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ONE HUNDRED THIRTEENTH CONGRESS

# Congress of the United States

## House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

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February 19, 2013

The Honorable Leon E. Panetta  
Secretary  
U.S. Department of Defense  
1000 Defense Pentagon  
Washington, DC 20301-1000

Dear Mr. Secretary:

The Subcommittee on National Security is continuing its oversight of the Department of Defense's accountability and oversight of U.S. taxpayer funds transferred to the government of Afghanistan for the purchase of petroleum, oil, and lubricants (POL). On September 20, 2012, the Department of Defense committed to produce electronic documents relating to POL funding purchases and practices to the Special Inspector General for Afghanistan Reconstruction (SIGAR), Mr. John Sopko.<sup>1</sup> I request that you follow through with this commitment and also provide copies to the Committee on Oversight and Government Reform.

From fiscal years 2007-2012, Congress appropriated approximately \$1.1 billion through the Afghan Security Forces Fund to purchase petroleum, oil, and lubricants for the Afghan National Army (ANA). In fiscal year 2013 alone, the U.S. government will purchase approximately \$343 million dollars in POL.

According to SIGAR, the Combined Security Transition Command-Afghanistan (CSTC-A) did not have accurate or supportable information on consumption data to support what the ANA actually uses or needs, the amount of U.S. funding needed for ANA fuel, and how much fuel has been lost or stolen. As a result, CSTC-A cannot account for the fuel purchased, delivered, or consumed, and lacks complete information on fuel lost to spillage or theft. Mr. Sopko has also confirmed that the Defense Department shredded financial records relating to hundreds of millions of dollars in POL.<sup>2</sup>

<sup>1</sup> Hearing, Subcommittee on National Security, Homeland Defense, and Foreign Operations (Sept. 20, 2012).

<sup>2</sup> Hearing, Subcommittee on National Security, Homeland Defense, and Foreign Operations (Sept. 13, 2012).

At a hearing convened by this Subcommittee on September 20, 2012, Alan F. Estevez, Assistant Secretary for Logistics and Material Readiness at the Department of Defense, and Lieutenant General Brooks L. Bash, Director for Logistics with the Joint Staff at the Department of Defense, testified about the lack of records related to POL, claiming that the Department possessed electronic documents in lieu of the paper documents that were shredded.<sup>3</sup> Mr. Estevez and Lieutenant General Bash also agreed to provide the documents to SIGAR, and provide a time frame for production of those documents within a week of the hearing.<sup>4</sup>

During the September 20, 2012, hearing, Chairman Chaffetz asked directly about when SIGAR would receive the POL documents in question:

**Mr. Chaffetz.** When we will have those records?

**General Bash.** Well, they are working with the Special Investigator----

**Mr. Chaffetz.** No, I want a date from you, General. When is the Inspector General going to have those records? What is reasonable?

....

**Mr. Chaffetz.** Will you commit to giving me a date within a week?

**Mr. Estevez.** I will commit to giving you a date, sir.

**Mr. Chaffetz.** Within a week? Is that fair?

**Mr. Estevez.** Within a week.

**Mr. Chaffetz.** Very good. Thank you.<sup>5</sup>

Despite this assurance, almost six months later, SIGAR has not received any financial records from the time period March 2010 through February 2011 or received a time frame for their production.

In addition, the lack of oversight of the ANA fuel logistics system poses other serious risks. According to a report issued just last month, SIGAR could not determine the country of origin for ANA fuel imports from vendors. As a result, the “limited visibility of fuel imports increases the risk that U.S. taxpayer-funded fuel purchases could

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<sup>3</sup> Supra, note 1.

<sup>4</sup> Id.

<sup>5</sup> Id.

violate U.S. economic sanctions with Iran.”<sup>6</sup> Accordingly, we request a briefing to learn more about the potential that the lack of POL accountability measures may have heightened the risk U.S. taxpayers could be supporting the purchase of Iranian fuel. Please provide this briefing by March 1, 2013.

As a follow-up to our oversight request, we ask that you provide SIGAR with an exact date for the production of POL documents from March 2010 to February 2011 as discussed at the September 20, 2012, hearing, and also provide these documents to the SIGAR as soon as possible. I also request that you provide the Committee with these documents, as well as an explanation for the delay in producing these documents as soon as possible, but **no later than 5:00 p.m. on March 5, 2013**. When producing documents to the Committee, please deliver production sets to the Majority Staff in Room 2157 Rayburn House Office Building and the Minority Staff in Room 2471 Rayburn House Office Building. The Committee prefers, if possible, to receive all documents in electronic format.

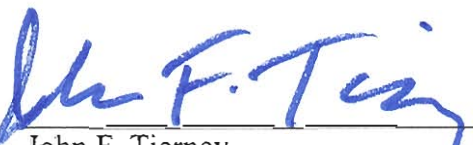
The Committee on Oversight and Government Reform is the principal oversight committee of the House of Representatives and may at “any time” investigate “any matter” as set forth in House Rule X. An attachment to this letter provides additional information about responding to the Committee’s request.

If you have any questions about this request, please contact Mitchell Kominsky or Brien Beattie of the Majority staff of the House Committee on Oversight and Government Reform at 202-225-5074 or Peter Kenny of the Minority staff of the House Committee on Oversight and Government Reform at 202-225-5051. Thank you for your attention to this matter.

Sincerely,



Jason Chaffetz  
Chairman  
Subcommittee on National Security



John F. Tierney  
Ranking Minority Member  
Subcommittee on National Security

Enclosure

cc: Mr. John F. Sopko, Special Inspector General for Afghanistan Reconstruction

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<sup>6</sup> Special Inspector General for Afghanistan Reconstruction, “*Afghan National Security Forces: Limited Visibility Over Fuel Imports Increases the Risk that U.S.-Funded Fuel Purchases Could Violate U.S. Economic Sanctions Against Iran Fuel*,” SIGAR SP 13-2, p. 2. (Jan. 2013).

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**Responding to Committee Document Requests**

1. In complying with this request, you are required to produce all responsive documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, and representatives acting on your behalf. You should also produce documents that you have a legal right to obtain, that you have a right to copy or to which you have access, as well as documents that you have placed in the temporary possession, custody, or control of any third party. Requested records, documents, data or information should not be destroyed, modified, removed, transferred or otherwise made inaccessible to the Committee.
2. In the event that any entity, organization or individual denoted in this request has been, or is also known by any other name than that herein denoted, the request shall be read also to include that alternative identification.
3. The Committee's preference is to receive documents in electronic form (i.e., CD, memory stick, or thumb drive) in lieu of paper productions.
4. Documents produced in electronic format should also be organized, identified, and indexed electronically.
5. Electronic document productions should be prepared according to the following standards:
  - (a) The production should consist of single page Tagged Image File ("TIF"), files accompanied by a Concordance-format load file, an Opticon reference file, and a file defining the fields and character lengths of the load file.
  - (b) Document numbers in the load file should match document Bates numbers and TIF file names.
  - (c) If the production is completed through a series of multiple partial productions, field names and file order in all load files should match.
  - (d) All electronic documents produced to the Committee should include the following fields of metadata specific to each document;

BEGDOC, ENDDOC, TEXT, BEGATTACH, ENDATTAACH,  
PAGECOUNT, CUSTODIAN, RECORDTYPE, DATE, TIME, SENTDATE,  
SENDDATE, BEGINDATE, BEGINTIME, ENDDATE, ENDDTIME, AUTHOR, FROM,

CC, TO, BCC, SUBJECT, TITLE, FILENAME, FILEEXT, FILESIZE, DATECREATED, TIMECREATED, DATELASTMOD, TIMELASTMOD, INTMSGID, INTMSGHEADER, NATIVELINK, INTFILPATH, EXCEPTION, BEGATTACH.

6. Documents produced to the Committee should include an index describing the contents of the production. To the extent more than one CD, hard drive, memory stick, thumb drive, box or folder is produced, each CD, hard drive, memory stick, thumb drive, box or folder should contain an index describing its contents.
7. Documents produced in response to this request shall be produced together with copies of file labels, dividers or identifying markers with which they were associated when the request was served.
8. When you produce documents, you should identify the paragraph in the Committee's schedule to which the documents respond.
9. It shall not be a basis for refusal to produce documents that any other person or entity also possesses non-identical or identical copies of the same documents.
10. If any of the requested information is only reasonably available in machine-readable form (such as on a computer server, hard drive, or computer backup tape), you should consult with the Committee staff to determine the appropriate format in which to produce the information.
11. If compliance with the request cannot be made in full by the specified return date, compliance shall be made to the extent possible by that date. An explanation of why full compliance is not possible shall be provided along with any partial production.
12. In the event that a document is withheld on the basis of privilege, provide a privilege log containing the following information concerning any such document: (a) the privilege asserted; (b) the type of document; (c) the general subject matter; (d) the date, author and addressee; and (e) the relationship of the author and addressee to each other.
13. If any document responsive to this request was, but no longer is, in your possession, custody, or control, identify the document (stating its date, author, subject and recipients) and explain the circumstances under which the document ceased to be in your possession, custody, or control.
14. If a date or other descriptive detail set forth in this request referring to a document is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, you are required to produce all documents which would be responsive as if the date or other descriptive detail were correct.
15. Unless otherwise specified, the time period covered by this request is from January 1, 2009 to the present.
16. This request is continuing in nature and applies to any newly-discovered information. Any record, document, compilation of data or information, not produced because it has not been



located or discovered by the return date, shall be produced immediately upon subsequent location or discovery.

17. All documents shall be Bates-stamped sequentially and produced sequentially.
18. Two sets of documents shall be delivered, one set to the Majority Staff and one set to the Minority Staff. When documents are produced to the Committee, production sets shall be delivered to the Majority Staff in Room 2157 of the Rayburn House Office Building and the Minority Staff in Room 2471 of the Rayburn House Office Building.
19. Upon completion of the document production, you should submit a written certification, signed by you or your counsel, stating that: (1) a diligent search has been completed of all documents in your possession, custody, or control which reasonably could contain responsive documents; and (2) all documents located during the search that are responsive have been produced to the Committee.

#### **Schedule Definitions**

1. The term “document” means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, inter-office and intra-office communications, electronic mail (e-mail), contracts, cables, notations of any type of conversation, telephone call, meeting or other communication, bulletins, printed matter, computer printouts, teletypes, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), and graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, microfiche, microfilm, videotape, recordings and motion pictures), and electronic, mechanical, and electric records or representations of any kind (including, without limitation, tapes, cassettes, disks, and recordings) and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape or otherwise. A document bearing any notation not a part of the original text is to be considered a separate document. A draft or non-identical copy is a separate document within the meaning of this term.
2. The term “communication” means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether in a meeting, by telephone, facsimile, email (desktop or mobile device), text message, instant message, MMS or SMS message, regular mail, telexes, releases, or otherwise.

3. The terms “and” and “or” shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this request any information which might otherwise be construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neuter genders.
4. The terms “person” or “persons” mean natural persons, firms, partnerships, associations, corporations, subsidiaries, divisions, departments, joint ventures, proprietorships, syndicates, or other legal, business or government entities, and all subsidiaries, affiliates, divisions, departments, branches, or other units thereof.
5. The term “identify,” when used in a question about individuals, means to provide the following information: (a) the individual's complete name and title; and (b) the individual's business address and phone number.
6. The term “referring or relating,” with respect to any given subject, means anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with or is pertinent to that subject in any manner whatsoever.
7. The term “employee” means agent, borrowed employee, casual employee, consultant, contractor, de facto employee, independent contractor, joint adventurer, loaned employee, part-time employee, permanent employee, provisional employee, subcontractor, or any other type of service provider.