OFFICE OF THE SPECIAL INSPECTOR GENERAL FOR IRAQ RECONSTRUCTION

TRANSFERRING RECONSTRUCTION PROJECTS TO THE GOVERNMENT OF IRAQ: SOME PROGRESS MADE BUT FURTHER IMPROVEMENTS NEEDED TO AVOID WASTE

SIGIR-08-017

APRIL 28, 2008

SPECIAL INSPECTOR GENERAL FOR IRAQ RECONSTRUCTION

April 28, 2008

MEMORANDUM FOR U.S. AMBASSADOR TO IRAQ
COMMANDING GENERAL, MULTI-NATIONAL FORCE-IRAQ
COMMANDING GENERAL, MULTI-NATIONAL SECURITY TRANSITION COMMAND-IRAQ
COMMANDING GENERAL, GULF REGION DIVISION, U.S. ARMY CORPS OF ENGINEERS
MISSION DIRECTOR-IRAQ, U.S. AGENCY FOR INTERNATIONAL DEVELOPMENT
COMMANDER, JOINT CONTRACTING COMMAND-IRAQ/AFGHANISTAN
DIRECTOR, IRAQ TRANSITION ASSISTANCE OFFICE

SUBJECT: Transferring Reconstruction Projects to the Government of Iraq: Some Progress Made but Further Improvements Needed to Avoid Waste (SIGIR- 08-017) (Project 8012)

This is the latest in a series of Special Inspector General for Iraq Reconstruction (SIGIR) reports on the transfer of U.S. government-funded reconstruction assets[1] to the Government of the Republic of Iraq (GOI). As SIGIR reported in July 2007,[2] an effective capital project transfer process is essential for three principal reasons: First, it allows the GOI to recognize that a project is complete and that the U.S. has provided all necessary documentation and training. Second, it validates that the GOI accepts responsibility for project operation and maintenance and capital replacement. Third, GOI acceptance and maintenance of projects is critical to ensure that the billions of dollars in U.S. reconstruction assistance is ultimately not wasted because capital assets are not adequately maintained and utilized.

SIGIR has previously identified problems in the asset transfer process, including the lack of a uniform process among U.S. agencies for transferring completed projects to the GOI, and unilaterally transferring projects to individual ministries—such as electricity—or transferring projects to provincial or local officials without assurances that ministry officials with budget authority were prepared to sustain the transferred asset. SIGIR recommendations included steps to improve the process and also to improve prospects that the GOI would adequately maintain the transferred asset.

---

[1] The Iraq Transition Assistance Office's *Interagency Agreement on Procedures for the Transfer and Recognition of U.S. Government Funded Capital Assets to the Government of the Republic of Iraq* defines a capital asset as "physically tangible property, valued at $250,000 or more, which cannot be easily converted into cash and which is expected to be held for a long period, generally five (5) years or more, including buildings, real estate, and equipment."

[2] *Transferring Iraq Relief and Reconstruction Fund Capital Projects to the Government of Iraq*, (SIGIR 07-004, July 25, 2007)

Objectives

The objective of this review was to determine U.S. progress on implementing one key SIGIR recommendation directed at improving the adequacy of U.S. policies, plans, and procedures for transferring U.S.-funded reconstruction projects to the GOI. Future reports will address other SIGIR asset transfer recommendations, as well as GOI efforts to sustain transferred assets.

Results

U.S. agencies involved in reconstruction activities have taken steps to improve the asset transfer policies, plans, and processes, but further actions are needed to address longstanding problems that have hindered the program's effective implementation. The Departments of State (DoS), Defense (DoD) and the Agency for International Development (USAID) have responsibilities for managing asset transfer activities. The principal organization charged with managing these efforts—DoS' Iraq Transition Assistance Office (ITAO) —has established an Asset Recognition and Transfer Working Group (ARTWG). The ARTWG includes members of the other implementing agencies and has led efforts to develop a draft Interagency Agreement (IA) on a U.S. transfer process that would be used by all of the implementing agencies. This action addresses previous SIGIR concerns that all agencies were not a party to a 2006 agreement to use a common transfer policy. ITAO also drafted a Memorandum of Understanding (MOU) in November 2007 with the GOI on respective asset transfer roles and responsibilities. Nevertheless, planned procedural changes in the draft IA and the draft MOU still do not fully address certain critical deficiencies in the transfer process. These deficiencies, if not adequately addressed, will place the overall U.S. investment in many capital asset projects at risk of being ineffectively and inefficiently used, and in the worst case scenario, not used at all. Such an occurrence would greatly increase existing concerns over waste related to U.S. reconstruction activities in Iraq. Specific areas that need to be addressed are:

- The program currently lacks clear management accountability among the involved agencies—State, USAID and DoD—for the transfer process. The program's overall management structure is fragmented, thus leading to inefficient and ineffective asset transfer practices. For example, the draft IA only includes projects funded out of the Iraq Relief and Reconstruction Funds (IRRF). As a result, projects with a total value of over $2.2 billion—but funded out of the USAID-managed Economic Support Fund (ESF), and the DoD managed Iraq Security Forces Fund (ISFF) and Commander's Emergency Response Program (CERP)—are excluded. Further, the working group is an informal body that relies on member cooperation rather than clear lines of management authority and responsibility and implementing policies and practices. As such, there is no mechanism to ensure accountability.
- The draft IA between U.S. reconstruction agencies does not standardize the asset transfer process, but rather provides guidance for agencies to follow as they implement their own policies and procedures. This stove-piping of responsibilities creates a proliferation of different standards and procedures which contributes to a lack of transparency for the transfer process and creates confusion in both the U.S. and the GOI. During the course of this audit, officials from USAID, the U.S. Army Corps of Engineers' Gulf Region Division (GRD) and the Multi-National Security Transition Command-Iraq (MNSTC-I)

informed us that U.S. reconstruction agency officials may search for Iraqi officials willing to sign for and accept the projects at a myriad of levels, including ministries, provinces, and local communities. In response and as a last resort, U.S. officials in some cases have unilaterally transferred projects when efforts to obtain GOI formal acceptance of the project have failed. Although the draft IA provides guidance on the use of unilateral transfers, the volume of transfers may be well beyond what was envisioned. For example, in December 2007, MNSTC-I notified two ministries that it was unilaterally transferring 575 IRRF projects; MNSTC-I subsequently revised this number to 388 IRRF projects, which SIGIR estimated were valued at over $1 billion. Some of the projects had been "informally transferred" previously. Unilateral transfer by its inherent nature places investments at greater risk of not being properly maintained.

- Lastly, U.S. efforts to obtain GOI signature to the MOU on asset transfer roles and responsibilities have come to a stalemate. The Deputy Prime Minister has not responded to the MOU delivered in November 2007. Furthermore, even if signed, the MOU may not yield significant improvements: it states that the document's requirements are not binding on either party. Moreover, the absence of a signed agreement with the GOI raises the concern that the GOI will not invest the resources—staff, training, and funding—necessary to realize the full benefit of the U.S. reconstruction investment. As discussed below, the GOI needs to become a more active partner in the process.

Background

There are four organizations with responsibilities for the asset transfer process: (1) ITAO,[3] (2) USAID, (3) MNSTC-I, and (4) GRD.[4] These U.S. agencies work independently with Iraqi ministries to transfer completed projects, including the Iraqi Ministry of Finance, the Ministry of Planning, and other functional ministries, such as for electricity or defense. Personnel from these organizations make up the membership of the informal ARTWG, which meets to discuss transfer issues. ITAO reports organizationally to the U.S. Embassy's Economic Minister, as does USAID. MNSTC-I and GRD report to the Commander of Multi-National Force-Iraq. To date, agencies have generally been operating under an agreement on asset transfer procedures signed in 2006.[5]

Asset Transfer Data

Available data systems do not readily provide accurate information on the transfer status of completed U.S. reconstruction projects. For example, a thousand dollar communications equipment transfer is counted equally with a multimillion dollar transfer of a large infrastructure project in the primary data collection system, the Iraq Reconstruction Management System (IRMS). Nevertheless, the IRMS data provides an order of magnitude on the number of projects transferred in the asset transfer process. As of early March 2008, IRMS reports the DoD completed nearly 27,000 projects, with more than three quarters awaiting transfer to the GOI. In

[3] Prior to 2007, ITAO was known as the Iraq Reconstruction Management Office (IRMO). ITAO's current mission carries forward the work of IRMO.
[4] Asset transfer is one aspect of the overall project management process. Thus, each agency is responsible for transferring assets it has responsibility for constructing.
[5] *Procedure for the Transfer and Recognition of USG-Funded Capital Assets to the Government of Iraq,* April 23, 2006

responding to our draft report GRD took exception to these data stating that while it may be true that an Iraqi government official at the national level had not signed for three quarters of the projects, it was not true that the Iraqi people had not taken possession of them. GRD stated that it is estimated that ninety percent of all projects have been transferred to the people of Iraq at the local level. As we discuss later in the report, however, turnovers at the local level do not assure that the GOI will provide the support to sustain them.

Prior SIGIR Reports

Improving the effectiveness of the asset transfer process has proven to be a complex and longstanding problem. SIGIR has issued five audit reports devoted exclusively to the issue of transferring assets to the GOI. The first three, issued between January and April 2006, examined the policies and procedures used to transfer IRRF assets to the GOI from the Gulf Region Division/Project and Contracting Office (GRD/PCO) of the U.S. Army Corps of Engineers,[6] MNSTC-I,[7] and USAID.[8] SIGIR recommended the agencies, in coordination with the Iraq Reconstruction Management Office (IRMO)—ITAO's predecessor organization—complete the development of a common policy facilitating the transfer of completed project assets to the GOI. At a minimum, SIGIR noted the process should provide formal notification of the project's transfer to the Iraqi Ministry of Planning, Ministry of Finance, and the appropriate operating ministry. SIGIR also stated that the notification should include relevant data such as operational start date, asset cost, estimated short-term and long-term sustainability costs, terms of warranties, and the location of maintenance and systems manuals.

In July 2006, SIGIR issued a fourth report[9] addressing the progress agencies made in implementing our recommendations addressing the transfer, and short-term sustainment of, IRRF-funded assets. It also looked at the support provided to the Iraqi government to enhance its capacity to manage and operate the assets. The report recommended that IRMO develop a single uniform process for asset recognition and transfer of all completed projects to the GOI, that this process be followed by all IRRF implementing agencies, and that sufficient resources be made available to implement the process in time for the GOI's use in budget planning. SIGIR believed this recommendation would continue to hold agencies accountable for developing a unified process and thus closed out previous recommendations to the implementing agencies. The report included five other recommendations for reporting requirements and program improvements.

In July 2007, SIGIR issued its fifth report assessing the progress in the development and implementation of plans for the transition of IRRF projects to GOI.[10] The report recommended

---

[6] *GRD-PCO Management of the Transfer of IRRF-Funded Assets to the Iraqi Government*, (SIGIR 05-028, January 24, 2006)

[7] *Multi-National Security Transition Command - Iraq Management of the Transfer of Iraq Relief and Reconstruction Fund Projects to the Iraqi Government*, (SIGIR 06-006, April 29, 2006)

[8] *U.S. Agency for International Development Management of the Transfer of Iraq Relief and Reconstruction Fund Projects to the Iraqi Government*, (SIGIR 06-007, April 29, 2006)

[9] *Transition of Iraq Relief and Reconstruction Fund Projects to the Iraqi Government*, (SIGIR 06-017, July 28, 2006)

[10] *Transferring Iraq Relief and Reconstruction Fund Capital Projects to the Government of Iraq*, (SIGIR 07-004, July 25, 2007)

that the U.S. Ambassador to Iraq provide senior-level support to finalize an agreement between the United States and GOI on asset transfer.

The Lack of Management Controls And The Lack of A Working Agreement With the Government of Iraq Places U.S. Reconstruction Investment at Risk

SIGIR found three key problems related to the program's plans, policies, and procedures that, if not effectively addressed, will place the transfer program at risk of not achieving its objectives. Specifically, the program lacks a management structure with clear accountability for managing the transfer of assets. Secondly, current efforts do not create standardized and transparent policies and procedures. Finally, the U.S. government and the GOI have not finalized a MOU delineating the roles and responsibilities of the various entities involved in the asset transfer process. Without resolution of these issues, the transfer program provides little assurance that the GOI will fully realize the benefit of the U.S. reconstruction investment. This undermines the effective management of these assets, from community health clinics to national power generation systems, for the economic and political benefit of Iraq and increases the risk that the U.S. investment may be wasted.

Fragmented Program Management Accountability

The U.S. government's management of asset transfer to the GOI is fragmented among several agencies. Presidential Directives and Executive Orders assign project management based on both purpose and funding sources. As a result, ITAO states that it does not have the responsibility to coordinate all asset transfers. Consequently, there is no single entity accountable for ensuring that completed projects are transferred to the GOI in a manner that helps to ensure the assets are effectively maintained.

On May 9, 2007, the President signed an Executive Order establishing ITAO.[11] The EO stated that ITAO was to be a temporary organization within the Department of State and that its purpose was to "perform the specific project of supporting executive departments and agencies in concluding remaining large infrastructure projects expeditiously in Iraq, in facilitating Iraq's transition to self-sufficiency, and in maintaining an effective diplomatic presence in Iraq." However, the order specifically states that ITAO is responsible for the "coordination, oversight and reporting concerning remaining Iraq Relief and Reconstruction Fund monies." The May 11, 2004 National Security Presidential Directive[12] provides that the Secretary of State shall be responsible for the continuous supervision and general direction of all assistance for Iraq, but stipulates that the U.S. military has control over military assistance-related monies. Specifically,

[11] "*Establishment of Temporary Organization to Facilitate United States Government Assistance for Transition in Iraq*", Executive Order 13431, May 9, 2007
[12] "*United States Government Operations in Iraq*", National Security Presidential Directive 36, May 11, 2004

the NSPD stated that "Commander, U.S. Central Command[13] (USCENTCOM), with the policy guidance of the Chief of Mission, shall direct all United States Government efforts and coordinate international efforts in support of organizing, equipping, and training all Iraqi security forces."

Both the draft IA and the draft MOU with the GOI reflect the separation in asset transfer management as each addresses policies and procedures only for IRRF-funded capital asset projects. This exclusion leaves a significant portion of U.S. funding for reconstruction projects outside of the formal transfer process. Specifically, IRRF-funded projects shown in IRMS total over $6 billion. However, IRMS reports projects valued at over $2.2 billion and funded from sources such as ISFF, ESF, and CERP which are not covered in the draft agreements.

Plans Do Not Call for Standard and Transparent Asset Transfer Process

A longstanding concern reported by SIGIR is the need for a common set of asset transfer policies and procedures. ITAO has taken positive steps in forging agreements among U.S. agencies on basic principles to employ in transferring assets. In 2007, we noted that GRD and MNSTC-I agreed to a common policy outlined in an April 2006 memo. USAID, however, decided to use its own procedures and deal directly with Iraqi ministries. Current efforts again provide general goals in the transfer of assets, but do not establish a common set of procedures. During the course of this audit, officials from USAID, GRD and MNSTC-I informed us that U.S. reconstruction agency officials may search for Iraqi officials willing to sign for and accept the projects at a myriad of levels, including ministries, provinces, and local communities. This creates a lack of transparency about the asset transfer process within both the U.S. and GOI.

ITAO, in coordination with the representatives from the ARTWG, drafted an IA[14] to formalize guidance for use by all implementing agencies and departments that complete projects in Iraq using the IRRF. (According to ITAO, the draft IA has been approved by all the implementing agencies except for the State Department, where it is awaiting legal review). ITAO informed us that they achieved buy-in on the IA from all parties involved in asset transfer, including USAID, on its general principals. The draft IA proposes to reestablish the Asset Recognition and Transfer Operations Group (ARTOG) as the main focal point for all U.S. government IRRF-funded asset transfers.[15] The IA notes that the implementing agencies will contribute members to the ARTOG to collaborate on the development, improvement, and implementation of policies and procedures to achieve an effective, formal capital asset transfer process, and states ARTOG will deal directly with its GOI counterpart in the process. As such, the ARTOG will assume a number of related responsibilities, including responsibility for keeping a record of all capital assets transferred to GOI by all U.S. agencies, and for providing the GOI with a complete inventory of assets transferred, including sustainment information (such as annual sustainment cost estimates for each capital asset).

---

[13] U.S. Central Command is a Unified Combatant Command responsible for military activities in the Middle East, Central Asia, and the Horn of Africa.

[14] *Interagency Agreement on Procedures for the Transfer and Recognition of U.S. Government Funded Capital Assets to the Government of the Republic of Iraq* (Draft Version)

[15] The ARTOG was first established in early 2006 by IRMO and GRD in coordination with the Iraqi Ministry of Finance. The ARTOG essentially ceased operation in May 2006 with the election of a new Iraqi government and a new Finance Minister who was not supportive of ARTOG transfer processes.

Among other processes, the draft IA provides remedies for addressing refusal on the part of the GOI to formally accept projects. Agencies may employ a process, described as unilateral transfer, as a last resort and, according to the IA, only at the approval of each agency's ranking in-country official (the designation of which will be decided by each individual agency). Unsuccessful attempts to transfer assets must be documented and the necessity for unilateral transfer must be provided to the GOI, which is then given 30 days to respond.

ITAO's efforts are important steps to improve the asset transfer process but they do not create a standardized and transparent process for transferring assets to the GOI. The IA allows each implementing agency to use its own policies and procedures to transition assets to the GOI. This provision continues to create a stove piped approach and would not address SIGIR's previously reported concern that the use of a multitude of processes hampers the successful acceptance of capital assets by the GOI.

To illustrate, SIGIR's current review found that agency's individual policies and procedures may not comply with even the general guidance contained in the 2006 agreement currently in force. In discussing asset transfer and documentation, for example, the 2006 agreement details that the turnover will include where applicable all designs, drawings, operation and maintenance manuals, warranty information and other information. In March 2008 SIGIR reviewed transfer documents for twelve GRD and MNSTC-I projects that had been transferred to the GOI and found varying levels of detail. For example, one agency detailed all asset values and maintenance information in its transfer packages while another agency did not provide any information. Additionally, SIGIR found that the composition of transfer documents provided to the GOI varies among agencies.

The resulting lack of coordination among and within implementing agencies creates confusion and ultimately jeopardizes the continued sustainability and operation of U.S.-funded capital assets. To illustrate, in March 2008**,** representatives from the Iraqi Ministry of Defense (MOD) expressed some concern to SIGIR staff at the deterioration of some projects which they said they did not know had been transferred to its control. They attributed this problem to U.S. officials not notifying the proper entities at the ministerial level of the transfer of the projects to Iraqi control. Additionally, the Board of Supreme Audit noted in a November 2007[16] report that many of the Iraqi ministries it audited did not possess records detailing the existence of many U.S.-funded projects supposedly under the ministry's control. In both of these cases, the Iraqi officials informed us because the appropriate Iraqi agency wasn't notified, these projects did not receive the needed maintenance to ensure their continued sustainment.

Agreement with Government of the Republic of Iraq Stalled

The inability to obtain GOI concurrence and support for procedures to accept responsibility for completed U.S.-funded projects has been particularly problematic. As a result, the number of actual transfers has gone through periods of high volume, and periods when transfers came to a halt. The U.S. continues to seek GOI support for an agreement laying out procedures and roles and responsibilities. To date, however, little progress has been made and given past history, the prospects for such an agreement do not appear encouraging. As a result, the U.S. has sought

[16] *Report on Projects Funded By U.S. Funds* (Republic of Iraq, Board of Supreme Audit, November 25, 2007)

alternative approaches to break the bottleneck, such as unilaterally transferring projects to the GOI.

In February 2008, ITAO informed SIGIR that there had been no progress or contact with the GOI since a draft MOU on asset transfer was submitted in November 2007 to the Iraqi Deputy Prime Minister. In commenting on the draft report, DoS officials stated they are discussing this issue with GOI officials. Again, ITAO officials emphasized the importance of such an agreement. They noted that the purpose of the MOU is to achieve a consensus on each side's roles and responsibilities regarding the transfer of assets, and to establish a central point of contact within the Iraqi government on asset transfer issues. Moreover, the MOU laid out each country's objectives with respect to its responsibilities, and what each country intended to do to meet its responsibilities. It was considered important to designate a senior-level point of contact within the GOI with a sufficient level of authority so that this official could affect the process on the Iraqi side on a regular basis. At this time, the GOI does not have a single government official responsible for asset transfer issues. Rather, each U.S. agency develops its own contacts within the Iraqi ministries or local provincial governments the agency believes are best suited to take responsibility for assuming and maintaining each asset. Despite the importance of such an agreement, ITAO officials said they do not know when the GOI might respond, or what priority the GOI has given to the approval of the MOU.

As SIGIR concluded in 2007, the absence of an MOU is having a negative impact on the asset transfer process. To illustrate, officials from the Ministry of Defense told SIGIR in March 2008 that failure to notify the appropriate officials of asset transfers prevents the MOD from preparing a budget that would allow for the proper funding for maintenance and support of the assets that would be beneficial to the ministry's mission. USAID, to address similar concerns with the ministries it works with, informed us that they employ an Iraqi engineer who acts as an intermediary between the agency and its Iraqi counterparts. USAID believes this relationship helps facilitate the transfer of assets and keeps both parties informed of each other's progress and concerns in the transfer process.

In the absence of an agreement, U.S. agencies have employed alternative means to overcome Iraqi reluctance to formally accept completed projects. One such approach is the unilateral transfer of projects to the GOI. To illustrate, in December 2007, MNSTC-I unilaterally transferred 575 projects. Specifically, MNSTC-I notified the Ministry of Defense by letter that it was unilaterally transferring 159 infrastructure assets which had been informally accepted and used by Iraqi entities for periods up to three years without formal transfer. Similarly, MNSTC-I transferred 416 projects to the Ministry of the Interior by letter in December 2007 under the same conditions. In April 2008, MNSTC-I informed SIGIR that it found that it had previously transferred 182 of these projects to Iraqi control. Additionally, MNSTC-I could not account for five projects thought to have been part of the December unilateral transfer. As such, MNSTC-I reduced the total number of projects unilaterally transferred on December 31, 2007 to 388. According to SIGIR's analysis of IRMS data, the total value of these projects exceeded $1 billion. Such an occurrence raises further concerns about MNSTC-I's visibility over the status of its completed projects, and highlights the risk of unilaterally transferring assets on a large scale.

In our 2007 report GRD responded that the U.S. should consider including a unilateral transfer provision in any bilateral agreement whereby the U.S. would unilaterally transfer projects to the

GOI when ministries take longer than 30 days to formally recognize and accept transferred assets. SIGIR noted that while it had not fully evaluated the option, the concept appeared to merit consideration; such an option is now provided for in the draft IA. However, SIGIR had not envisioned that an agency would use such an option on the scale of the December transfer. At this point, SIGIR believes this option should be used on an exception basis involving low risk projects—those with low investment and lower technology sustainability requirements. To illustrate, MNSTC-I has not yet evaluated whether its unilateral transfer approach has resulted in the GOI taking responsibility for sustaining the transferred assets.

In commenting on a draft of this report, the DoS said that once the MOU with the GOI is in place, it would again transfer projects to GOI control that had formerly been transferred through the unilateral process. It also said that it shares SIGIR's concern regarding the previous transfer of assets under a "unilateral transfer process" and believes that by re-transferring these projects using the new procedures the GOI will acknowledge its liability and responsibility for the operation and maintenance of the unilaterally transferred projects.

Conclusion

ITAO, DoD, and USAID have made efforts to improve plans, policies and procedures for the transfer of assets to the GOI. However, the U.S. program continues to have serious weaknesses that ultimately could place much of the U.S. reconstruction investment at risk. The U.S. program suffers from the lack of a management structure that provides clear authority and accountability, as well as a transparent set of uniform transfer policies and procedures. These program weaknesses are further compounded by the lack of a timely response to a formal asset transfer agreement proposed by the U.S. government.

Recommendations

To address longstanding issues that have affected-and will likely continue to adversely affect-the implementation of the asset transfer program, and to reduce the risk that U.S.-funded capital assets in Iraq are not utilized, or in some cases wasted, SIGIR recommends that the U.S. Ambassador and Commander, Multi-National Forces-Iraq (MNF-I), working jointly, direct that the following actions be taken:

- Assess the current management structure for the asset transfer process and develop a new structure that provides clear lines of authority, responsibility and accountability;
- Direct that a single set of transparent uniform set of policies, processes, and procedures on asset transfer be developed for use by all involved agencies and for all U.S. projects regardless of funding source;
- Establish specific criteria for using unilateral transfers as a "last resort" method of transferring low risk assets. These criteria should make clear that unilateral transfers should be the exception rather than a common practice, and that investment costs and the complexity of sustainability should be considered, and;
- Immediately enter into high level discussions with the GOI on the MOU for the transfer of assets completed by all U.S. reconstruction agencies from all funding sources.

Management Comments and Audit Response

The Iraq Transition Assistance Office and GRD provided written comments on a draft of this report. MNF-I and MNSTC-I informed us by email that they did not have any comments and that they concurred with the report. We did not receive comments from USAID. Moreover, ITAO, as the Embassy representative, did not address our recommendations in its response. Since the recommendation was addressed to the U.S. Ambassador, we request that the U.S. Embassy provide comments that conform to the requirements of OMB Circular No. A-50, including indicating concurrence, nonconcurrence, and planned actions relating to the report recommendations within 30 days.

In its written comments ITAO did not agree that responsibility for transferring projects was fragmented. According to ITAO, given the wide and disparate nature of various U.S. government funded projects, it believes it should only be responsible for the transfer of DoS funded projects, including those funded by IRRF, ESF and other foreign assistance accounts. With respect to these projects, ITAO reports that there is no fragmentation of responsibility. The response stated that by nature, DoD funded projects tend to have a different scope and different targeted impacts and, as such, the ITAO position is that DoD-funded assets should be managed and transferred by the DoD. ITAO does, however, share SIGIR's concern regarding the previous transfer of assets under a "unilateral transfer process."

Regarding the MOU, ITAO responded that is working with high level GOI officials to appropriately catalog DoS-funded assets and discuss a comprehensive way forward on the issue of asset transfer. The MOU being discussed with GOI counterparts would specifically set forth mutually shared understandings applicable to all State Department-funded assets transferred to the GOI, including that the GOI accepts these assets from the U.S. government, that no claims be made against the U.S. government in connection with U.S. government-funded assets, and the GOI is responsible for all operation and maintenance costs following the transfer of capital assets. Once this process is in place, DoS plans to bring all projects that were previously unilaterally transferred under this process.

SIGIR does not agree with ITAO's position that each agency develop its own asset transfer process. SIGIR believes that the current process as described in this report is inefficient and confusing to the GOI and U.S. agencies. SIGIR understands that DoD-funded projects should be managed and transferred by DoD. Our position is that the same process should be used by all agencies. SIGIR is particularly concerned that there be one policy/procedure for unilateral transfers. SIGIR clarified its draft recommendation for DoD and DoS to work jointly to put a process in place. Our final report recommendations make it clear that agreements – both the IA and the MOU with the GOI - should cover projects completed by all agencies and all funding sources.

GRD's written comments stated that the draft report did not clearly differentiate between the objectives of two programs. GRD noted that the purpose of their Assets Recognition Process is to turnover completed construction projects at the local level so that local entities can occupy and use the asset. They differentiated this from national transfer notification to the GOI which allows the GOI to plan and budget for sustainment. Moreover, GRD stated that it disagreed with our concern that the use of different processes and procedures is hampering the U.S. government

turnover of assets to the GOI and that although not all contracting procedures are uniform, there is no adverse impact on contracting operations. GRD further stated that the report needed to focus on the GOI and the improvements it needs to make in its asset management program to avoid waste.

SIGIR recognizes and supports GRD's efforts to improve its contract management and recognizes its desire to turn over completed construction projects to Iraqi beneficiaries. However, our concerns relate to the process used in turning over completed projects to the GOI and ensuring it is done in such a manner as to provide assurances that the U.S. investment is not wasted. SIGIR's work indicates that turnovers at the local level without assurances that GOI officials will sustain the facility, pose a risk that the U.S. investment may not be sustained and therefore wasted. As such, SIGIR believes in the need for an overarching strategy that can address contract management requirements and long term sustainment requirements. SIGIR agrees with GRD that GOI commitment to sustain U.S.-funded projects is critical to an effective process and will address this issue more fully in future reports.

GRD also provided technical comments which we have addressed in this report as appropriate. GRD did not take a position on our recommendations.

DoS's and GRD's comments are printed in their entirety in Appendix C.

- - - - -

We appreciate the courtesies extended to all SIGIR staff. For additional information on this report, please contact Mr. Glenn Furbish, Deputy Assistant Inspector General for Audits at (703) 428-1058 or via email at glenn.furbish@sigir.mil. You can also contact Mr. Adam Hatton at (703) 428-1100 or via email at adam.hatton@sigir.mil. For a list of the audit team members, see Appendix C.

Stuart W. Bowen, Jr.
Inspector General

Appendix A—Objective, Scope, and Methodology

SIGIR initiated this review in January 2008 (Project 8012) as part of a series of reviews to assess U.S. efforts toward transferring assets to the Government of the Republic of Iraq. The objective of this review was to determine U.S. progress on implementing one key SIGIR recommendation directed at improving the adequacy of U.S. policies, plans, and procedures for transferring U.S.-funded reconstruction projects to the GOI.

To determine current U.S. efforts to strengthen management, SIGIR examined proposed agreements among implementing agencies and with the GOI. SIGIR met with representatives from the Iraq Transition Assistance Office, U.S. Army Corps of Engineers-Gulf Region Division, Multi-National Security Transition Command-Iraq, and U.S. Agency for International Development, as well as attended a meeting of the Asset Recognition Transfer Working Group and met with Iraqi officials from the Ministry of Defense. SIGIR reviewed internal management practices and draft agreements for specific plans, policies, and procedures that would be designed to improve these efforts. For example, SIGIR addressed the need for a unified process across the various implementing agencies covering all sources of U.S. funding for reconstruction activities.

This audit was performed under the authority of Public Law 108-106, as amended, which also incorporates the duties and responsibilities of inspectors general under the Inspector General Act of 1978. SIGIR conducted this performance audit from January 2008 through April 2008 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Use of Computer-processed Data

To achieve the audit's objectives, SIGIR relied on computer-processed data in IRMS. We did not establish the reliability of the data. We did not validate the data but recognize that this data is used by management in its own reporting of the number and value of projects completed, transferred, and/or awaiting transfer. We did not test any of the general and application controls of the automated system utilized.

Prior Coverage

SIGIR reviewed and relied on these reports for background information and in making our analysis of the actions taken on our prior recommendation:

- *GRD-PCO Management of the Transfer of IRRF-funded Assets to the Iraqi Government* (SIGIR 05-028, January 24, 2006)

- *Multi-National Security Transition Command-Iraq Management of the Transfer of Iraq Relief and Reconstruction Fund Projects to the Iraqi Government* (SIGIR 06-006, April 29, 2006)
- *U. S. Agency for International Development Management of the Transfer of Iraq Relief and Reconstruction Fund Projects to the Iraqi Government* (SIGIR 06-007, April 29, 2006)
- *Transition of Iraq Relief and Reconstruction Fund Projects to the Iraqi Government* (SIGIR 06-017, July 28, 2006)
- *Transferring Iraq Relief and Reconstruction Fund Capital Projects to the Iraqi Government* (SIGIR 07-004, July 25, 2007)

Appendix B—Acronyms

ARTOG	Asset Recognition and Transfer Operations Group
ARTWG	Asset Recognition and Transfer Working Group
CERP	Commander's Emergency Response Program
DoD	Department of Defense
DoS	Department of State
ESF	Economic Support Fund
GOI	Government of the Republic of Iraq
GRD	U.S. Army Corps of Engineers-Gulf Region Division
IA	Interagency Agreement
IRMO	Iraq Reconstruction Management Office
IRMS	Iraq Reconstruction Management System
IRRF	Iraq Relief and Reconstruction Fund
ISFF	Iraq Security Forces Fund
ITAO	Iraq Transition Assistance Office
MNF-I	Multi-National Forces-Iraq
MNSTC-I	Multi-National Security Transition Command-Iraq
MOD	Ministry of Defense
MOU	Memorandum of Understanding
SIGIR	Special Inspector General for Iraq Reconstruction
USAID	U.S. Agency for International Development
USCENTCOM	U.S. Central Command

Appendix C—Management Comments
U.S. Army Corps of Engineers GRD

DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS
GULF REGION DIVISION
BAGHDAD, IRAQ
APO AE 09348

REPLY TO
ATTENTION OF

CEGRD-CG

19 April 2008

MEMORANDUM FOR Special Inspector General for Iraq Reconstruction, US Embassy Annex, M-202, Old Presidential Palace, APO AE 09316

SUBJECT: Draft SIGIR Audit Report – Transferring Reconstruction Projects to the Government of Iraq: Some Progress Made but Further Improvements Needed (SIGIR-08-017)

1. This memorandum provides the U.S. Army Corps of Engineers, Gulf Region Division response to the subject draft audit report.

2. The Gulf Region Division reviewed the draft report. We have provided additional information regarding the conclusions and discussion in the enclosure.

3. Thank you for the opportunity to review the draft report and provide our written comments for incorporation in the final report.

4. If you have any questions, please contact Mr. Robert Donner at (540) 665-5022 or via email Robert.L.Donner@usace.army.mil.

Encl

JEFFREY J. DORKO
Brigadier General, USA
Commanding

COMMAND REPLY
to
SIGIR Draft Audit Report - Transferring Reconstruction Projects to the Government of Iraq: Some Progress Made but Further Improvements Needed
SIGIR Report Number 08-017
(Project 8012)

Overall Comment. The report does not accurately reflect a clear understanding of the Assets Recognition Process and objectives and those associated with local turnover at the completion of construction. There are inherent differences between construction completion and facility transfer at the local level and the notification at the national level. Each has a specific purpose and serves specific objectives. The report does not clearly recognize the differences between the two different processes.

1. **Draft Report, page 4, first complete sentence.** As of early March 2008, IRMS reports the U.S. Department of Defense (DoD) completed nearly 27,000 projects, with more than three quarters awaiting transfer to the GOI.

Command Comment. GRD disagrees with this statement. While it may be true that an Iraqi government official at the national level has not signed for three quarters of the projects in IRMS, it is not true that the Iraqi people have not taken possession of the asset either by constructive acceptance or by beneficial occupancy at the local level. It is estimated that ninety percent of all projects have been transferred to the people of Iraq - at the local level.

2. **Draft Report, pages 2 and 3, under results, last sentence.** Specific areas that need to be addressed are:

- The program currently lacks clear management accountability among the involved agencies—State, USAID and DOD—for the transfer process. The program's overall management structure is fragmented, thus leading to inefficient and ineffective asset transfer practices. For example, the draft Interagency Agreement only includes projects funded out of the Iraq Relief and Reconstruction Funds (IRRF). As a result, projects with a total value of over $3.5 billion—but funded out of the USAID managed Economic Support Fund (ESF), and the DoD managed Iraq Security Forces Fund (ISFF) and Commander's Emergency Response Program (CERP)—are excluded. Further, the working group is an informal body that relies on member cooperation rather than clear lines of management authority and responsibility and implementing policies and practices. As such, there is no mechanism to ensure accountability.

Enclosure

- The draft IA between U.S. reconstruction agencies does not standardize the asset transfer process, but rather provides guidance for agencies to follow as they implement their own policies and procedures. This stove piping of responsibilities creates a proliferation of different standards and procedures leading to a lack of transparency for the transfer process and thus creating confusion within both the U.S. and the Iraqi government regarding the process. During the course of this audit, officials from USAID, the U.S. Army Corps of Engineers' Gulf Region Division (GRD)and the Multi-National Security Transition Command-Iraq (MNSTC-I) informed us that U.S. reconstruction agency officials may search for Iraqi individuals willing to sign for and accept the projects at a myriad of levels, including ministries, provinces, and local communities. In response and as a last resort, U.S. officials in some cases have unilaterally transferred projects when efforts to obtain GOI formal acceptance of the project have failed. Although the draft IA provides guidance on the use of this measure, the volume of transfers may be well beyond what was envisioned. For example, in December 2007, MNSTC-I notified two ministries that it was unilaterally transferring 575 IRRF projects. Some of the projects had been "informally transferred" previously. Unilateral transfer by its inherent nature places investments at greater risk of not being properly maintained.

- Lastly, U.S. efforts to obtain GOI signature to the MOU on asset transfer roles and responsibilities have come to a stalemate. The Deputy Prime Minister has not responded to the MOU delivered in November 2007. Furthermore, even if signed, the MOU may not yield significant improvements since it states that the document's requirements are not binding on either party. Moreover, the absence of a signed agreement with the GOI raises the concern that the GOI will not invest the resources—staff, training, and funding—necessary to realize the full benefit of the U.S. reconstruction investment. As discussed below, the GOI needs to become a more active partner in the process.

Command Comments. GRD disagrees with the contention that the use of different processes and procedures is hampering the US government turnover of assets to the Government of Iraq (GOI).

If the GOI does not respond to US government attempts to formalize the process of turning over assets, the absence of standard processes and procedures is not the major issue. Different processes do not necessarily lead to inefficient and ineffective asset transfer practices. In addition, the Asset Recognition and Transfer Working Group (ARTWG) is working to standardize the asset transfer process.

3. **Draft Report, Page 9, Conclusion.** ITAO, DoD, and USAID have made efforts to improve plans, policies and procedures for the transfer of assets to the GOI. However, the U.S. program continues to have serious weaknesses that ultimately could place much of the U.S. reconstruction investment at risk. The U.S. program suffers from the lack of a management structure that provides clear authority and accountability, as well as a transparent set of uniform transfer policies and procedures. These program weaknesses are further compounded by the lack of a timely response to a formal asset transfer agreement proposed by the U.S. government

GRD Comments. The U.S. program has a management structure in place with Iraq Transition Assistance Office (ITAO) and the respective executing agencies that has clarity and accountability. Executing agency contracting procedures are similar in practice. Although not all agency contracting procedures are uniform, there is no adverse impact on contracting operations.

The report does not accurately reflect a clear description of the asset recognition process and objectives at the national government level in contrast to those associated with local turnover at the completion of construction. There are inherent differences between construction completion and facility transfer at the local level and the notification at the national level. Each has a specific purpose and serves specific objectives. The report does not recognize the differences between the two types of transfers. Local transfer is the beneficial occupancy and constructive acceptance of an asset. National transfer is notification to the GOI that an asset has been turned over to the Iraqi people. The purpose of the national government notification is to allow the GOI to plan and budget for asset sustainment. Asset sustainment includes the operation, maintenance and technical training required to maintain an asset throughout its intended use life cycle.

Additional Comments

The report conclusion needs to focus on the GOI and the improvements it needs to make in its Asset Management Program to avoid waste. If the report focus and recommendations included the following facts, it would make the report more meaningful and accurate.

- The GOI has not signed a Memorandum of Agreement (MOA) with the US on asset transfer and sustainment.
- The GOI has not designated a responsible GOI entity to interface with the U.S. and ITAO.
- The GOI does not have an Asset Management Program to ensure sustainment of the US taxpayers' investment in Iraq's reconstruction.

Management Comments
Iraq Transition Assistance Office

Embassy of the United States of America
Baghdad, Iraq

April 20, 2008

INFORMATION MEMORANDUM

UNCLASSIFIED

TO: Special Inspector General for Iraq Reconstruction

FROM: Iraq Transition Assistance Office Director – Mark Tokola MT

SUBJECT: **Response to SIGIR Report "Transferring Reconstruction Projects to the Government of Iraq: Some Progress Made but Further Improvements Needed to Avoid Waste" (SIGIR-08-017)**

Thank you for allowing us this opportunity to respond to the SIGIR Report, Transferring Reconstruction Projects to the Government of Iraq: Some Progress Made but Further Improvements Needed to Avoid Waste (SIGIR-08-017).

While the Interagency group at Post has achieved agreement on procedures for asset transfer, the Department of State (DOS) continues to work with interagency counterparts in Washington to reach a unified asset transfer policy and process for capital assets funded by the DOS. This policy will outline the management structure and comprehensive implementation procedure for the transfer capital assets to the Government of Iraq (GOI).

Given the wide and disparate nature of the various USG funded projects, the Department believes it should only be responsible for the transfer of DOS funded projects, including those funded by IRRF and those funded by ESF and other foreign assistance accounts. With respect to these projects, there is no fragmentation of responsibility: the Executive Order makes clear that ITAO's function, consistent with its mandate to support executive departments and agencies, supports the Department with respect to the coordination and oversight of IRRF funds. By nature, Department of Defense (DOD) funded projects tend to have a different scope and different targeted impacts and as such, the Department's position is that DOD-funded assets should be managed and transferred by the DOD.

Currently, the Department is working with high level GOI officials to appropriately catalog DOS-funded assets and discuss a comprehensive way forward on the issue of asset transfer. A Memorandum of Understanding (MOU) is being discussed with GOI counterparts that would specifically set forth mutually shared understandings applicable to all DOS-funded assets transferred to the GOI, including that the GOI accepts these assets from the USG, that no claims may be made against the USG in connection with USG-

UNCLASSIFIED

funded assets, and that the GOI is responsible for all operation and maintenance costs following the transfer of capital assets.

The DOS plans to use both the catalog of DOS-funded assets and the MOU during a comprehensive transfer of the following three separate categories of assets: a) assets already transferred to the GOI, whether through mutual agreement or unilateral process; b) assets already completed but not yet transferred to the GOI; and c) assets under construction.

The Department shares SIGIR's concern regarding the previous transfer of assets under a "unilateral transfer process" and believes that the above-outlined procedure will acknowledge GOI liability and responsibility for operation and maintenance for previous assets transferred unilaterally. Additionally, the Department agrees with SIGIR regarding the high priority of asset transfer and plans to utilize the above-mentioned high level dialogue also to address the transfer of non-IRRF assets. The majority of non-IRRF projects are non-construction projects and where needed, have an asset transfer mechanism already in place at the initial project stage. However, where applicable, the Department will ensure that an asset transfer procedure is in place for assets not yet completed or transferred to the GOI.

Miscellaneous Corrections and Clarifications
SIGIR-08-017 (p. 2, para. 3): "Personnel from U.S. agencies and ITAO make up the membership of the informal Asset Recognition and Transfer Working Group (ARTWG), which meets regularly to discuss transfer issues."

Comment: The Asset Recognition and Transfer Working Group (ARTWG) is not an informal body as it meets regularly with a published agenda, minutes, and roster. The meetings routinely result in taskings that group members respond to after having vetted responses with their leadership. For these reasons, we do not understand why the report categorizes the group as informal.

Drafter: ITAO CFO, Steve Hill, 239-9488
Clearers: ITAO Director, Mark Tokola, 239-8420

Appendix D—Audit Team Members

This report was prepared and the audit work was conducted under the direction of David R. Warren, Assistant Inspector General for Audit, Office of the Special Inspector General for Iraq Reconstruction.

Staff members who contributed to the report include:

Adam Hatton

Joan Hlinka

Craig Lowman

Frank Slayton

SIGIR's Mission	Regarding the U.S. reconstruction plans, programs, and operations in Iraq, the Special Inspector General for Iraq Reconstruction provides independent and objective: • oversight and review through comprehensive audits, inspections, and investigations • advice and recommendations on policies to promote economy, efficiency, and effectiveness • deterrence of malfeasance through the prevention and detection of fraud, waste, and abuse • information and analysis to the Secretary of State, the Secretary of Defense, the Congress, and the American people through Quarterly Reports
Obtaining Copies of SIGIR Reports and Testimonies	To obtain copies of SIGIR documents at no cost, go to SIGIR's website (www.sigir.mil).
To Report Fraud, Waste, and Abuse in Iraq Relief and Reconstruction Programs	Help prevent fraud, waste, and abuse by reporting suspicious or illegal activities to the SIGIR Hotline: • Web: www.sigir.mil/submit_fraud.html • Phone: 703-602-4063 • Toll Free: 866-301-2003
Congressional Affairs	Hillel Weinberg Assistant Inspector General for Congressional Affairs Mail: Office of the Special Inspector General for Iraq Reconstruction 400 Army Navy Drive Arlington, VA 22202-4704 Phone: 703-428-1059 Email: hillel.weinberg@sigir.mil
Public Affairs	Kristine R. Belisle Director for Public Affairs Mail: Office of the Special Inspector General for Iraq Reconstruction 400 Army Navy Drive Arlington, VA 22202-4704 Phone: 703-428-1217 Fax: 703-428-0818 Email: PublicAffairs@sigir.mil