



DEPARTMENT OF THE ARMY
UNITED STATES ARMY CORPS OF ENGINEERS
TRANSATLANTIC DIVISION
255 FORT COLLIER ROAD
WINCHESTER, VIRGINIA 22603

REPLY TO
ATTENTION OF

CETAD- IR

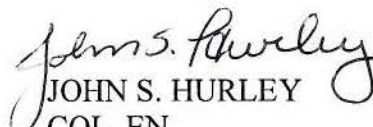
25 MAR 2013

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

SUBJECT: U.S. Army Corps of Engineers (USACE) Status Update on SIGAR Inspection Report 13-1, Kunduz ANA Garrison: Army Corps of Engineers Released DynCorp of All Contractual Obligations Despite Poor Performance and Structural Failures

1. The purpose of this correspondence is to provide a status update on actions taken by USACE related to recommendations 1 and 3 in SIGAR Inspection Report 13-1.
2. In response to recommendation 1, an updated listing and discussion of associated costs of the corrections performed at the Kunduz ANA Garrison is provided at Enclosure 1.
3. Recommendation 3 requested that USACE "Explain in writing, either in response to this draft report or in separate correspondence, why the settlement was determined to be fair and reasonable." As mentioned in our previous response, USACE established a multidisciplinary team to conduct a more thorough investigation. A summary of the team's findings is provided at Enclosure 2.
4. My point of contact for these comments is [REDACTED].

2 Encl


JOHN S. HURLEY
COL, EN
Deputy Commander

USACE Status Update on Recommendations 1 and 3 in SIGAR Inspection Report 13-1, Kunduz ANA Garrison: USACE Released DynCorp of All Contractual Obligations Despite Poor Performance and Structural Failures

ENCLOSURE 1

Recommendation 1: Justify the cost of further repairs and remediation of structural failures at Camp Pamir funded with Afghan Security Forces Fund appropriations to ensure that further construction is warranted, at reasonable cost to the U.S. government.

While some information was provided in USACE's response to the draft report and that response was included in the final report, SIGAR indicated in the final report (October 2012) that more current justification of the costs and need for any further repairs is warranted—which means more up-to-date cost estimate and analysis for any further repairs than that included in the POM approved in December 2011. No additional information regarding current justification of the costs and need for further repairs have been received by SIGAR to date. Please advise of actions taken or being taken to provide the requested information.

USACE Response: With respect to repairs and remediation of structural failures at Camp Pamir, a number of decisions were made based upon economic considerations as well as the fact that the Camp is now operational. Some repair items identified in the POM were not executed because they were deemed unnecessary or uneconomical. Further details are provided below.

An exact comparison of costs by the line items in the POM is not possible for a number of reasons. The deficiencies have been addressed mainly through a latrine repairs contract (W5J9JE-11-C-0182) and an ANA building repairs contract (W5J9JE-12-C-0031). At the time of award of the ANA building repairs contract in December 2011, it was not anticipated that there would be a requirement to provide updated costs by POM line item. The ANA building repairs contract also included other major work such as an electrical upgrade that was not related to the DynCorp deficiencies on the Kunduz ANA Garrison contract. In addition, the pricing for ANA building repairs contract was established by building and not by POM line item. As a result the cost for each line item in the ANA building repair contract is not separable and is not directly comparable to each line item in the POM. Nevertheless the total cost of the ANA Repair contract is \$1,872,105 and the cost of the latrines contract is \$1,906,014. The combined total of \$3,778,119 therefore represents the upper limit of the range of repair and remediation costs for Camp Pamir as it does include other work not included in the POM. The table below provides the review team's best estimate for the repairs but it should be noted that some costs may not be reflected. The percentage completes were based on data as of 21 Feb 2013.

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Deficient Items	Repair	% Complete	Cost
Latrines 612, 703, 909 & 10008	Yes	74%	\$1,906,014
Power Plant	Yes	75%	\$12,200
Water Distribution Lines – No further leaks have occurred	No	N/A	\$0
Electrical Distribution Issues	Yes	86%	\$309,290
Site Drainage System	Yes	75%	N/A
DFAC #1 and #2	Yes	90%	\$202,490
Wastewater Treatment – work no longer required	No	0%	\$0
Guard House, Guard Towers, Reception Bldg – repaired by DynCorp	No	N/A	\$0
Medical Clinic	Yes	72%	\$47,500
CSB Maintenance Garage, 916	Yes	100%	\$18,000
Fire Extinguishers	Yes	0%	\$2,000
DPW Building	Yes	100%	\$108,000
Benches, Lighting and Gathering Areas – work no longer required	No	N/A	\$0
Gas Station Buildings 209 & 1024	Yes	95%	\$2,000
Total Repair Costs			\$2,607,494

Additional information on some specific line items is as follows:

Latrines: Two of the six latrine buildings (Bldg 406 and 603) are being demolished and are not being replaced as it was determined that these will not impact the facility because of additional capacity being provided under Phase 3.

Water Distribution Lines: It was decided not to replace the Water Distribution lines as no further leaks had been identified and it would have been too disruptive to undertake such work at an operational base.

Site Drainage: As part of the ANA Building Repair Contract (W5J9JE-12-C-0031), USACE is placing a 1.5 meter concrete apron or sidewalk around each building with a minimum slope of 0.5% away from the building. In addition, downspouts are being extended to a length of three meters away from the building. These drainage improvements were determined the best available method to prevent water from pooling around the buildings. This in turn minimizes the chance of structural failures. Picture 1 on the following page shows sidewalk with slope being installed around building # 1016.

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Picture 1- Sloped sidewalks being installed to divert water away from foundation.



Power Plant: Correction of feeder cable phasing was not performed as a site assessment indicated no grounding issues for the generator or transformer. The generator is grounded to ring bus and the transformer frame is grounded. Existing transformer is constructed with incoming 3-wire low voltage Delta configuration and outgoing 4-wire medium voltage WYE configuration. To correct this issue, would have required replacement of all existing transformers with incoming 4- wire terminations.

ENCLOSURE 2

Recommendation 3: "Explain in writing, either in response to this draft report or in separate correspondence, why the settlement was determined to be fair and reasonable."

As mentioned in our previous response, USACE established a multidisciplinary team to conduct a more thorough investigation into the negotiated contract modifications with DynCorp International, LLC (DynCorp) for the design and construction of Afghan National Army (ANA) facilities in Kunduz, Afghanistan. The team was composed of professional engineers, program managers and contracting specialists. The team reviewed the solicitation and award documents, correspondence with DynCorp, design submittals, quality assurance and quality control reports, and documentation of the contract modifications. The team also conducted interviews with Afghanistan Engineer District-North (TAN) personnel involved in execution, administration and close out of the contracts, including employees present during the final contract modification negotiations with DynCorp. The team then identified management and contract administration issues, analyzed technical challenges that affected the project, and assessed the reasonableness of the overall settlement of the contract disputes.

The review concluded that the final contract modification negotiated on October 6, 2011, and executed on December 9, 2011, was proper and reasonable although it was not favorable to the Government.

The review indicated that the ideal course of action for the Government, assuming that DynCorp refused to perform any additional work at the Kunduz site, would have been to:

- Determine the Government costs incurred by using a follow-on Operation and Maintenance (O&M) contractor to correct deficient DynCorp construction;
- Determine the actual cost of USACE supervision and administrative costs incurred due to late delivery by DynCorp of the contracted work;
- Estimate the costs avoided by DynCorp in not completing contract work;
- Determine any excusable non-compensable delays for which DynCorp may have been entitled to an extension in performance period;
- Assess liquidated damages for late performance;
- Negotiate a bilateral supplemental agreement on more favorable terms; and
- Issue a performance rating to DynCorp commensurate with the quality of design and construction performed.

However, the review acknowledges the complexity of factors and business judgment that led the TAN personnel to reach what was deemed to be a fair and reasonable settlement. Though the process followed was inconsistent with USACE policy, there was sufficient information for TAN leadership to believe that the final negotiated

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modification was the best course of action for the Kunduz project, and that the alternative of the disputes process would place the government at greater risk and cost.

The HQUSACE team believes that the TAN leadership's assessment for the modification included the following issues as presented by the TAN negotiation team:

- An assumption that the soils issue was in fact a differing site condition. This is evidenced by subsequent changes in technical criteria associated with sites having similar soil conditions.
- The difficulty of oversight of construction projects due to the rotation of deployed personnel, variations in documented contract files, and variations in enforcement of the contract requirements.
- The ANA had occupied the Kunduz facilities while construction was ongoing and the facilities were being damaged by the ANA personnel.
- The Government's ability to successfully resource and defend anticipated protracted litigation of the contract disputes.
- A negotiated bilateral supplemental agreement was generally in the best interest of the Government.

As a result of this experience, the Transatlantic Division (TAD) directed the establishment of a dedicated team of multidisciplinary professionals to review and resolve claims and terminations arising from the contingency operations as well as complex Requests for Equitable Adjustment. In January 2013, USACE Middle East District, located in the U.S., created a reach back cell to track, analyze, and resolve these contract disputes/disagreements. This 20-person cell has the skill set, experience, and dedicated time to comprehensively manage these issues. This frees our contingency districts in Afghanistan to focus on the execution of the remaining construction projects by the end of calendar year 2014.

Moreover, TAD has decided that bilateral supplemental agreements that include numerous unrelated scope changes and/or multiple contracts will not be executed without review at the Division level. Further, proposed negotiation of contract disputes in Afghanistan, above a certain dollar threshold, should receive review at the MSC level.