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BEFORE THE
Homeland Security and Governmental Affairs Committee
Subcommittee on Financial and Contracting Oversight
United States Senate

July 16, 2013

Chairman McCaskill, Ranking Member Johnson, and distinguished members of the Subcommittee, thank you for the opportunity to discuss how the United States Agency for International Development (USAID) is implementing the wartime contracting reform provisions passed into law in the Fiscal Year 2013 National Defense Authorization Act (NDAA).

USAID welcomes the Subcommittee's continued interest in these matters. Over the last several years the Agency has undertaken a series of operational and institutional reforms designed to transform the organization into a more efficient, effective, and accountable development enterprise. Reforming our Acquisition (contracts) and Assistance (grants and cooperative agreements) processes, particularly those regarding contingency contracting, is a key element of this reform agenda, known as USAID Forward. Many of these changes are in line with the recommendations of the Subcommittee and of the Commission on Wartime Contracting (CWC) that Senator McCaskill and Senator Webb were instrumental in creating.

As an example, the Agency has taken steps to enhance and elevate the independent authority of the suspension and debarment official (SDO) at USAID, a key interest of the Subcommittee and one of the changes urged by the CWC. While we believe that our current structure meets the statutory requirements pertaining to the SDO functions, we understand and fully support the need for greater autonomy of that official. As such, USAID is transferring the duties of the SDO from the procurement office to a Senior Deputy Assistant Administrator within the Bureau for Management. All policies are in the revision process to enact this change, and we expect it to be finalized shortly.

In another example of our continued commitment to accountability and recognition of the need for strengthened oversight, Administrator Shah has established a new senior management review process to ensure that large awards fulfill several accountability criteria. Effective July 9, 2013, Assistant Administrators will validate that planned Acquisition or Assistance actions at or above \$25 million in total estimated cost meet these new criteria before approving the issuance of solicitations. The Administrator himself will provide the final authorization to make an award at

or above \$75 million. These reviews will increase senior management engagement and accountability for acquisition and assistance, ensure more rigorous project design and costing standards, establish greater linkages between Washington and field activities, and result in more effective implementing mechanisms.

In addition to the new accountability policy, USAID continues to place a strong emphasis on oversight and strong stewardship of taxpayer funding:

- Since USAID's last appearance before this Subcommittee, our Compliance Division has recommended 83 further suspension or debarment actions to the SDO, who has approved all of them.
- USAID has created a corporate-level Acquisition and Assistance (A&A) plan that allows us to see all procurements across the Agency's worldwide operations. This plan has helped create stronger implementing mechanisms and brought greater transparency into the Agency's subcontracting plans.

USAID remains committed to enhancing the sustainability of our programs, ensuring the highest levels of accountability, and promoting maximum transparency. USAID Forward was designed to enable the United States to better help countries stand on their own feet, so that aid from American taxpayers is no longer needed. We continue to internalize lessons learned in contingency operations, and we thank the Subcommittee for its continued support and interest in this effort.

As you requested, I will now turn to describing how the Agency is implementing the provisions within the FY13 NDAA that directly impact USAID.

Review and Justification of Pass-Through Contracts (Sec. 802)

A Federal Acquisition Regulation (FAR) rule (FAR Case 2013-012, Review and Justification of Pass-Through Contracts) is currently in process, which will implement Section 802 to all agencies governed by the FAR, not just those in the legislation. In the interim, until the new rule takes effect, in my role as Director of the Bureau for Management's Office of Acquisition and Assistance, I have issued a Policy Directive (AAPD 13-01) to immediately apply the new requirements. When the new FAR rule implementing Section 802 becomes effective, that rule will take precedence and the Policy Directive will be rescinded.

Additionally, there is existing language in FAR (FAR 52.215-22) which requires offerors that intend to subcontract more than 70 percent of the total cost of the contract, task order or delivery order, to identify in their proposals the amount of indirect costs and profit/fee applicable to the work performed by the subcontractor. The same FAR section also requires offerors to submit a description of the added value that the offeror will be providing, as it relates to the work proposed for those subcontractors. The Contracting Officer is required to analyze that information and either accept or reject the offeror's value added assessment.

Data Collection on Contract Support for Future Contingency Operations (Sec. 844)

The 2008 NDAA required that the Department of Defense (DoD), the Department of State (State), and USAID identify common databases to serve as repositories of information on contracts in a Iraq and Afghanistan. The parties agreed to use the Synchronized Pre-Deployment and Operational Tracker (SPOT). USAID believes SPOT should remain the system of record for contractor personnel deploying to contingency environments and is currently using this system to track personnel in Iraq and Afghanistan. Policies are in place for both Iraq and Afghanistan requiring contractors and recipients to report personnel data in SPOT.

USAID is continuing to work with DoD and State on reporting issues related to the number, value, and competition of contracts, which are currently tracked by the Federal Procurement Data System-Next Generation (FPDS-NG) and annually certified by department and agency Heads of the Contracting Activity for accuracy. In addition, USAID would pull information from the Federal Assistance Award Data System (FAADS) for assistance awards. This ensures consistency, commonality, and transparency in the respective Agency source data, while accommodating the differences between acquisition-only and acquisition and assistance departments and agencies.

USAID already has policy and business processes in place assuring our capability to report data regarding the number, value, and competition of contracts. USAID's awards are processed through our Global Acquisition and Assistance System (GLAAS), the Agency's contract writing system, which interfaces with FPDS-NG and the FAADS and is supported by extensive training provided to staff. If the recommendation is agreed upon by all Agencies, USAID will issue or revise guidance as necessary to reflect any changes to the DoD/State/USAID Memorandum of Understanding (MOU).

Finally, to the extent the systems discussed above do not capture data required by Section 844 we will work on developing a system to incorporate these required data elements.

Requirements for Risk Assessments Related to Contractor Performance (Sec. 846)

USAID is establishing a working group to determine the best way to incorporate the requirements for comprehensive risk assessment and risk mitigation plans for future contingency operations. Of course, we are also currently involved in a contingency operation in Afghanistan, where we have learned some very hard lessons over a decade of work. We face formidable challenges as we strive to meet the highest standards of accountability in a war zone, so in addition to the regular oversight USAID undertakes in all countries with which we work, in fall 2010 we launched the Accountable Assistance for Afghanistan (A3) initiative to further protect taxpayer dollars from being diverted from their development purpose.

The A3 initiative consists of:

- Award Mechanisms – We are utilizing awards that provide the most visibility on project costs and limiting layers of subcontracts.
- Partner Vetting – We are conducting investigative checks on non-U.S. companies and key personnel working on USAID projects. We have completed over 1,400 vetting requests, and, to date, 30 ineligibility findings have been reached. Through this vetting, we have kept \$25.7 million from being awarded to parties associated with malign actors.
- Financial Controls – We aim to audit 100 percent of all locally incurred costs as extra measures to identify fraud and abuse, and are enhancing controls on project funds, such as using electronic funds transfers in lieu of cash payments and ensuring close review of recipients/contractor's claims prior to payment.

In particular, building on best practices and lessons learned from other USAID efforts in Iraq, West Bank/Gaza, and Pakistan, USAID/Afghanistan is developing a remote monitoring program that will integrate a number of approaches to ensure oversight of our projects, including the use of third party monitors, mobile and satellite technology, surveys, etc. Through remote monitoring, USAID will be able to obtain sufficient, accurate and verified information to allow the Agency to make well-informed decisions about its portfolio, target programming address gaps in assistance, avoid costly duplication, and mitigate risks.

As you know, there are also multiple agencies, including the Government Accountability Office, the Special Inspector General for Afghan Reconstruction, and the USAID Inspector General that perform oversight of USAID's activity in Afghanistan. Collectively these entities have completed over 120 audits of programs in Afghanistan since October 2010. These financial and performance audits complement and reinforce our own efforts to ensure U.S. funds are used effectively and efficiently. In fact, USAID began the Accountable Assistance for Afghanistan initiative to better respond to and correct problems identified during audits. USAID welcomes the oversight and discipline imposed by audits, including those initiated at our request.

Extension and Modification of Reports on Contracting in Iraq and Afghanistan (Sec. 847)

USAID has provided and will continue to provide required data for the joint report. In my role as Director of the procurement office, I have issued Policy Directives for application in both Iraq and Afghanistan mandating contractual clauses requiring the reporting of the necessary information. Additional policies and guidance will be issued for future contingency operations as needed.

Responsibilities of Inspectors General for Overseas Contingency Operations (Sec. 848)

USAID's Office of Inspector General (OIG) plays a key role, in both normal operations and contingencies, in improving the effectiveness and efficiency of USAID's programs and in

protecting taxpayer funds from waste, fraud, and abuse. The OIG does this through performance and financial audits and reviews as well as investigations. In contingencies, the OIG has intensified its oversight efforts by establishing dedicated country offices with an increased complement of auditors and by redoubling its outreach and coordination with oversight and law enforcement partners. The OIG's oversight is welcome, as it provides an added level of scrutiny that makes USAID's work more accountable and transparent. With regards to this specific provision, which would provide for the establishment of a "lead IG" in contingency operations, I defer to the OIG for comment.

Chief Acquisition Officer Responsibilities for Contract Oversight in Contingency Operations (Sec. 849)

Although USAID is not statutorily required to have a Chief Acquisition Officer (CAO), I effectively carry out the duties of a CAO in my role as Director of the Bureau for Management's Office of Acquisition and Assistance (M/OAA). The additional responsibilities and duties of the CAO outlined in this section have been formally added to my responsibilities in USAID's internal regulations.

Reports on Responsibility within the Department of State and USAID (Sec. 850)

USAID prepared and submitted on July 2, 2013, an assessment as required by this section.

In contingency environments, USAID works with the Departments of State and Defense to stabilize countries and build responsive local governance. USAID also eases the transition from active conflict challenges to long-term development goals by investing in agriculture, health systems and democratic institutions. Given that USAID works on a daily basis in insecure countries characterized by many of the same conditions found in contingency operations, USAID's roles and responsibilities for acquisition policy, planning, and execution are in existence and can be easily applied when necessary in contingency operations. Nevertheless, the Agency has identified the steps needed to strengthen some areas, and ensure availability of adequate data and processes for reporting. These areas include:

- Improvements in policy and procedure related to data collection through the Synchronized Pre-Deployment Operational Tracker (SPOT);
- Contractor performance reporting in government-wide databases to meet requirements of the Office of Federal Procurement Policy in the Office of Management and Budget;
- Conducting risk assessments on the use of contractors to meet NDAA Sec. 846 requirements; and
- Sustainability assessments for capital projects to meet NDAA Sec. 1273 requirements.

USAID has employed a number of mechanisms to address these issues, which are outlined more thoroughly in the Section 850 report.

Information on Corporate Contractor Performance through FAPIIS (Sec. 852)

The provision requires a modification to the Federal Awardee Performance and Integrity Information System (FAPIIS) to include fields for information on parent, subsidiary, and successor entities. We understand that the FAR Council opened a case (FAR Case 2013-020, Information on Corporate Contractor Performance through FAPIIS) to implement the collection of this additional information on the corporation or organization awarded the contract or grant. We stand ready to work with the FAR Council on steps to implement this requirement and associated efforts to augment the functionality of FAPIIS.

Inclusion of Data on Contractor Performance in Past Performance Databases (Sec. 853)

This provision requires the FAR Council to develop a strategy for strengthening the collection and use of past performance information. At USAID, we are committed to the effective collection and use of past performance information, since the Agency believes it is a critical part of the USAID acquisition process. Because past performance ensures that the Agency is working with the best possible partners to receive work products and services to meet our programmatic and operational needs, the Agency has elevated past performance to one of its highest priorities. In accordance with OFPP's March 2013 management guidance, USAID has established quarterly targets for improving timely reporting in the past performance databases and made significant progress in reaching these targets. At the end of 2010, USAID past performance reporting was only 7.8%. We are now at 24%, and are well on our way towards meeting the 65% reporting goal for calendar year 2013 established by OMB/OFPP and the 100% goal by CY 2015. To reinforce these efforts, we have been working with the FAR regulatory drafters on government-wide regulatory changes called for by section 853 which, among other things, (i) establish standards for timely submission of past performance assessments in the Past Performance Information Retrieval System (PPIRS), (ii) strengthen assignment of responsibility and management accountability for submitting assessments, (iii) ensure past performance submissions are consistent with award fee evaluations, where appropriate, and (iv) require that past performance evaluations be included in the PPIRS database within 14 days.

Requirements and Limitations for Suspension and Debarment Officials of the Defense Department, State Department and USAID (Sec. 861)

USAID recognizes and fully supports the need for an independent and autonomous authority for suspension and debarment decisions.

A dedicated unit within M/OAA, known as the Compliance Division, is responsible for making recommendations to the SDO regarding formal and informal referrals after approval of the legal sufficiency of the action by the Office of General Counsel. Independence is imbedded in this

process in that the staff develop the recommendations and the SDO is responsible for reviewing and approving those recommendation based on his/her own discretionary authority.

While this process has been working well, USAID supports the intent behind the legislation to strengthen and elevate the independent authority of the Agency's SDO even further. As mentioned earlier, the Agency has effectively moved the SDO function out of M/OAA and given the roles and responsibilities of the SDO to a Senior Deputy Assistant Administrator in the Management Bureau. The Agency is in the process of revising all necessary policy documents to enact this change.

I would like to note that prior to the establishment of the Compliance Division, in October 2009, USAID's Office of Inspector General (OIG) made 12 recommendations to M/OAA to help it strengthen the Agency's suspension and debarment process. USAID has implemented all of these suggestions, a fact confirmed by the 2012 follow-up audit by the OIG, which concluded with a positive report and zero recommendations.

Uniform Contracting Writing System (Sec. 862)

This provision requires OFPP to develop standards for agency contract writing systems. USAID is working with OFPP as a member on the interagency group that is reviewing the development of standards needed to ensure continued alignment of the agency's existing contract writing system with any new government wide data standards.

At USAID, we currently utilize the Global Acquisition and Assistance System (GLAAS). GLAAS is a worldwide, web-based system that manages awards throughout USAID's A&A lifecycle, including reporting and administration. We look forward to working with the interagency group and OFPP as these efforts progress.

Sustainability Requirements for Capital Projects in Contingency Operations (Sec. 1273)

USAID is establishing a working group to determine the best way to meet the sustainability requirements for certain capital projects for future contingency operations in a manner that is consistent with the requirements of section 1273. USAID will submit reports where statutorily required.

For current operations, USAID is ensuring that our offices in Afghanistan and Iraq are meeting the spirit and intent of the legislation. While USAID incorporates sustainability into all its programs worldwide, given the unique context of Afghanistan, USAID developed a specific Sustainability Guidance issued in June 2011, which aims to ensure that USAID's programs are sustainable and closely aligned with U.S. and national priorities. According to the guidance, every program must, to the extent possible, contribute to three areas:

(1) Afghan ownership and capacity;

- (2) increased stability and confidence in the Afghan Government; and
- (3) program and cost effectiveness.

As a result of this guidance, USAID/Afghanistan has incorporated sustainability analysis into its project design process – each project must now develop a thorough sustainability plan during the design phase. USAID, in cooperation with the Afghan Government, also conducts regular portfolio reviews to ensure that programs align with Afghan priorities as well as with sustainability objectives. Through these detailed reviews and discussions, USAID is focused on delivering programs with the best prospects for sustainability. These include economic growth projects that will increase jobs and incomes while enhancing Afghan Government revenues, enabling the Afghan government to increasingly fund its own recurrent costs.

Reorienting our approach to focus on sustainability in Afghanistan has produced impressive results. For example, the Afghan national power utility, Da Afghanistan Breshna Sherkat (DABS), has made dramatic progress. In large part due to managerial and process improvements resulting from USAID's mentoring and capacity building program, DABS has increased its revenue since 2010, from \$137 million to \$228 million in 2012. As a result, the subsidy that DABS has been receiving from the Ministry of Finance has been declining each year: \$40 million in 2010; \$30 million for 2011; \$16 million for 2012; and \$10 million for 2013, the final year for the subsidy. If DABS continues on this path of improvement, we expect that it could be commercially viable and financially self-sufficient in the next three to five years.

Section 1273 also aligns very closely with Section 611(e) of the Foreign Assistance Act of 1961 (codified in 22 USC 2361 (e)). Section 611(e) provides that whenever certain types of funds are proposed to be used for a capital assistance project exceeding \$1 million, the head of the Agency must take into consideration the Mission Director's certification as to the capability of the country to effectively maintain and utilize the project. This requirement is implemented through inclusion in the statutory checklist, completed during project design as a pre-obligation requirement to ensure that USAID's programs and operations comply with legal restrictions. Further, sustainability is woven throughout our Country Development Cooperation Strategy process and project design policy in USAID's Automated Directive System (ADS) 201.

Conclusion

As an Agency, we are pleased with our progress made on improving contracting in contingency operations, and welcome the reforms that the CWC recommendations and NDAA provisions have produced and inspired. We believe they have strengthened our already deep commitment to transparency, accountability, and sustainability. USAID's acquisition and assistance portfolio is without question stronger as a result.

Thank you for providing me with this opportunity to appear before you. I will be pleased to answer any questions that you have.