



SIGAR

Office of the Special Inspector General
for Afghanistan Reconstruction

December 31, 2013

The Honorable Rajiv Shah
Administrator, USAID

Mr. William Hammink
Mission Director, USAID/Afghanistan

Dear Administrator Shah and Director Hammink:

I am writing to alert you about the possible weaknesses in oversight provisions in a U.S Agency for International Development (USAID) agreement for providing direct bilateral assistance funds to Da Afghanistan Breshna Sherkat (DABS)—Afghanistan’s national power utility—for the installation of an additional turbine at Kajaki Dam.¹ USAID Implementation Letter Number IL-56, dated April 22, 2013, addresses the installation of Turbine Generator Unit 2 at the Kajaki Dam Hydropower Plant² and includes oversight provisions detailing how direct bilateral assistance funds for this effort will be monitored and evaluated. I am concerned that these oversight provisions are not as robust as they should be, which could make these funds more vulnerable to waste, fraud, and abuse.

As of August 2013, USAID had obligated \$338.3 million in direct bilateral assistance funds³ to DABS for two reconstruction projects – the Power Transmission Expansion and Connectivity (PTEC) project and the Kajaki Unit 2 Project. Of this amount, \$75 million has been obligated to the Kajaki Unit 2 Project. The PTEC project is intended to improve Afghanistan’s electrical transmission system, while the Kajaki Unit 2 Project would increase power generation by installing an additional turbine.

USAID has two separate agreements in place for the PTEC and the Kajaki Unit 2 Project. While the agreements for both projects have many of the same oversight provisions, we found that the Kajaki Unit 2 Project agreement has fewer oversight provisions than the PTEC agreement. The provisions in the PTEC agreement but not in the Kajaki Unit 2 Project agreement include:

- USAID review of key procurement actions.⁴ Before taking a PTEC related procurement action, DABS must submit the solicitation document, prime contract, subcontract documents, amendments, and change orders to USAID. USAID has the right to block any procurement action if it has concerns with any of these documents.

¹ Kajaki Dam has long been recognized as a potential source for sustainable and renewable power to southern Afghanistan. The United States first began construction on the Kajaki Dam in the early 1950s to provide irrigation and electricity to this region. The Kajaki Dam has been plagued by problems and neglect throughout its history, and despite using multiple contractors and subcontractors, spending tens of millions of dollars, and losing scores of U.S. and coalition lives since 2001, it is still not complete.

² Installation of Turbine Generator Unit 2 could bring as much as 18.5 megawatts of additional power to southern Afghanistan.

³ Direct bilateral assistance is when funds are transferred directly from the U.S. government to the Afghan government, without intermediaries.

⁴ USAID Implementation Letter Number IL-22-1 for the Power Transmission Expansion and Connectivity Project, p. 11, VI. USAID Consent to Key PTEC Procurement Actions, December 5, 2012.

- USAID vetting of organizations and key individuals.⁵ USAID reserves the right to vet organizations and key individuals of any organization that may receive USAID direct bilateral assistance funds.⁶
- USAID access.⁷ USAID and USAID's quality assurance contractor are guaranteed reasonable access to all DABS facilities, equipment, and documents related to PTEC. This includes access to DABS employees, authorized representatives, and organizations and individuals hired to work on the PTEC project.⁸

In my view, these additional oversight provisions are reasonable and could provide greater safeguards for U.S. taxpayer funds provided by USAID if they were included in the Kajaki Unit 2 Project agreement. Furthermore, these additional oversight provisions would be helpful given security concerns which limit access to this construction site.⁹ More importantly, these oversight provisions make sense given the potential importance of the Kajaki Unit 2 Project to Afghanistan's economic development, the investment already made by the U.S. government, and the historical challenges that have hindered the completion of this project by multiple contractors and subcontractors in the past. Unless there are compelling reasons why these oversight provisions are not in the Kajaki Unit 2 Project agreement, I strongly suggest you incorporate them into that funding agreement.

Should you have any questions concerning this letter, please contact Mr. Jerry W. Clark, Acting Director, Office of Special Projects, at (703)545-5965 or jerry.w.clark50.civ@mail.mil.

Sincerely,



John F. Sopko
Special Inspector General
for Afghanistan Reconstruction

⁵ USAID Implementation Letter Number IL-22-1 for the Power Transmission Expansion and Connectivity Project, p. 12, VII. USAID Vetting of Organizations and Key Individuals, December 5, 2012.

⁶ While the language does not specifically limit vetting to PTEC, its absence from the Kajaki Dam document could create confusion among the parties as to USAID's ability to enforce the provision for the Kajaki Dam project.

⁷ USAID Implementation Letter Number IL-22-1 for the Power Transmission Expansion and Connectivity Project, pp. 9-10, III. PTEC Project Completion Date, Estimated Budget and Expected Contributions of the Parties, D. The Grantee's Expected Contribution, December 5, 2012.

⁸ While access to documents, records, financial records, etc. are covered in all Kajaki Dam implementation letters, physical access to sites, facilities, and equipment appear limited to the PTEC projects.

⁹ SIGAR 14-4-SP/Oversight Bubble Inquiry, October 10, 2013 noted that oversight of reconstruction efforts may be further degraded after 2014 for projects that fall outside "oversight access bubbles." This could apply to the Kajaki Dam.



MEMORANDUM

January 8, 2014

TO: John F. Sopko
Special Inspector General for
Afghanistan Reconstruction (SIGAR)

FROM: William Hammink, Mission Director 

SUBJECT: Response Letter to SIGAR Alert Letter Regarding Oversight
Provisions for the Kajaki Unit 2 Turbine Installation Project

This letter is in response to the SIGAR Alert Letter issued on December 31, 2013 regarding oversight provisions for the Kajaki Unit 2 Turbine Generator Installation Project (aka Kajaki Dam Unit 2 Project¹). We value SIGAR's intention to accurately assess the oversight of this investment and provide the following observations.

In the Alert Letter, SIGAR states the on-budget Kajaki Dam Project has three weaknesses related to USAID agreement oversight provisions when contrasted with the USAID Power Transmission Expansion and Connectivity (PTEC) project. SIGAR highlights the three specific weaknesses:

- USAID review of key procurement actions,
- USAID vetting of organizations and key individuals, and
- USAID access.

USAID concurs with SIGAR's request to incorporate conditionalities into the agreements that govern the Kajaki Dam Unit 2 Project similar to those that govern the USAID PTEC project. As reflected below, the oversight provisions are already embedded within existing Strategic Objective Grant Agreement (SOAG) documents and the DABS contract with the Kajaki Unit 2 Project contractor.

USAID Review of Key Procurement Actions

USAID Implementation Letter (IL) Number IL-56 for the Installation of Turbine Generator Unit 2 at Kajaki Dam Hydropower Plant references SOAG Number 306-05-00 titled "USAID Strategic Objective Grant Agreement for a Thriving Economy Led by the Private Sector." IL-56 (Attachment 1) is issued in accordance to SOAG 306-05-00 and is governed by its provisions.

¹ To clarify SIGAR's title, the "Kajaki Dam Project," USAID support for this project does not involve structural construction, repairs or improvements to the dam itself; instead, the project involves installation of a hydropower turbine and appurtenances in the powerhouse at the Kajaki Dam site. USAID would prefer the project be referred to as the "Kajaki Dam Unit 2 Turbine Generator Installation Project" or "Kajaki Unit 2 Project."

Under Annex 2 of the SOAG: Standard Provisions. Article C: Procurement Provisions. Section C.3 Plans, Specifications and Contracts specifies that USAID will have authority to obtain documentation and to review key procurement actions. Relevant items under this section state:

- (a) The Grantee will furnish to USAID upon preparation:
 - (1) any plans, specifications, procurement or construction schedules, contracts, or other documentation between the Grantee and third parties, relating to goods or services to be financed under the Agreement, including documentation relating to the prequalification and selection of contractors and to the solicitation of bids and proposals. Material modifications in such documentation will likewise be furnished USAID on preparation;
- (b) Documents related to the prequalification of contractors, and to the solicitation of bids or proposals for goods and services financed under the Agreement will be approved by USAID in writing prior to their issuance, and their terms will be in United States standards and measurements;
- (c) Contracts and contractors financed under the Agreement for engineering and other professional services, for construction services, and for such other services, equipment, or materials as may be specified in Implementation Letters, will be approved by USAID in writing prior to execution of the contract. Material modifications in such contracts will also be approved in writing by USAID prior to execution.

The SOAG language above provides USAID with substantial control over procurement activities conducted under the Kajaki Unit 2 Project by DABS and the DABS contractor, including vetting of contractors.

To date, DABS has readily provided USAID with procurement documents related to the Kajaki Unit 2 Project. Upon review, USAID has provided written consent to the issuance of the contract to the contractor, who will act as the construction manager-at risk (CMAR). USAID Implementation Letter IL-56-02 providing this consent is attached (Attachment 2).

USAID Vetting of Organizations and Key Individuals

In addition to the above provisions in the USAID SOAG with the Government of the Islamic Republic of Afghanistan (GIROA), several provisions are included in the DABS contract with its contractor that USAID approved. Item 4 of Section 7, Requirements for Provider of Funds in the Contract for Kajaki Unit 2 between DABS and the Contractor states:

USAID shall have the right, but not the obligation, to obtain information and to review for security and compliance purposes all companies, organizations, and individuals involved in award of any subcontracts resulting from this contract. USAID may prohibit subcontract award based upon the information obtained and/or the results of such review.

Based on this language, USAID has the ability to vet any and all entities that are proposed for the Kajaki Unit 2 Project by DABS or its Contractor.

It should also be noted that the Contractor selected under this contract by DABS was vetted through the USAID vetting unit prior to award. The USAID vetting determination of the DABS contractor, GFA Consulting Limited, for this assistance is attached (Attachment 3).

USAID Access

Regarding USAID access to DABS on-budget implementation of the Kajaki Unit 2 Project, Section G Item 7 of the Kajaki Unit 2, IL-56 addresses SIGAR's access issue as follows:

Monitoring and Evaluation: Due diligence reviews of the Kajaki Unit 2 project through program monitoring and evaluation is fundamental to reporting on progress and the quality of the work performed. USAID, through its staff or through contracts with third parties, will provide monitoring and evaluation support services for the Kajaki Unit 2 Project. Pursuant to Section B.5 (Reports and Information, Agreement Books and Records, Audits and Inspections) of Annex 2 (Standard Provisions) of the Agreement, the Grantee will ensure that necessary access is provided to perform these functions.”

The SOAG's Annex 2: Standard Provisions, Article B: General Covenants, Section B.5: Reports and Information, Agreement Books and Records, Audits, and Inspections, item (i) states:

Opportunity to Audit or Inspect: The Grantee shall afford authorized representatives of USAID the opportunity at all reasonable times to audit or inspect activities financed under the Agreement, the utilization of goods and services financed by USAID, and books, records and other documents relating to the Agreement.

These provisions clearly show that USAID has the requisite access to the project for appropriate oversight.

Attachments:

- 1) Implementation Letter, IL-56
- 2) Implementation Letter, IL-56-02
- 3) Vetting Determination

cc:

Dr. Rajiv Shah
Administrator, U.S. Agency for International Development

Attachment I - Agency Comments and Our Response

We received comments on the alert letter from USAID. USAID partially concurred with our suggestion to add additional oversight provisions to the Kajaki Unit 2 Project agreement.

USAID also noted that oversight provisions cited in our alert letter are included in the Strategic Objective Grant Agreement (SOAG) between the United States and the Government of the Islamic Republic of Afghanistan (GIROA), which was signed on September 19, 2005. The SOAG provides a framework for achieving the shared goal of creating a thriving economy led by the private sector in Afghanistan. Although the SOAG discusses oversight provisions, it does not reference any specific project.

The SOAG allows for Implementation Letters that define terms and conditions for each project, along with the respective roles and responsibilities of both parties. The United States and GIROA signed Implementation Letters for the PTEC and the Kajaki Unit 2 Projects. A comparison of the oversight provisions contained in these Implementation Letters was the basis of our review. As stated in our alert letter, we found that key oversight provisions contained in the PTEC Project Implementation Letter were not in the Kajaki Unit 2 Project Implementation Letter. Although the SOAG's oversight provisions govern both projects, we believe that including specific oversight provisions in one Implementation Letter but not the other may create ambiguity about USAID's oversight rights.

We continue to believe that the more detailed oversight provisions contained in the PTEC Project Implementation Letter should also be included in the Kajaki Unit 2 Implementation Letter. USAID's decision to concur with this suggestion will help clarify the oversight provisions that will be used to help protect U.S. taxpayer funds spent for the Kajaki Unit 2 Project.