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United States Senate

COMMITTEE ON
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS
WASHINGTON, DC 20510–6250

February 15, 2013

John F. Sopko
Special Inspector General for Afghanistan Reconstruction
2530 Crystal Drive, 9th Floor
Arlington, VA 22202-3940

Dear Mr. Sopko:

I understand that you are beginning a review of Rule of Law programs conducted by the State Department, USAID, and the Defense Department in Afghanistan. I am writing to request that you include the State Department's Justice Sector Support Program (JSSP) in your review.

The purpose of the JSSP is to provide assistance to the government of Afghanistan to strengthen the institutional capacity of its criminal justice system. Since April 2005, the State Department has awarded contracts worth over $187 million to PAE to implement the JSSP. [1]

I first requested information regarding the JSSP in June 2011.[2] In response to my request, the State Department produced approximately 6,800 pages of documents, including the JSSP task order, related contract materials, and evaluations.[3] My request is enclosed for your review.

Based on a review of these documents, I have serious concerns about the effectiveness of the JSSP. The documents provided to the Subcommittee reveal that the Department failed to ensure that there were performance measures for the program before 2009, more than four years after PAE began work. It appears that the contractor, not the Department, was responsible for setting these objectives and there is no indication that the Department provided input or oversight regarding the accuracy or objectivity of the contractor-designed metrics.

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[1] Federal Procurement Data System (online at https://www.fpds.gov/fpdsng_cms/) (accessed Feb. 4, 2013).

[2] Letter from Chairman Claire McCaskill to State Department Under Secretary for Management Patrick F. Kennedy (June 24, 2011).

[3] Letter from State Department Assistant Secretary for Legislative Affairs David Adams to Chairman Claire McCaskill (Dec. 14, 2011) Letter from Chairman Claire McCaskill to State Department Under Secretary for Management Patrick F. Kennedy (June 24, 2011).

I am also concerned that the JSSP and other rule of law programs in Afghanistan may not be improving Afghanistan's legal institutions. In fact, despite the investment of more than $900 million on rule of law programs in Afghanistan, there is some indication that the situation may actually have worsened. For the past seven years, Foreign Policy and the Fund for Peace have jointly produced an annual index of failed states, ranking nations based on factors including the stability of the government and the rule of law. In 2005, the year that the JSSP began, Afghanistan was ranked 11th among the most failed states in the world. In 2012, Afghanistan's rating dropped to the 6th most failed state in the world.[4]

The documents and information received by the Subcommittee raise troubling questions about JSSP and the State Department's oversight of the JSSP and similar programs. As a result, I request that you include the JSSP in your ongoing review of rule of law programs. I look forward to reviewing any findings that you release.

The jurisdiction of the Subcommittee on Contracting Oversight is set forth in Senate Rule XXV clause 1(k); Senate Resolution 445 section 101 (108th Congress); and Senate Resolution 73 (111th Congress).

Please have your staff contact Alan Kahn with the Subcommittee staff at (202) 224-3230 with any questions. Please send any official correspondence related to this request to Lauren Corcoran at Lauren Corcoran@hsgac.senate.gov.

Sincerely,

Claire McCaskill
Chairman
Subcommittee on Contracting Oversight

Enclosure

cc: Rob Portman
Ranking Member
Subcommittee on Contracting Oversight

cc: Patrick Kennedy
Under Secretary for Management
United States Department of State

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[4] Foreign Policy, The Failed States Index 2005 (online at http://www.foreignpolicy.com/articles/2005/07/01/the_failed_states_index_2005?page=full) (accessed Feb. 7, 2013); Foreign Policy, The Failed States Index 2012 (online at http://www.foreignpolicy.com/failed_states_index_2012_interactive) (accessed Feb. 7, 2013).