prison?

MCGLYNN:

Well, somewhat amazingly, the parts of the prison were basically under control of insurgents and criminals.

HENKE:

Right.

MCGLYNN:

No-go areas, hostage taking, just a complete mess. The government of Afghanistan decided to form a strong police military-intervention unit, and there was funding provided, as I recall, from both the U.S. military and ourselves.

HENKE:

To go offensively re-take it?

MCGLYNN:

Correct.

HENKE:

To re-take the place?

MCGLYNN:

To actually go and fight their way back and clear out these insurgents.

HENKE:

And take the prison. Got it.

MCGLYNN:

Yes.

HENKE:

So State INL lets a contract for a company, two Afghan companies, Batharat to design it and Al Watan Construction to build it. Is that right?

MCGLYNN:

Correct.

HENKE:

OK. Your statement says, then later, "These accomplishments have . . ."—I like the polite dialogue in Washington D.C.—"These accomplishments, while significant, have not materialized without challenge and some delay."

And the challenges and some delay was on the two projects that you had in the war zone that, if I understand it, Basirat, the owner of this Basirat Company, provided confidential bid-proposal information to the owner of Al Watan. Is that accurate?

MCGLYNN:

I am not sure of the details of all of the allegations of fraud, but that was . . .

HENKE:

Why is that?

MCGLYNN:

There is a continuing investigation underway in this issue.

HENKE:

OK. Is that an inaccurate statement?

MCGLYNN:

I don't think it is, but I can't confirm.

HENKE:

OK. And the owner of Basirat apparently has bribed your COR, your contracting officer representative, the State guy who's supposed to oversee the contract, right?

MCGLYNN:

That was the allegation. Yes, sir.

HENKE:

Allegation, $30,000 bribe to your COR, or maybe you call him an ICOR, in-country contracting officer representative. Your statement says, "INL also acted promptly to terminate the services of the contracting officer's representative involved."

Does that mean that you fired that government employee?

MCGLYNN:

Correct.

HENKE:

Was he a government employee or was he a contractor?

MCGLYNN:

He would be considered to have some inherently governmental functions.

HENKE:

Was he a government employee, a full government employee? Or is he a contractor, was he a contractor?

MCGLYNN:

He was a personal services contractor, if I'm not . . .

HENKE:

OK.

MCGLYNN:

But I hasten to clarify. Excuse me, Mr. Henke. I didn't mean to interrupt.

HENKE:

Go ahead.

MCGLYNN:

But in certain issues, they would have full inherent-governmental functions, but certainly not to totally approve a contract.

HENKE:

Right.

MCGLYNN:

But certainly to advise on it.

HENKE:

Right. Understand.

THIBAULT;

Bob, can I inject a clarification?

HENKE:

Of course.

THIBAULT:

My understanding, and I went to quite a lengthy brief in Pul-i-Charkhi, was that that individual was a whole lot more than a COR. He was the top engineering person responsible for everything from specifications to oversight, to agreements, to you name it. Is that accurate?

MCGLYNN:

He certainly played a central role in the . . .

THIBAULT;

Now, he's like the chief engineer replaced by someone else who came in that had that title that briefed us.

MCGLYNN:

That I think is a good general characterization. Yes.

THIBAULT;

Yeah, I do too.

Bob, go ahead.

HENKE:

OK. So, sir, you've got two big projects in Afghanistan. The one we're talking about, the prison, you had, or Afghan forces and the military had to fight their way back in to get it. You let two contracts with Afghan firms.

Why was it INL's best judgment to put a contractor as the contracting oversight representative or the contracting officer's representative? Why was it to put a contractor in charge of the contractors?

MCGLYNN:

Well, again, I think we would still have our other oversight mechanisms, which are the contracting officer and . . .

HENKE:

Where is that person located?

MCGLYNN:

That person is in Frankfurt.

HENKE:

OK.

MCGLYNN:

And it is a structure we view. . .

HENKE:

Is the contracting officer, that's in your RPSO (Regional Procurement Support Office) in Frankfurt, right?

MCGLYNN:

Correct.

HENKE:

I met that individual coincidentally in December at African Command. Has that person ever visited Afghanistan?

MCGLYNN:

I do not know.

HENKE:

OK. Would you find out just for the record?

MCGLYNN:

Be glad to.

HENKE:

So this guy in Frankfurt, what other oversight mechanisms do you have?

MCGLYNN:

Currently, we have a senior director and a deputy director for all programs of INL's programs in Afghanistan.

HENKE:

Right. But where are they located?

MCGLYNN:

They're in Kabul, Afghanistan.

HENKE:

At the embassy?

MCGLYNN:

Yes.

HENKE:

Number one, how often do they get out? And number two, how often do they get to go to Pul-i-Charkhi?

MCGLYNN:

They get out frequently, say . . .

HENKE:

Could you for the record just quantify that for us over some span of time.

MCGLYNN:

Will be glad too. Sure. I visited, myself, several times. They're out quite a bit.

HENKE:

Thank you for that. You visited Pul-i-Charkhi prison?

MCGLYNN:

I personally haven't visited Pul-i-Charkhi, but I visited Kabul in Afghanistan and have traveled around fairly frequently.

HENKE:

OK. But what's the distance, roughly, from Kabul to Pul-i-Charkhi prison?

MCGLYNN:

About, as I understand it, 15, 20 miles.

HENKE:

OK. So your second or first or third line of defense, is that your INL full-up government employees in Kabul?

MCGLYNN:

Yes. And I have additional staff, including senior corrections advisers, two very senior corrections advisers who have run entire state programs in the United States.

HENKE:

Are those corrections advisers, are those government employees? Or are they also private personal services contractors?

MCGLYNN:

Those would be PSCs.

HENKE:

So those as well are personal services contractors.

MCGLYNN:

Yes.

HENKE:

OK. What's the status of the IG investigation into this?

MCGLYNN:

I do not know. I would have to direct you to the OIG.

HENKE:

OK. And would you take that as a question for the record?

MCGLYNN:

Sure.

HENKE:

Would it be fair to say that with all these structures and things in place, which are obviously not what any of us would find optimal or would like looking with retrospect, would it be fair to say that your oversight system didn't find this, the IG found it, or a hotline to the IG found it, that none of this came to light because of State's or INL's or acquisition's oversight mechanisms?

MCGLYNN:

I think without a doubt the OIG hotline was an important factor, maybe the key one. However, our people on the ground were already raising concerns not only about how the progress of the project was going, but also some other concerns.

But, no, I certainly wouldn't try to; that's what the hotline is there for and that's why particularly with corruption it's so effective.

HENKE:

OK. Thank you. I'm out of time.

MCGLYNN:

Thank you.

THIBAULT:

Bob, you're saving me some time on my second sequence, so I'm going to kind of put myself in here for a second.

My understanding, it's Mr. Buford who is your contracting officer in Frankfurt. I asked that question and he said no. He's never been there. So we'll clear that one up. You can verify it and take us on, but it was your people telling me that.

And it's my understanding that the INL engineer that is the subject of this investigation was in fact an INL, one of your people, right?

MCGLYNN:

I will have to double check his exact . . .

THIBAULT:

Yeah, because the person that replaced him, you know, one of the things you ask is exactly what Bob asked, which is, "Are you a career person?" "Yeah." "Are you a State Department person?" "Yeah." "Oh, what's he?"

So please verify that. And you know, one of the questions that's in here—I know Colonel Cassidy had said, "Well, you were kind of harsh there putting in the example you ran into." Well, that's what we ran into.

You know, AFCEE has done great work. I'm sure INL, you know, some of our experiences are very solid, very solid. But in this case, going out there, it was pretty incredible.

And it was explained to me and to our commission staff that this individual—you said you had to cut out the controls, cut out the contract, you know, the contract officer said, "You don't do anything unless you talk to me."

Cut out the financial people and say, "You don't do anything unless you talk to me." And ultimately, and you had a contractor out there, PAE, that was raising issues about some quality, that was doing some other work, and he specifically wrote him a letter, saying, "Cease and desist, you can't deal and tell us anything about Al Watan and Basirat."

So what you had was a control situation. You had no management or financial controls. You allowed one person who was the top engineer to say, "Everybody else, butt out. This is mine." And all the decisions were made by him. And it's a classic example that if you don't have more than one person on a contract that's making decisions and gathering performance data and the like, it's a prescription to failure.

And I know that you're trying to recapture this program, and so I think what Bob asked for and will clarify is this timeline with, actually, the companies, because also one of the questions is, why did it take you almost a year to get the stop order when the issue started to come up, because people were debating it.

And rather than jumping in and look people in the eye and say what the heck is going on, they started a project in February—you know, they sent two people in, something called CCC Incorporated to go in and evaluate it, and they took 60 or 90 days to come back and say what they had already said was right, which is it's fraught with risk, you know.

So it's really important in your statements that you outline the controls that are there and the like, but, gosh, you know, it's also important to say everything doesn't work out the way we intended to have it work out.

Katherine? Or excuse me, Commissioner Schinasi.

SCHINASI:

Thank you.

Just to follow up on that, Mr. McGlynn, I found it a little disturbing, actually, that the processes that you lay out in your statement sound so good, yet they had so obviously not been applied in this situation.

And my question is why is INL doing construction in the first place? I'm not sure that's something that your background qualifies you for. I wouldn't expect it to. But do you care to venture a guess as to why you're doing construction instead of the OBO (Overseas Building Operations) in State or your colleagues to your left or right who are clearly more familiar and have more experience?

MCGLYNN:

I'd be glad to answer that. We normally try to avoid doing construction only because our funds and our programs are aimed at largely to building human capacity, if you will—training and host-country skills.

We are usually asked to do these projects when they are of a certain nature, have to be done fast, or address a certain need. In this case, well, the switch from Pul-i-Charkhi to the Central Training Center for the police.

That's when it had close links with the rest of the police program and we had some resources, meaning, I think, people who knew the ground and we could quickly build those kinds

of things. So, in general, we try to avoid getting into heavy construction, and also because it's very expensive and our budget is not that big relative to the others.

SCHINASI:

I will just make an observation based on what you've just said and what Mr. Thier said earlier. One of the first lessons that I learned, certainly, in the acquisition world is when you want it bad, you'll get it bad. And I think that has proven out in the number of examples that we're looking at today.

In an earlier life, I had the opportunity to look at a number of the construction projects in Iraq that the U.S. attempted to undertake. And what we found there was that many of the problematic outcomes were based on problems with the requirements.

Either they weren't clearly defined or they were overly ambitious, that we often had problems with poor site selection that the executors went ahead knowing that you couldn't build on the piece of ground that you were trying to build on, that there was a lack of locally suitable designs that we went in to the U.S. and tried to build U.S. buildings for a different, entirely different culture and population, and that we didn't have very good quality assurance and we didn't have sufficient oversight.

And so, General Dorko, I'm going to take you at your word that you are a learning organization. But when I go through your statement recognizing, of course, that Afghanistan is not Iraq and there are different conditions that the U.S. has encountered there.

That list I just listed off, those topics that I just listed off are clearly the same as we've seen in your statements. So, for example, you've said that the Corps executes projects based on requirements by our customers. You're the ones that know whether something can be done. What

is your input into requirements that are developed by your customers? And why haven't you taken a stronger role to tell somebody that it’s just not going to work the way you wanted to?

DORKO:

Ma'am, I guess you're right. And that I'll go back to the -- to the IJC guidance that was put out in the fall, and you highlighted something . . .

SCHINASI:

The fall of 2010.

DORKO:

The fall of 2010.

SCHINASI:

OK.

DORKO:

You pointed out that, you know, site selection. You know, if you try to build a facility in an area where kinetics or the security situation isn't going to allow you, it doesn't make much sense to continue on, to try to do that.

SCHINASI:

Or if the engineering piece of it is the soil will not . . .

DORKO:

If the geo-tech does not allow it or if the geo-tech is such that it's going to require such a foundation for what you're trying to build, you probably wouldn't want to do that.

I think the guidance came out in the fall from IJC goes a long way to rationalize that whole process and wrap arms around it. I think we are at fault for probably not raising our hands when we should have in the past, when requirements are defined. I go back to the basic principles.

I think in construction we were trying to just stay out of the way of operations. We were not fully integrating with the operators on the ground and trying to build something—trying to please the customer who comes up and says, "Hey, I want you to build this type of facility here in a year," and then to go back and say, "Sure, we can do that," when we know the kinetics aren't quite right, that the security situation won't necessarily allow that.

Or that we're promising to deliver something in 12 months that we know is going to take 18 months is over-promising. I mean, we need to make realistic promises to our customers and then we need to live up to those promises that we've made to the customer.

SCHINASI:

I'm just going to push on a couple more places here. So, site preparation, you leave that to the contractor to determine if it's appropriate.

DORKO:

Well, site preparation, I mean, there have been some cases—the geotechnical surveys that have to be done and then the design, for example, for the foundation for a building is part of the contract and the contractor's required to do that. Now, we are required to find quality-assurance of their designs.

And then there have been some cases where collapsible soils were in a particular area and the design did not take into account the fact that there were collapsible soils there, and the contractor's design, you know, resulted in some settlement. It was corrected later on, but that's something we should've caught and we should've provided more oversight.

SCHINASI:

Then why don't you?

DORKO:

I think we're providing more oversight now.

SCHINASI:

Why don't you take on the responsibility of doing that prep work?

DORKO:

Doing the prep work ourselves, doing the design ourselves.

SCHINASI:

Yes.

DORKO:

I guess we could, but we think there are capable design agencies out there, that there are design-build joint ventures or contractors that can come together and can do that and that they are capable of designing it and providing a good-quality facility. But we owe our customer the appropriate quality assurance that ensures that those designers have designed an appropriately capable facility that goes on the ground.

SCHINASI:

OK. Because also in your statement, you said, "Designs for facilities for the Afghan National Security Forces were not suitable or compatible with local customs and capacity," which is a different issue than the soil issue and the technical site-prep issues.

DORKO:

Exactly. If you're in an area where to cool a building, you have the choice of installing a complex air-moving system, HVAC system or, yeah, maybe if you just design the building a little different, put simpler fans in that would be more maintainable, the repair parts would be locally available, then it certainly makes sense to do that.

SCHINASI:

But you've learned those lessons at . . .

DORKO:

We have. We have

SCHINASI:

But you're continuing to contract out the responsibility for coming up with those things when you . . .

DORKO:

No. I mean, I'm mixing metaphors here in a couple of ways. But the standard designs for a facility for a barracks—we provide those standard designs to the contractor. Now, that design needs to be adapted to that particular site, which, as you pointed out, you know, there are different soil conditions and other conditions on a construction site that go into the design.

So just that site adapting a standard design that we've provided requires further engineering, and it's further engineering that we need to provide the proper quality assurance and oversight of.

SCHINASI:

One more: I'm going to pick out your statement. And that is, "the challenges in filling critical positions."

Again, I appreciate that there were new guidelines put out last fall in 2010, but we've been at this construction in, you know, war zones for a lot more than the last six months. So why can't you get your critical positions filled?

DORKO:

I think again, I think we're getting better at it. The last couple of years have been historic, I think, in terms of the Corps of Engineers workload, depending on how you normalize the dollars.

You could say that with the base realignment and closure, the Army's transformation over the last number of years has been a record workload here in the States. So the demands in the States and the demands in the forward-deployed theater were pretty substantial.

I think probably about a year, a year and a half ago, the workload in Afghanistan added on to the workload in Iraq at the time, had us working pretty hard. I think to where the situation has evolved now as we've gotten to the end of the base realignment and closure construction, as construction has come down in Iraq, the pool of volunteers that we draw on to go over there is now more focused on Afghanistan right now.

With the increased workload that's coming, we're sending a team of 23 people over to help just do the planning, the front-end planning you pointed out as so important over the next few months to make sure that this bow wave of work for CSTC-A is properly planned out.

I just looked at the report from the southern-district commander this morning, and over the next 90 days, he will grow an aggregate 26 people. So I think now we have the fire hose turned on. The organization is over there and we have a much more robust pool of volunteers that we're now able to draw from, because it's just the nature of the workload and how it's evolved both stateside, Iraq, and Afghanistan particularly in the last 12 months.

SCHINASI:

My time is up, but I address my question to you, General Dorko. But I would say at the State Department and the Air Force and USAID and every agency we've looked at, we've been at

this a decade now, and you know, I'm glad we're learning lessons, but we keep making the same mistakes over and over, and including getting enough people into this area to recognize that contracting is such an important part of our overall mission.

So, with that, I'm done.

ERVIN;

Could I just, with your indulgence, Mr. Chairman, just interject a quick question as a follow on to Commissioner Schinasi's earlier line of questioning to you, General, about, you know, you understand that site selection is bad in a particular case, or a particular project is not sustainable, or a particular project is not consonant with local culture. Nevertheless, you go ahead and do it and then the customer finds out.

But isn't a substantial or at least a significant amount of funding for USACE come from customer fees?

DORKO:

We're a project-funded organization, so the size of our organization, the amount of people we put to a project comes from, essentially, a supervisory and administrative fee that's charged to that project.

ERVIN;

We were speculating as to why you might not point this out when it's clear that these are going to be issues? Does that have anything to do with the fact that you don't want to tick off, frankly, the customer by telling them what the customer wants to do won't make any sense?

DORKO:

No, sir, I don't think so. I think a lot of times sites are selected based on best available knowledge at the time.

ERVIN;

Yeah. But you just said in your response to Commissioner Schinasi's comments that, you know, there were times when you knew or others in your organization knew that it wouldn't make sense. Nevertheless, nothing was said. Why is that the case?

I don't mean to put words in your mouth. Isn't that the . . .

DORKO:

You know, I'm sorry, back to the comment, you know, this is war zone and if you're trying to build, say, a security point that's on the border, at a crossing point or whatever, to provide security or provide some form of security.

ERVIN;

Yeah, we all know it's a war zone. But I mean, let's just take the issue of soil, you know, whether the soil can sustain a building of a given weight has nothing to do with a war zone. That would be true stateside in peace time, right?

DORKO:

Yes, sir.

ERVIN:

So it's been the case apparently that there have been times when you've known that the site selected would not sustain the project. Nevertheless, the project was built and millions of dollars are wasted, right? Why don't you explain that early on in the process?

DORKO:

Sir, I don't think it was the case. At least with the soil situations I know, it wasn't the case that a building couldn't be built there. It was a case of the designer, the geo-tech evaluation and did the design, and then the execution of the construction to ensure appropriate compaction of the right materials wasn't done to the standard that it should've been.

And our quality assurance should've caught that because the building could've been built there with those soil conditions if we had paid more attention to make sure that the soil design was correct and that we were watching construction executions as closely as we should have to make sure the appropriate compaction and other things were done the way they should've been.

ERVIN;

Thank you, General.

DORKO:

Sure.

THIBAULT:

OK. We're going to briefly go around again.

I have two pictures put up here. Mr. Thier, the one on the left there, you're aware of what that is?

THIER:

I'm assuming it's Ghazi Boys School. I have been there, but I'm not certain that that's the image.

THIBAULT:

You've assumed right. How about the image on the right?

THIER:

I'm afraid I don't know. No.

THIBAULT:

Well, that's right behind the Ghazi Boys School. And that's the current school that's training the kids that are part of Ghazi Boys School and for background.

But the reason I want to bring it up is, this was a UNOP S (United Nations Office for Project Services) partnership contract, which I know you know. And apparently, it got off to a bad start because of failed contractor drawings, UNOPS, the people that they had doing the drawings.

They were a European firm that doesn't spend a lot of time in theater and they rely upon others. Now, we actually went out there, and that was an interesting trip, because that's the only time in Afghanistan where I actually looked around intently as our security detail was taking us

up, because we were traveling down some pretty rugged roads without anything around other than low-form buildings and the like.

So it's outside the wire. And do you have, does the USAID, looking at that picture on the left, have any hand in identification of the specifications and design? Or do you turn that over to your implementing partner?

THIER:

I'm sure that we must. I don't really know exactly in the case of the Ghazi School exactly where the specifications from. And I'm happy to get clarification of that.

THIBAULT:

OK. Because I would suggest to you that you don't hang too long on the sure, because it might be difficult. Are you aware of what that nice glassed-in area there is, that three-story glassed-in area on the left is?

THIER:

I’m afraid I don't.

THIBAULT:

It's an atrium. Someone had an idea that they built this three-story school and then they had a two-story area right there, and you know how schools here in the states will adjoin and they'll corner and they had a sidewalk between it that they thought it'd be great if they had an

atrium where they put in plants and display. It's just a big open area, about a third of the area of this, as you can see on the picture.

Three stories, open air, air-conditioned now and heated, but it's an atrium. You know, my point of bringing this out is not only was it a very difficult contract with—another case where the contractor bailed out and you had to replace him, do a lot of scrambling because there wasn't a lot of oversight.

Your USAID people, like I said, it was a challenging car trip. And so, you had to get another set of drawings. And someone designed a facility and for example, I was going to ask you, well, gosh, was it handicapped accessible?

And the reason I was going to ask you that is someone decided it ought to be. But their solution was, when you walk in the school, maybe you've seen it since you go to the school, is they got a walkway that's, I don't know, about as wide as this, but a little wider than this table. And it goes from the third floor straight shot, it might be a football-field length, down the whole length of the school to the bottom, and it's concrete, polished and all that.

And that's the emergency exit, handicap in and out. I have friends, everyone has friends that are wheelchair-accessible type of people, you know, I couldn't push them up the hill. I get them down the hill.

And I can guarantee you if an American high school had that, it would just be an incredible skateboard track, but it wouldn't be much for an emergency exit because people would be falling all over. I say that because when you walk in there, it really looks wonderful.

And I say that. I'm not really being too facetious, but there are a lot of schools in Southwest Virginia, to pick the state I live in, that would die. No, that's a bad choice of words, but would really be appreciative to have the opportunity to have a school like that.

If you go in to the facilities, the bathroom facilities and the like, they're kind of American-standard great. And the reason I put that up there is that's what they're trying to replace. So if it needs to be replaced, great, super. But, you know, how much is enough. And the question is, could that be a little gold plating.

You know, I tell you my view. Do you need an atrium in an outside-the-wire school? And you know what the answer was when I asked your people out there and say, well, you understand there's a few important people that have their kids there, that go there and kind of like a prestigious school. And so, well, we really wanted to knock them dead with the school, you know, really have a great facility.

That's wrong. You know, that's why I bring the picture up, not just to give you a chance to look at that and understand that that's a better standard now than we have in America. It really is. And I'd encourage you if you go out there and get some more pictures, challenges.

But I'm not really here to debate it as much as to show it. And so I come down to the point of my question, which is, on large projects or complex projects, you know, USAID is invaluable in their service and their mission. This isn't a knock on the USAID mission.

So throughout out the world your track record is great. But in complex or large construction projects, like the dam and other things, my question to you, my point-blank question is, are you out of your league? Should you be having from a contract-management, contract-award, contract-oversight organization such as Colonel Cassidy doing that for you or an organization such as General Dorko that do these large projects day to day very effectively?

You know, is it possible that you've been asked to do something that's really outside your capability?

THIER:

There's no question in my assessment, and this is not a recent phenomenon, that the capacity of USAID as many folks came to originally know the agency worldwide were hollowed out over a period of time. Our ability to undertake large construction projects, the size of our staff, was all dramatically reduced. And this is something that happened over the course of a few decades.

I strongly believe that it is in the interest of the American people and the government and the countries that we worked with that USAID do have some of those capacities. I think that we've worked to build some of them in some of the areas that we work.

I think that my concern when you talk about our capacity at the moment, one hand is large construction and do we have the capacity, the engineering and so on to do the sorts of specifications, reviews that you talked about. But then, of course, the other hand is the oversight.

And I think the oversight is something that we can, must and are making greater progress on. We simply can't have a situation like we had in 2007. We had three contracting officers in Afghanistan. Today, we have 11 and we've ordered doubling of that number in this year.

And so there's no question that if we're going to be doing this work that we need to enhance our oversight capacity.

THIBAULT:

OK. All right. Thank you.

I'm up to Mr. Green, Commissioner Green or Commissioner Henke. I can't remember -- Ervin.

ERVIN:

Thank you.

I'll be very brief. Back to you, Mr. Thier. And I wanted to start with this letter that Commissioner Tiefer, this article that he read to you earlier. It's a January 22nd article. It's about the Symbion claim that they could've done the work on this Kandahar Plant.

Really, the questions are a couple-fold. Since Symbion was doing the work presently in Kabul, it's unclear to me why the sole-source justification says that there really was no alternative. Now, there could well have been problems with Symbion's performance too, but since the bulk of the work was subcontracted to them, why was that alternative not pursued?

THIER:

Symbion, it's my understanding, was the subcontractor for a time on the Tarakhil project and they left the site and that issue of their performance is currently the subject of a lawsuit.

Certainly at the time that this decision was being made, Symbion was not under consideration, if you're asking whether they would've been under consideration as a sole source. What we had, instead, was an existing agreement with Black & Veatch, who as I said before had to our mind significantly and substantially changed their performance.

ERVIN:

All right. And on that point, that leads to the second question I was going to ask: substantially and significantly changed their performance. If in fact that's the case and if that was a key criterion for deciding to do this sole-source award, I would've thought that that would've

been reflected in the justification. I reread it during the remaining time between the last round that I had with you, and there's no mention of that.

Can you account for that? If a key factor in the decision was that there's been this dramatic improvement—why wasn't that mentioned in the document?

THIER:

I think what was mentioned in the document was our belief in their capacity to perform positively, the work that they . . .

ERVIN:

Well, it was conclusory. There was no reason, there was no justification for that, other than the conclusion that they could do it. If there was this dramatic improvement, wouldn't you think in a document you'd list that under these circumstances when it was pretty clear that that would be a rather controversial decision?

THIER:

I believe that from the SIGAR report and our work that it had become clear that they were a performing organization. I don't know that there was a requirement or a thought that that past history would've been represented here. But certainly, we found it important to analyze their capacity to undertake it and did include that in our assessment.

ERVIN:

What is the present status of the full-and-open-competition process? Are you on track to do it? It will happen well into fiscal year 2011. What's the process now? When can we expect you to have procedures in place so that this kind of thing doesn't happen again?

THIER:

I will have to, if it's OK, get back to you on exactly what date we expect that process to be fully competed, which obviously had several phases where we will put out the award and then it will be competed and then decided. Yes.

ERVIN:

All right. Please do.

THIER:

I'm happy to get you that, the timeline.

ERVIN:

But give me a notion. Is it six months from now? Is it six years from now? I mean, what's the ballpark timeframe?

THIER:

I'm sure it's somewhere between that, but if you allow, I will get back to my staff and make sure that we get you . . .

ERVIN:

Is it closer to six months or is it closer to six years?

THIER:

It's certainly closer to six months. It's a very high priority for me. I think that our reliance on a single sole-source contract that was completed in 2006 is not acceptable practice going forward. We all realize that. And it's a priority for us to put these new competed mechanisms in place.

ERVIN:

Thank you.

Mr. McGlynn, just a couple of questions for you. Like Commissioner Schinasi, I was interested in your testimony, which was rather self-congratulatory, I thought, not personally self-congratulatory, but, I mean, this sentence, "As a matter of policy, anytime," on page two, "anytime a problem or even the appearance of a possible problem is identified, I now act swiftly to determine what problem or abuse might exist and to involve the relevant oversight and law enforcement agencies."

It's already been established that this particular problem with the Pul-i-Charkhi prison was not, the uncovering of it was not done by your staff rather, but by the inspector general. You've said yes to that, right?

MCGLYNN:

I had.

ERVIN:

And speaking of the IG's investigation, I'm just trying to establish the timeline here, how prompt the action was taken after the inspector general's investigation was completed.

You say here, on the next page, that after that investigation, your Office of Procurement Executive suspended those two Afghan contractors and the suspension took place on August 26th last year, August 26th of 2010.

When did the OIG complete its investigation? I'm trying to see how prompt the suspension was.

MCGLYNN:

I'm not sure of the exact date of the completion of the OIG investigation. I know we were briefed on May 10th.

ERVIN:

May 10th?

MCGLYNN:

Yes. And when I say prompt, the INL took action May 11th with regard to the information we received and regarding the individual who appeared to be involved.

ERVIN:

OK. Can you get back to us with the exact timing of the OIG investigation?

MCGLYNN:

Certainly.

ERVIN:

And then, finally, you say further that you acted promptly to terminate the COR involved. When was that COR terminated?

MCGLYNN:

May 11th.

ERVIN:

That was when the COR was terminated as well as the suspension of these two contractors?

MCGLYNN:

No, I'm sorry. The COR was terminated on May 11th. The process for the dealing with the contractors was a different timeline. I can give you some of the key dates there if that's helpful.

ERVIN:

Yes, please do.

MCGLYNN:

Sure. The initial action to alert the companies that there was a problem was when a letter of concern was transmitted from our procurement executive, I'm sorry, from our oversight body in February 10th. Then, further . . .

ERVIN:

February 10th of 20 . . .

MCGLYNN:

2010.

ERVIN:

Well, when was the OIG investigation completed?

MCGLYNN:

Again, I can't speak for them.

ERVIN:

But you said you were briefed in May.

MCGLYNN:

We were briefed in May. Yes, sir.

ERVIN:

And then you suspended the company in February of 2010?

MCGLYNN:

No, I'm sorry. I perhaps inadvertently confused the individual and the company. The company, they were issued a show-cause order in September. Again, as I understand the process, for a company who's doing work to deal with inadequate performance, there is a specific contractual procedure under our federal regulations. And that was the first action with the company.

They were terminated in November for the Al Watan Company and in January for Basirat.

THIBAULT:

You know, Clark, can I come in here? I really strongly commend you to bring us back a chronology and try to remember what you said and correct it because you're going to need to correct it. I don't know who's spooning you paper, but I've got a chronology here and it includes CCC Inc, because it was a 90-day contract with two engineers in February.

I'm sure that's what led to the May briefing. Now, the IG may have hired the contractor, and if anyone needs any reminders, the two contractor employees are Tim Johns and Bill Campbell. You know, and you're correct that what we're calling that COR and I don't think there’s secrets here, Kim Brophy's suspension letter was August of 2010.

It was what I was told. And that he then left and he's now in Malaysia. He quit and went to Malaysia. And so this is kind of an interesting story that people were sitting there explaining this is what happened, this is what happened and looking me in the eye that were firsthand experience.

So I'm hearing chronologies that don't make sense. So if you'd sent it to me, then I've got my notes and the people I've talked to and maybe we can make sense out of it.

MCGLYNN:

Sure.

THIBAULT:

I would commend you not to be taking to the bank those paper notes that are floating up there.

MCGLYNN:

Well, those aren't paper notes. Those are our records. Again, but we're happy to double check and make sure they're accurate.

THIBAULT:

If you would, please.

ERVIN:

Thank you.

THIBAULT:

Are you good?

ERVIN:

Yes. Thank you very much.

THIBAULT:

Thank you, Clark.

We're at Commissioner Green.

GREEN:

General Dorko, your impression, is the schedule for the increase in Afghan National Security Forces realistic from your perspective in looking at the future construction requirements, building requirements?

DORKO:

Sir, I guess if you're asking me is it doable in the timeframe, the rough timeframes they've asked us to do that in, I guess we'll know in the next couple of months.

I mentioned earlier about the 23 people we've sent over to do initial planning. It's a lot of work to get done in a short period of time. So, we're looking at all sorts of ways how do you accelerate construction to be able to do this much.

We're looking at government-furnished materials, use of case-type of structures, anything we can do to be able to do it faster and to standard. And that's part possible why we saddled up this 23-person team to go over and General Yenter plan this out and do the broad-base planning.

But I guess right now, I can't tell you for sure until we've done this analysis.

GREEN:

Four hundred folks is a lot to billet.

DORKO:

Yes, sir.

GREEN:

If it gets to that. You know, any of your contractors ever recommend to you significant efficiencies that could be put in place, I mean, significant ones that would reduce the government's cost?

DORKO:

I guess they do in the case of over in theater. I guess I'm not familiar enough with enough specific examples to be able to pull something out.

I mean, we dialogue with our contractor all the time. You know, we take a value-engineering approach to what we design over there and we're always looking for efficiencies and better effectiveness in what we're putting on the ground. So we certainly do, you know, take the contractor's input if there's a better way of doing business.

GREEN:

OK. You don't have any examples, though, of significant things? When I asked the contractor this one time, the answer was, "Well, we're now washing the air conditioner filters rather than replacing them," which wasn't a lot of dough, but nevertheless.

USAID, Mr. Thier, what dialogue has there been in light of President Karzai's pronouncements on PSCs, personal security companies and contractors? What dialogue has there been within AID, within country, and with your implementing partners about how you're going to handle that if it in fact comes to fruition?

THIER:

There has been a very intensive and I would say almost constant series of engagements with all of those parties since August, figuring out how to move forward with the implementation of the decree.

The U.S. government does support the implementation of the decree and we're working very closely with the Afghan government, particularly the Ministry of Interior, to understand how we make that transition successful so that we continue to protect our implementing partners, we continue to deliver on critical programs. But at the same time, we do make the transition that the Afghan government has demanded of us.

GREEN:

Had any of your implementing partners express concern or indicate that they may not remain in country if that occurs?

THIER:

Implementing partners have expressed concern about what would come next and they've all made very clear, both from a personal security perspective as well as from an insurance perspective, that the arrangements that are going to be put into place need to satisfy both of those concerns. Otherwise, they won't be able to continue their efforts.

GREEN:

And you're prepared to deal with those insurance changes if necessary?

THIER:

Well, we certainly are going to work with the Afghan government, our implementing partners, to work on that. We still don't know what the outcome of that process is in terms of the timelines, the standing up of the new Afghan Public Protection Force.

And so, it's impossible for me to say today which implementer is at, what timeframes are going to be affected by this decision.

GREEN:

OK. One last very quick question. We beat the power plants to death, whether it's diesel or gas or natural gas or donkeys, but what arrangements have you made, what coordination has been done with the Afghan government to take over the operation and maintenance of that specific facility once the U.S. money runs out?

THIER:

Sir, we've done two things right now. We have a five-year-long contract to work with the Afghans to increase their capacity building that they will be able to take over sole operation of the plant from a technical perspective.

We've also worked with them to establish their DABS (Da Afghanistan Breshna Sherkat), which is the authority that is responsible for managing not only the plant itself, but also managing collections. They're dramatically increasing the amount of money that they are now collecting payments for electricity. And they are now paying the fuel costs out of that money.

So our . . .

GREEN:

All of the fuel costs?

THIER:

My understanding as of today is that the fuel costs for the Tarakhil power plant as it's currently being operated are paid for exclusively by the Afghan government from revenues that they are generating.

GREEN:

OK. Thank you. My time is up.

THIBAULT:

Thank you, Commissioner Green.

Commissioner Tiefer, please.

TIEFER:

General Dorko, let me confirm the understandings that I have from among other things, the day of discussion I took part in in Winchester with your Transatlantic Division.

They told me that the Corps has firmly and successfully saved a large fraction of money on projects, including power projects in the war zones, by doing fixed price on these, not cost-plus, and full competition, not sole source.

And I noticed that that happens to be true about exactly what we're talking about today, namely diesel power plants in Kandahar City, that the Army Corps is contracting for two 10-megawatt diesel-generator power plants in Kandahar City, and awarded this sole, after competition, firm-fixed price to IAP just this past August for $51 million.

Before I go on, are we talking about this? Are you?

DORKO:

Yes, sir.

TIEFER:

Yeah, OK. I'm looking for an order of magnitude in what you say, what the low bid tends to be, by going the way you go rather than, shall I say, the high-price way.

My experts on the staff who have actual job experience with the project bidding in Afghanistan tell me that something that would cost, say, in this power-generation area, 275

million as a sole-source cost-plus when you're all done. You might save upwards of a third if you win fixed price and fully competed. Meaning, on 275 million, you might save upwards of $100 million. The low bids come in that way.

What would you say about that?

DORKO:

Sir, I wouldn't begin to be able to figure out how to quantify what the difference is. I guess our experience that's evolved over time, starting in Iraq and going into Afghanistan, is that in Iraq we initially had large contracts with large international firms that were cost-tight contracts because of the nebulous requirements, because of the security situation.

But as the security situation improved and we're able to better define requirements that we found in that environment and in the environment in Afghanistan that you can use fixed-price-type of contracts successfully in, you know, allocating risk appropriately between, you know, the government and the executor.

TIEFER:

Mr. Thier, I want a couple of two things. You said during the early testimony you made that the decision was made to omit a transmission line across Sangamon Valley. That was my understanding and I think you said the same, from the package that became the Kandahar Power Initiative.

And you were going to check on what was meant by the components that could potentially be issued their own contracts. I understand that you had reasons not to do so and that

it was unfeasible and all that. I'm just trying to understand what was being talked about by components.

And if the transmission line that goes all the way from the dam 100 miles away in Helmand across the valley to Kandahar wasn't going to be built until down the line and if you knew you're going to have to hook up diesel plants in Kandahar by different contractors because the Army Corps contractor was ATI. So you didn't have to have the same contractor in one place as in the other.

Were those the potential components to be put apart?

THIER:

Thank you.

Because you had cited that, I just want to read the full sentence that's been given to me by my staff.

TIEFER:

And after reading it, would you then say which components were apart?

THIER:

Absolutely. What you were quoting was from the sole source that first said, this package of activities is interlinked and must be implemented simultaneously.

TIEFER:

That's in a different paragraph. I thought you were going to read the sentence.

THIER:

I just wanted to introduce how we got to that sentence so that it's properly contextualized. A number of individual contracts for different components could potentially be issued to conduct the work needed to implement KPI. But the current urgency, risk factors, and management considerations make this option unfeasible.

In other words . . .

TIEFER:

And so what were the different components?

THIER:

There are six different components.

TIEFER:

I know, but what were the ones that could potentially be awarded? You don't do each of this six apart. Weren't they the power plant and the hydroelectric plant?

THIER:

I mean, I imagine if you wanted to, you could break down any of the components. The point was . . .

TIEFER:

You mean you have no idea?

THIER:

No.

TIEFER:

Does it mean you haven't—let me just mention. Since you're going through other parts then let me point it out to you. You discussed components one through four, which are all related to Kandahar City, and then you discussed components five and six.

One is the Helmand province dam and the Kajaki dam and the other is the local distribution center system for that dam. Aren't one to four one component, and five to six another component?

THIER:

The six components could be separable I'm sure, in different ways.

TIEFER:

And could one to four and five and six be separable, Kajaki and Kandahar?

THIER:

I'd have to go back and look. Obviously two is also as a conjunction.

TIEFER:

You mean your staff didn't tell you whether they could be? That was my question. I'm bored, I'm afraid, by repeating this four times. Now another two times. Couldn't they potentially be separated?

THIER:

Yes. I have said they could be separable. The point is, however, the decision was made that they would not be advised . . .

TIEFER:

I got that. Now one last question.

THIER:

So that we could be successful in delivering the power that this was intended to do.

TIEFER:

Thank you. I got that part. Louis Berger: you decided as part of the agreement you made with them that you wouldn't suspend your debar. And I'm asking you, I've asked you. They defrauded the U.S. government big-time with known false billings.

They put in doubt a system we have found throughout Iraq and Afghanistan when you have cost-plus contracting. Wouldn't you consider that as negative past-performance if, say, they come along and they want to bid? I'm not saying you rule them out. I mean, when you evaluate their past performance, which is often 30 percent of an award.

THIER:

Yes. I believe it can and should be.

TIEFER:

Thank you.

THIBAULT:

Thank you, Commissioner.

Commissioner Henke, please, Bob.

HENKE:

Mr. Thier, I wanted to get this issue that my colleague, Mr. Green, raised about the Karzai decree in private security contractors in Afghanistan. If I understand right, your implementing partners are very dependent on private security to go out and do their job. Is that an accurate statement?

THIER:

Absolutely.

HENKE:

From what I've read in the press, if the decree as originally written or amended multiple times over the course of the last six months, that could've had a dramatic impact on AID’s ability

to put people in the country. In other words, there may have been a massive exodus of implementing partners, of AID dollars out of the country if they can't have security, private security, right?

THIER:

Yes. That's correct. Certain of the firms would not continue to operate in Afghanistan without proper security measures.

HENKE:

They would just pack up and go. Your mission would come largely to an end in Afghanistan without that necessary security.

THIER:

It certainly affects some of our programs. Some of them are done through implementing partners who don't use private security contractors and some are through government entities that also don't use them. So it would affect not insubstantial portion, but not all of our missions there.

HENKE:

OK. These private security contractors, whether they're U.S., third-country or their Afghan locals, in the course of their duties, do they significantly affect the life, liberty, and property of private persons?

THIER:

I'm sorry. Could you say that one more time?

HENKE:

The private security contractors that you engage: they're very important to your mission. In the course of their job, in the course of performing of their contract, can they significantly affect the life, liberty, and property of private persons?

THIER:

I'm sorry. I don't understand what you mean can they significantly affect, are they there to protect the life and liberty of persons?

HENKE:

Is it fair to say that they would in the course of their duties, whether it's holstered or un-holstered, significantly affect the life, liberty, and property of private persons? You said you can't do without them, and they're there to secure the life and liberty of those private persons.

THIER:

Of the people they're protecting.

HENKE:

Yes. Yes. So the contractors are performing a function where they significantly affect the life, liberty, and property of private persons. Do the contractors, the private security contractors, does the course of their duties require the exercise of discretion in applying their authority?

THIER:

You mean, in engagements?

HENKE:

No, just discretion. Simple—take it outside of D.C. Do they have discretion in the performance of their duties?

THIER:

Certainly, individually, they are forced to make decisions on the day-to-day basis about how to conduct themselves.

HENKE:

Right. Would you say that it's enough—obviously, I hope it is, it's in our public interest to develop Afghanistan?

THIER:

It's certainly in our public interest to stabilize Afghanistan, yes, right.

HENKE:

And to do that, we require contractors, implementing partners, government agencies, others, and they require private security contractors. So my conclusion would be that their

performance of duties, private security contractors, is also intimately related to the public interest. Is that a fair conclusion?

THIER:

Certainly as it stands now, although I do, again, want to confirm that we agree ultimately with the Karzai government to phasing out of the use of private security contractors is in our mutual best interest and we're working towards that.

HENKE:

Absolutely. In the 5-, 10-year horizon, the idea is to have a sovereign government there that can provide security. But the things I was quoting from that significantly affect life, liberty, and property of persons, require the exercise and discretion in applying federal government authority or the things that are intimately related to the public interest.

I'm quoting from a definition of inherently governmental things. And it's interesting that you said in all cases that, yes, those contractors are doing that very same thing.

I think that's really for me the nut of the issue. The bottom line is that we call it what we want, but they're doing a lot of things that government people in a better world would be doing. Do you want to comment on that?

THIER:

Again, specific to Afghanistan, I fully believe that's in the best interests of the United States and the Afghan government that we move to phasing out private security contractors for provision of security.

HENKE:

Right. Does the presence of armed private groups in Afghanistan support or undermine the legitimacy of the host government—the Karzai government, excuse me.

THIER:

In the case of Afghanistan, I believe, it's done both. In some cases, their behavior and presence has undermined that. In another way, it has allowed us to undertake critical work that we wouldn't have been able to do otherwise in the absence of other mechanisms to provide security.

HENKE:

OK. That's a fair statement. General Dorko, your written statement is interesting at a number of places. On page three, you talk about security is the number-one challenge, the root cause of a lot of our problems. You've adopted methods to mitigate security risks.

And then, here, you say in accordance with the commanders, with General Petraeus's guidelines, an assessment must be made to determine if a project area is safe, and if it's not, you send combat engineers to perform the construction function. And can you just talk a little bit about the distinction there between where you can and cannot send people?

DORKO:

Yes, sir. In doing that assessment, I guess, if you're going to build a facility in an area and security, depending on what the facility and what function it's going to perform, if it absolutely

has to be there and the security situation is such that a contractor going in would not be able to accomplish that, get materials there, be able to operate safely and securely on that site to do it, combat or uniformed engineer units . . .

HENKE:

Right.

DORKO:

. . . and construction units of the Army or Seabees out of the Navy, you know in concert with a military operation could go in security area and do the construction if it were within the wherewithal of the unit's ability. They're equipped and trained to be able to go do it.

HENKE:

And that's a change in policy or at least a change in assessment, that we're going to look at an area and determine if it's too hot, therefore, we will send in soldiers who are combatants, right? Is that . . .

DORKO:

Sir, I don't know if that's certainly a change in policy. I think that's just kind of a codification in what IJC put out their guidelines. It's just a piece. It gathers in one document a piece of doctrine that gives a logical step-by-step process in trying to determine when, where, and how you're going to construct something.

Everything you ought to take into account to determine, you know, what method or means you're going to be able to use to go out and do it.

HENKE:

So it might not be a change with just the codification. Write it down. Let's think clearly about it and follow up this way.

DORKO:

Yes, sir.

HENKE:

Is it fair to say that for a long time we've been and probably still are sending non-combatants into combat zones?

DORKO:

Sir, there are security issues, you know, throughout Afghanistan as there were and continue to be in Iraq.

HENKE:

Right.

DORKO:

We have civilian U.S. Army Corps of Engineers employees who volunteer to go and provide quality-assurance oversight or engineering and design.

HENKE:

Your civilians, when they go, are they combatants or non-combatants? What's their status—Army Corps or civilians?

DORKO:

Sir, I think, I'd consider them non-combatants.

HENKE:

OK. Have we sent them into combat zones where it's unsafe?

DORKO:

Sir, they're on the ground in Afghanistan now and they have served for years. We've deployed our 10,000th Corps of Engineers civilian recently.

HENKE:

Right. How many civilians have you lost, Corps or Army civilians, government civilians?

DORKO:

Corps of Engineers are employees.

HENKE:

Right.

DORKO:

And not contractors for us in any way, so I don't think we've lost any.

Sir, I guess we've lost three.

HENKE:

Three and what? Were they military? Were they D.A. (Department of the Army) civilians? What . . .

DORKO:

Sir, these are D.A. civilians.

HENKE: We lost three D.A. civilians. OK. Thank you all for your testimony, nothing further.

THIBAULT:

OK.

Commissioner Schinasi, please.

SCHINASI:

Thank you. I just have a quick question and maybe a follow up. I'm going to ask each of you. What do you know about the contractors, the companies that your colleagues up there are using?

So General Dorko, what do you know about the contractors that Mr. McGlynn, and Colonel Cassidy, and Mr. Thier employ?

DORKO:

Well, first, ma'am, within the defense system you know we capture performance by contractor and put it into CCASS (Construction Contractor Appraisal Support System) and other systems out there that document contracted performance, so . . .

SCHINASI:

I'll just stop you on that. So do you know what your rate of input is on that? I mean, do you know how much performance you're actually capturing?

DORKO:

To quote you a percentage, exactly, is there a backlog in terms of every contract has been performed, has been properly documented, no, I don't have it right now to give you.

SCHINASI:

OK. And you don't know anything about the civilian agencies unless you know, and you don't know it's companies who are contracting with the civilian agencies. You said you're in the DoD world.

DORKO:

Well, at this level, I can't tell you right now. I know in theater that everybody exchanges information and that I know that there's a vetting process that goes on now because of the concern for corruption.

SCHINASI:

The task force 2010.

DORKO:

The task force that's going on that I think all agencies over there deal with and have a common node where we're able to exchange information.

SCHINASI:

And have your people been using that that?

DORKO:

Absolutely.

SCHINASI:

And how about taking information out?

DORKO:

Absolutely.

SCHINASI:

Mr. McGlynn?

MCGLYNN:

The State Department's Acquisitions and Management Bureau is the center for our overall information on the contracting and coordinates with other agencies. They would have probably the most complete picture of our coordination with the Department of Defense and AID.

We have, I would say with regard to this particular hearing, considerable knowledge of the other entities working in Afghanistan just because we do a lot together, for example, the police program which is reverted back to the Department of Defense.

We've had extended conversations and interaction on how that would work and then indirectly, although we're not involved in the decision of who would be able to do the work based on the conditions.

SCHINASI:

I guess, in your statement, you talk about the Pul-i-Charkhi Prison in particular, and you say the embassy has identified eight Afghan companies. Do they get that information from your colleagues or do they share it once they get it?

MCGLYNN:

I don't know.

SCHINASI:

Colonel Cassidy?

CASSIDY:

Ma'am, like General Dorko, we use the federal rating system for our contractors as we go through. And then since our contracts with our prime contractors and the prime contractors that work in theater all the time, get to know the subcontractors, not just the names, because of the names of the subs will change on a regular basis.

SCHINASI:

Right.

CASSIDY:

But the primes in theater get to know the subs that work with and the people that are with those subs and build a relationship with them for continued work.

SCHINASI:

And how does that information get to you and then how does it get to your colleagues at the subcontractor level in particular? Are you aware of the companies that your primes are subcontracting with, I guess?

CASSIDY:

We are aware of them, and we will watch them now as we're building resources, we are tying resources of the schedules as we go through. So we get more information than we've had in the past.

But as far as sharing that information back and forth on the subs, that's really left up to the primes. We don't recommend primes or we don't recommend subcontractors in theater.

SCHINASI:

I know you don't have to recommend, but being aware of the performance of the subcontractors is something that wouldn't interfere with the performance of the prime in the contract. It would just be better knowledge for the U.S. government to have.

CASSIDY:

Yes. I agree.

SCHINASI:

OK, Mr. Thier?

THIER:

I'm told we use something called the central system for past performance or CPARS, which all agencies input into in terms of performance with contractors and then that is reviewed every time an award is going forward to check for past performance.

SCHINASI:

So I'm going to ask you a question you don't have the answer to. I know. But how is that going? I mean, what percentage of your contracts you have someone actually putting the information in on the primes and the subs?

THIER:

OK.

SCHINASI:

I understand that the system exists; it's not whether or not the system exists. It's whether it's being used and our understanding is that is not, for a variety of reasons—exigencies of business, other priorities—and that really the information that we need one of the pieces to get around a lot of the problems that we've talked about today is making sure that the knowledge, not just to the prime level but at the subcontractor level that these companies perform. It can be used for good or bad decisions on our part.

OK. Thank you.

THIBAULT:

Thank you, Commissioner.

I'm really glad you ran that thread out on the line of questioning, and I'd ask for General Dorko and Mr. McGlynn that you coordinate Basirat with each other. And the reason I've asked that is when you gave this stop-work to Basirat and also to Al Watan, I asked the question about

Basirat (because they're a design engineer) of your people, are you aware of any work anywhere else that's done by Basirat, and they said, "Not with INL."

And I said, "Anywhere else?" And they said, "Well, yes, the Corps uses them a little bit." And I asked the question, "Did you pick up the phone and call them, you know, because you have a real failed situation where some of their drawings—they just pulled something off the shelf and threw it in, and others, they made significant mistakes."

So I'd ask, for the record, to follow up General Dorko because you know you can't act upon what you don't know and whether, one, you have Basirat work in Afghanistan and, two, whether you've ever had the opportunity to coordinate with INL.

DORKO:

Certainly, will do.

THIBAULT:

All right. Commissioner Henke had a minute's worth of follow-up or so.

HENKE:

Yes, just real quick, Mr. Their. I think one of the key questions I have is—you can be a hero to everyone in the room. I'm going to ask you two questions with just two very brief answers. Are we nation-building in Afghanistan? I don't mean it as a tricky question. I just want a yes or no, if you can.

THIER:

I believe the answer to that is no.

HENKE:

Second question, are we transforming failed states into stable quasi-democratic countries?

THIER:

I think that that is a more accurate depiction of our goal in Afghanistan.

HENKE:

So the answer to that is yes.

THIER:

Well, I don't know. Are we doing it, but it's certainly closer to our goal to stabilize a failed state in Afghanistan.

HENKE:

Right. It's interesting because you edited a book in 2009 and there was a feature of Afghanistan, and you wrote the introduction chapter, "Building Bridges," so we thought you were a construction expert. But in your book you set up the term, this nation-building and transforming failed states to stable quasi-democratic societies to be the same thing.

It seems we have a difficulty saying nation building.

THIER:

I think that Afghanistan is a nation. It's not our intention to build the nation of Afghanistan. We're attempting to assist them to build the institutions so that they can have a stable state going forward.

HENKE:

What's the difference?

THIER:

I think the difference is that I don't know exactly what you mean by nation building. I think that Afghanistan is a nation. It's been a nation for hundreds of years. We're trying to help them to get back on their feet again. It was doing relatively well in the '50s and '60s, and then it faced 40 years of terrific and horrible turmoil that have made it unstable and that have caused us here, personally at home, gravely.

And so our intention is to help them to rebuild some of their institutions so that they can be stable and prevent Al Qaeda from coming back into their country. And I think that's our goal.

HENKE:

Thank you.

THIBAULT:

All right. Let me, before I thank you, it's a way of summing up, you know, this was an opportunity for us to learn, for you to share. Let me put it this way. There was a different tenor in our fact-finding than there was with General Fields coming up because of the nature of what he was trying to do versus what you're trying to do and what we're trying to do.

So I've got to just thank you for that. You're doing something. I've got a guy I counsel with—I won't give his name. I'll say he's John P. But one of the things he always tells me is I'm bringing problems, bringing problems, bringing problems, and bringing problems.

He says, "You got a mirror? You looking into a mirror?" And you all are looking into the mirror. But I'd really encourage you to continue to do that in the text of process improvement and the like because it's really critical.

And the last thing, Mr. Thier, with absolute respect meant because I've admired it the whole hearing, on your epitaph you certainly deserve, “and they didn't pin me down,” because you held strong the whole way, sir. And I watched to see if you were going to buckle and you didn't buckle. So I'd say that with a little bit of admiration.

Gentlemen, thank you so much. What we're going to do because we have a drop-dead date on time is disappoint probably our third panel, but we're going to—with my apologies—because I'm not the one, not my peers up here who were supposed to manage the time. But there were so much you folks were sharing that I was reluctant to cut off or push through and then have to push through that sharing.

So we're going to schedule another hearing with as many commissioners as we can obtain. We're going to put your testimony in the record now.

But we're going to offer our apologies because we have to be out of the room by two o'clock, promise that we made. And I just say thank you. Please accept our apologies, and our staff will come back at your staff and try to work something to accommodate you.

So with that, this hearing is concluded.

Thank you, gentlemen.