YOU CAN'T SPREAD JUSTICE IN AN INSECURE COUNTRY

Back in July, SIGAR noted that $50 million in US funds had been awarded in a sole source contract secured only by a short letter of agreement between the Department of State and the contractor, the International Development Law Organization, known as IDLO. That contract was for one of three programs that are administered by State's Bureau of International Narcotics and Law Enforcement Affairs (INL) under the overall program called the Justice Sector Support Program, JSSP. IDLO's contract covers Regional Justice Sector Training. PAE, which previously had been the contractor for all of JSSP, retains responsibility for the other two programs, a Case Management System and Institutional/Administrative Capacity Building. Over $200 million has been invested by INL for JSSP.

In an audit released today (pdf) SIGAR found that the contract with PAE is limited in how PAE's performance can be assessed and whether the goals of JSSP are being achieved.

There is a much larger overall problem, though, and it is in how this program, like all of the rest of US plans for Afghanistan, was scuttled by the abject failure of the military to bring peace to Afghanistan. Note that the original plan was for the justice program to spread throughout Afghanistan. But the abject failure of the military to stabilize the country means that this program only was able to address small portions of the country:

> Specifically, under the May 2011 statement of work agreed to between INL and PAE, the case management system was supposed to be completed nationwide by May 2012. However, geographic, logistical, and other challenges

> prevented PAE from expanding the electronic, internet-based case management system beyond 7 of 34 of Afghanistan's provinces. As a result, INL modified the contract by replacing the requirement for a nationwide system with one that required implementation in only the seven provinces where it had already been installed.

So a portion of the program meant for all of the country wound up being operational in only 7 out of 34 provinces because of many failures, but I suspect that the indirect language in this section is meant to gloss over security failures being the main reason for restricting the reach of the program. I see no evidence that the budget for this portion of the program was cut to reflect the smaller size, so I wonder if PAE merely got to pocket what they would have spent expanding to the missing 27 provinces.

As noted back in July, the transfer of a portion of JSSP to IDLO was suspect. Today's audit doesn't reduce the concerns about IDLO:

> IDLO has faced high leadership turnover and budgetary shortfalls that, according to IDLO's Audit and Finance Committee, raise serious questions about the future sustainability of the organization. Furthermore, although INL officials stated that the transfer to IDLO would result in lower costs, INL did not conduct a formal cost/benefit analysis to support this assertion or a "lessons learned" evaluation of the work performed by PAE that could have been used to help develop the JTTP. INL originally required PAE to conduct a detailed evaluation of the JSSP's Regional Justice Sector Training component in 2012. However, it is now expected to be completed by the end of 2013.

So IDLO was in danger of no longer existing and INL also has been over a year late in getting PAE to provide an evaluation of the work they had done on this section of the program in order for IDLO to have a good idea of which direction to head. Why would INL even choose IDLO? It seems to me that the biggest reason was once again most likely the failed security situation:

> INL's assertion that it was becoming increasingly difficult for PAE to operate in Afghanistan because the contractor could no longer use private security contractors for its protection. PAE—like other private contractors working in Afghanistan—is now required to use Afghan Public Protection Force personnel for security. The Afghan Public Protection Force is a state-owned enterprise under the jurisdiction of the Afghan Ministry of Interior. INL officials told us IDLO, an international organization with United Nations Observer Status, has a waiver that allows it to use private security contractors for security. State asserts that this exemption limits IDLO's security costs and gives it more freedom of movement throughout Afghanistan.

It appears that INL decided that its contractors would not be safe if they depended on Karzai's hand-picked security organization and so they had to move this portion of the contract to the only group they could find that had a waiver to employ private security contractors.

The remainder of the audit is very interesting reading and shows that SIGAR has serious concerns about how progress in the program can be tracked and evaluated, as well as concerns about how expenses can be justified. But to me, the whole debacle shows the folly of the US misadventures in Afghanistan. Despite spending over $200 million to spread a justice program throughout the country, many Afghans are more likely to seek justice in a Taliban court than

one affiliated with the Afghan government.