

United States Senate

COMMITTEE ON FOREIGN RELATIONS

WASHINGTON, DC 20510-6225

January 16, 2015

Dr. Rajiv Shah
Administrator
U.S. Agency for International Development
1300 Pennsylvania Ave NW
Washington, DC 20004

Dear Dr. Shah,

In recent days, there were two announcements regarding significant developments in criminal investigations involving two USAID partners, International Relief and Development (IRD) and the Louis Berger Group, Inc. (LBG). The former CEO of LBG pled guilty to defrauding USAID of tens of millions of dollars over a nearly 20-year period. A few days later, a former IRD procurement director was indicted for allegedly soliciting and accepting bribes in exchange for influencing the award of USAID-funded contracts in Afghanistan.

These announcements are even more troubling when one considers that IRD and LBG are among the top recipients of American tax dollars for reconstruction projects in Afghanistan. According to the Special Inspector General for Afghanistan Reconstruction (SIGAR), from 2002 to June 2013, IRD and LBG each received approximately 8 percent of total U.S. obligations in Afghanistan.¹ Given that USAID programs in Afghanistan are a critical component of U.S. national security policy in the region, including addressing issues of governance, rule of law, and corruption, USAID's continued reliance on such organizations is highly questionable at best. As a result, surely you will review whether continuing forward with these two partners is at all appropriate.

This is not the first time these contractors have faced such serious issues. As you know, LBG first gained its notoriety for overbilling USAID in 2010 when the company paid the highest fines ever imposed on a contractor working in the war zones of Iraq and Afghanistan: \$18.7 million in criminal fines and \$50.6 million in civil penalties.² Less known to the general public, but reported to you by SIGAR and the USAID Office of Inspector General (OIG), was the

¹ "USAID Assistance to Afghanistan Reconstruction: \$13.3 Billion Obligated between 2002 and 2013," SIGAR, January 2014 (SIGAR-14-27-SP).

² "War Reconstruction Fraud Draws Big Fine," by James Risen, *The New York Times*, November 5, 2010.

significant audit and oversight trail left in the wake of LBG projects that documented the poor work LBG accomplished despite overbilling for it.

For example, at the beginning of our reconstruction efforts, LBG was contracted by USAID to construct a number of schools and clinics, but by the initial project due date, only one site had been completed: a “model” clinic that, according to a *Washington Post* report, had severe deficiencies in design and quality.³ And although LBG was required to complete several hundred buildings, LBG mismanagement, delays, and poor work forced USAID to remove the company from the job after only about a hundred were finished. The majority of the structures had roofs that buckled under the first snow fall.

USAID also contracted with LBG to construct a highway between Kabul and Kandahar. According to an audit carried out by the USAID OIG, LBG failed to comply with the terms of the contract by not having quality control and assurance for the project.⁴ This resulted in LBG asphaltting over deteriorating roads, using tar and gravel instead of asphalt in some cases, and other problems that required millions of dollars of additional funding to repair.

Projects like these by LBG were so mismanaged and produced such dismal results that, at one point, the U.S. Ambassador to Afghanistan wrote a letter to USAID stating that “these problems are now beginning to interfere with the credibility of the U.S. Mission in Afghanistan, and require immediate corrective action.”⁵ As you know, as these programs fell apart under the mismanagement of LBG and other contractors, not only did it waste U.S. tax dollars but it also undermined our credibility with the Afghan people at a critical time, thus undermining our national security interests.

Even after the fines were levied against LBG and USAID sought to implement an apparently more stringent oversight mechanism for LBG projects, including certain joint ventures, the work of LBG and other contractors continues to suffer from significant mismanagement and deficiencies. For example, in 2012, SIGAR reports that USAID paid LBG the full amount for a power utility project even though the LBG joint venture failed to complete 76 percent of the deliverables required by the contract.⁶

While USAID has not taken suspension or debarment action against LBG, in 2006, the Asian Development Bank debarred the company after discovering significant integrity

³ “Rebuilding Plan Full of Cracks,” by Joe Stephens and David Ottaway, *The Washington Post*, November 20, 2005.

⁴ “Audit of the Kabul to Kandahar Highway Reconstruction Activities Financed by USAID,” USAID Office of Inspector General, September 21, 2004 (5-306-04-006-P).

⁵ Letter from Ambassador Zalmay Khalilzad to USAID (Jim Beaver and Bob Wilson), May 3, 2004.

⁶ “Afghanistan’s National Power Utility: \$12.8 Million in DOD-purchased Equipment Sits Unused, and USAID Paid Contractor for Work Not Done,” SIGAR, December 2012 (SIGAR Audit 13-2).

deficiencies in consultation services LBG was hired to fulfill. These included forging signatures on documentation, falsifying documentation, and replacing proposed consultants with less qualified candidates without prior notification.⁷

As with LBG, documentation from the Inspectors General regarding USAID's oversight of IRD projects show a similar pattern of mismanagement and poor results on the part of both the Agency and its contractors. In one particularly troubling alert letter sent to you in June 2013, SIGAR documented how a \$70 million USAID agriculture program carried out by IRD resulted in: (1) the purchase of overpriced equipment that was not useful to the intended recipients; (2) the provision of hundreds of solar panels to shopkeepers that were unable to use them; and (3) the expenditure of \$23 million to purchase, store, and distribute 16,000 irrigation pumps even though the intended recipients did not want the pumps and already had sufficient water resources and existing irrigation systems.⁸ Making matters worse, SIGAR also documented an example of the “revolving door” that exists between USAID and many of its implementing partners like IRD. In this particular case, an IRD employee was hired by USAID one month prior to the award of the cooperative agreement for the agriculture program and then facilitated the approval process of the IRD project’s work plan. The employee did so despite receiving ethics guidance from USAID to not become involved with any IRD-related projects for a year. Such obvious lapses in basic oversight by the Agency and its contractors could explain why USAID and its contractors have such a poor record in the design and oversight of key projects.

In another example, the USAID OIG issued a report in November 2011 detailing significant failures by IRD on a project in Iraq meant to match communities’ priorities with U.S. development activities. The OIG found that (1) 34 percent of IRD projects did not match any needs identified by the communities and 31 percent did not match the first or even second priorities identified, (2) half of the community action plans IRD helped develop specified needs that IRD then failed to meet, (3) USIAD noted little progress in the program so IRD rushed through a large amount of commodity purchases that (4) were below \$25,000 in order to take advantage of a rule permitting IRD to profit from overhead on purchases under \$25,000, (5) several projects were canceled, and (5) IRD carried out shoddy work including three schools with dangerously faulty electric wiring and at least a dozen projects using substandard workmanship and materials.

⁷ Asian Development Bank, sanction case reference number 05-079-0604

⁸ “SIGAR alert letter regarding the Southern Regional Agricultural Development Program,” SIGAR Alert Letter to USAID, June 27, 2013 (SIGAR Alert 13-2).

With track records like these, it is difficult to understand why USAID continues to put U.S. tax dollars and national security objectives at risk by doing business with organizations that consistently fail to meet their obligations and engage in potentially illegal and unethical activities. It is also difficult to understand why, after years of such failures and lapses in basic oversight, USAID cannot get its act together and serve as a good steward of U.S. tax dollars. In 2009, for example, the USAID OIG reported that the USAID suspension and debarment actions were too few, with a number being poorly executed. The IG also found that the suspension and debarment action contains flaws and constraints that prevent it from operating effectively.⁹ While USAID has made certain improvements in its suspension and debarment activities since then, USAID's continued partnership with contractors that lie and cheat makes clear that fundamental reform is needed within USAID to protect our national security interests and to protect the investments made by US taxpayers in your organization.

Suspension and debarment procedures are intended to prevent waste, fraud and abuse in federal procurement. These procedures are not meant to punish but to ensure that federally-funded programs are conducted legally by responsible parties. It is telling that the Asian Development Bank has essentially debarred LBG since 2006. With this in mind, we request that the Agency expeditiously review all ongoing USAID contracts and grant agreements with LBG, IRD, and other contractors with similar histories. This should include consultation with SIGAR and the USAID OIG to review each audit and oversight document produced to date regarding projects conducted by such contractors, as well as discussions with the Asian Development Bank as they have not allowed LBG to bid on their projects since April 2006.

By January 30, 2015, please report back the result of your review including whether suspension and debarment proceedings should immediately be initiated against LBG, IRD, or other similarly-situated contractors and describe in detail your plan for getting USAID's oversight of its contractors back on track.

Sincerely,



Senator Bob Corker
Chairman
Committee on Foreign Relations

⁹ "Audit of USAID's Process for Suspension and Debarment," USAID OIG, October 1, 2009 (9-000-10-001-P).