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## Office of Inspector General United States Department of State

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Office of Audits

September 2023

# Audit of Department of State Efforts To Identify and Terminate Unneeded Contracts Related to Afghanistan

## CONTRACTS, GRANTS, AND INFRASTRUCTURE DIVISION

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# HIGHLIGHTS

Office of Inspector General  
United States Department of State

AUD-CGI-23-26

## What **OIG Audited**

The suspension of operations at U.S. Embassy Kabul, Afghanistan, on August 31, 2021, required action from Department of State (Department) program, contract, and financial personnel to identify and terminate contracts that were no longer needed. The Office of Inspector General (OIG) determined that the Department had \$1.71 billion in open contract obligations related to Afghanistan in March 2022.

OIG performed this audit to determine whether the Department identified and terminated contracts impacted by the suspension of U.S. operations in Afghanistan in accordance with federal and Department requirements. As part of the audit, OIG selected and reviewed eight contracts directly managed by the Bureau of Administration, Office of the Procurement Executive, Office of Acquisitions Management (AQM), on behalf of three Department bureaus.

## What **OIG Recommends**

OIG made 12 recommendations to improve internal controls specific to the identification and termination of unneeded contracts. On the basis of the Bureau of Administration's response to a draft of this report, OIG considers nine recommendations resolved, pending further action, and three recommendations unresolved. A synopsis of management's responses to the recommendations offered and OIG's replies follow each recommendation in the Audit Results section of this report. The Bureau of Administration's response to a draft of this report is reprinted in its entirety in Appendix B.

**September 2023**

**OFFICE OF AUDITS**

CONTRACTS, GRANTS, AND INFRASTRUCTURE DIVISION

**Audit of Department of State Efforts To Identify and Terminate Unneeded Contracts Related to Afghanistan**

## What **OIG Found**

The Department did not adequately identify contracts that would require termination prior to or after the suspension of operations in Afghanistan, nor did it assess the bona fide need of open obligations related to Afghanistan until requested to do so by the financial statement auditor at the end of FY 2021. Specifically, the Department did not perform advance planning to identify contracts that could be impacted by the suspension of operations or take steps to identify and track Afghanistan-specific contracts. This condition occurred, in part, because the Department expected embassy operations in Kabul to continue after the withdrawal of the U.S. military from Afghanistan. In addition, the Bureau of Administration did not have a process defined in its policy and procedures to facilitate the identification of unneeded contracts following the suspension of operations. Consequently, the Department was unprepared to promptly terminate unneeded contracts and deobligate excess contract funds for application to other purposes.

With respect to the eight contracts reviewed for this audit, OIG found that Contracting Officers (CO) did not terminate these contracts in accordance with federal and Department requirements, nor did they maintain sufficient, required documentation to support the contract actions taken. One reason for the contract administration deficiencies was insufficient management oversight. In addition, the Department did not have an effective mechanism to track contracts from termination to closeout and COs did not always maintain contract administration files in the mandated electronic document storage system. Furthermore, the Department's policies and procedures related to contract termination were inadequate to guide the process. Until these deficiencies are corrected, the Department will be limited in its ability to provide proper stewardship of U.S. taxpayer funds and protect the legal and financial rights of the Department when executing contract termination and closeout procedures.

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## OBJECTIVE

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The Office of Inspector General (OIG) conducted this audit to determine whether the Department of State (Department) identified and terminated contracts impacted by the suspension of U.S. operations in Afghanistan in accordance with federal and Department requirements.

## BACKGROUND

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The U.S. plan to withdraw from Afghanistan began with the February 29, 2020, signing of the Doha agreement.<sup>1</sup> On April 14, 2021, President Biden announced plans for the full withdrawal of U.S. forces from Afghanistan by September 11, 2021, giving approximately 150 days to finalize the withdrawal. As the Taliban entered Kabul on August 15, 2021, the Afghan president fled, and the country's security forces collapsed. In response, the U.S. government worked to evacuate U.S. citizens, lawful permanent residents, and allies. After the evacuation of U.S. Embassy Kabul, Afghanistan, which began on August 15, 2021, the Department suspended operations at Embassy Kabul on August 31, 2021, and moved some embassy operations to Doha, Qatar. OIG determined that, as of March 2022,<sup>2</sup> the Department had 376 contracts, totaling approximately \$1.71 billion in obligated funds, related to the Department's mission in Afghanistan.<sup>3</sup>

The withdrawal from Afghanistan meant that some of the ongoing contracts were no longer needed and that funds related to those contracts could be used for other purposes. However, OIG recognizes that some of these ongoing contracts could continue to be used to support Department efforts in other locations. For example, as detailed in Table 1, for eight contracts that OIG selected for review,<sup>4</sup> six contracts were no longer needed. Those six contracts provided services specific to Embassy Kabul—fire, security and life support, information technology, food-related, and operations and maintenance. However, two contracts were worldwide contracts for aviation services, security, engineering, and supply chain services, which could be used for other purposes.

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<sup>1</sup> The United States and the Taliban signed an agreement stipulating the full withdrawal of all military forces of the United States, its allies, and coalition partners, including all non-diplomatic civilian personnel, private security contractors, trainers, advisors, and supporting services personnel within 14 months.

<sup>2</sup> Appendix A provides details of the universe of contracts determined by OIG to benefit Afghanistan or with a place of performance in Afghanistan that were ongoing in FY 2021.

<sup>3</sup> OIG included contracts with open obligations identified in reports generated from the Department's Global Financial Management System (i.e., the Department's financial management system) and Regional Financial Management System (i.e., the Department's overseas financial management system) in September and October 2021. In addition, OIG generated a report from the Federal Procurement Data System (with a last modified date of March 30, 2022) that included open contracts related to Afghanistan with completion dates in FY 2021 or beyond that were not captured in the FY 2021 reports from the Department's financial management systems.

<sup>4</sup> Appendix A provides details of the sample selection methodology.

**Table 1: Contracts Selected for Review**

<b>Award Number</b>	<b>Description</b>	<b>Period Performance</b>	<b>Obligation Amount</b>
1	Security and Life Support Services	6/25/2018–3/18/2024	\$13,173,559
2	Global Aviation Services	6/1/2021–5/31/2023	\$48,100,000
3	IT-Related Services	8/28/2018–8/27/2022	\$59,311,062
4	Embassy Food Service	8/20/2020–8/19/2022	\$14,906,535
5	Operations and Maintenance Support	2/2/2017–12/31/2021	\$173,111,679
6	Security Services	9/29/2017–12/28/2021	\$277,339,175
7	Security, Engineering, and Supply Chain Services	6/19/2019–8/7/2024	\$133,338,784
8	Embassy Support Services	12/29/2017–12/28/2021	\$11,655,355
			<b>\$730,936,149</b>

**Source:** Generated by OIG using award data obtained from the Bureau of Administration and the Department's financial systems.

### **Contract 1**

This hybrid firm-fixed-price<sup>5</sup> and time-and-materials<sup>6</sup> contract was for operations and maintenance, security, and life and mission support services for Bureau of International Narcotics and Law Enforcement Affairs' programs, including to support contractors located in Afghanistan. These services included administrative, logistics, fleet management, food related, human resources, facilities, information technology, procurement, medical, property management, and mobile and static security.

### **Contract 2**

This cost-plus-fixed-fee<sup>7</sup> contract administered by the Bureau of International Narcotics and Law Enforcement Affairs was for global aviation services (which included Afghanistan). These services included aviation logistics, such as sourcing and procurement, property management, facilities, ground support, and aviation support.

<sup>5</sup> A firm-fixed-price contract provides for a price that is not subject to any adjustment on the basis of the contractor's cost experience in performing the contract.

<sup>6</sup> A time-and-materials contract provides for acquiring supplies or services on the basis of actual cost for materials and direct labor hours at specified fixed hourly rates that include wages, overhead, general and administrative expenses, and profit.

<sup>7</sup> A cost-plus-fixed-fee contract is a cost-reimbursement contract that provides for payment to the contractor of a negotiated fee that is fixed at the inception of the contract. The fixed fee does not vary with actual cost but may be adjusted as a result of changes in the work to be performed under the contract.

### **Contract 3**

This labor-hour contract<sup>8</sup> administered by the Bureau of South and Central Asian Affairs was for information technology services that supported systems, applications, devices, infrastructure, and technologies. The contract also included management and administrative duties associated with running an IT operation and supporting staff provided by the contract.

### **Contract 4**

This cost-no-fee<sup>9</sup> contract administered by the Bureau of South and Central Asian Affairs was for food services support, including four dining facilities at Embassy Kabul and dining facilities at other locations.

### **Contract 5**

This fixed price contract administered by the Bureau of South and Central Asian Affairs was for operations and maintenance and technical support services, including janitorial; landscaping; pest control; physical security maintenance; heating, ventilation, and air conditioning; fire protection; elevator maintenance; fuel storage and distribution; and sewer and wastewater treatment.

### **Contract 6**

This time-and-materials contract administered by the Bureau of Diplomatic Security was for guard services, specialized security services, and logistical support services at various locations in Afghanistan.

### **Contract 7**

This cost-plus-incentive-fee<sup>10</sup> contract administered by the Bureau of Diplomatic Security was for global security engineering and supply chain management services (which included Afghanistan). For example, the contractor provided facilities, equipment, personnel, products, and services necessary to identify, develop, and support activities at various overseas Department facilities. Furthermore, the contractor provided services to manage, control, and operate a global supply chain to support certain Bureau of Diplomatic Security activities worldwide.

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<sup>8</sup> A labor-hour contract is a variation of a time-and-materials contract, differing only in that materials are not supplied by the contractor.

<sup>9</sup> A cost contract is a cost-reimbursement contract in which the contractor receives no fee.

<sup>10</sup> A cost-plus-incentive-fee contract is a cost-reimbursement contract that provides for an initially negotiated fee to be adjusted later by a formula based on the relationship of total allowable costs to total target costs. Cost-reimbursement contracts provide for payment of allowable incurred costs to the extent prescribed in the contract. These contracts establish an estimate of total cost for the purpose of obligating funds and establishing a ceiling that the contractor may not exceed (except at its own risk) without the approval of the Contracting Officer.

## **Contract 8**

The fixed price contract administered by the Bureau of Diplomatic Security was for 24 hours a day/7 days a week operations, maintenance, and logistical support services at one location in Afghanistan. These services included facilities maintenance, fire safety, electrical and generator support, closed circuit camera and television maintenance, repair and replacement of defective cameras, a water distribution system, general maintenance, housekeeping, site staffing, septic/sewage tank and sanitary services, garbage removal, and fuel services.

## **Contract Termination Process**

The administration phase of contracts that are terminated for the convenience of the government begins when the Contracting Officer (CO) issues a termination notice to the contractor and ends when the contractor receives final payment in settlement of the termination claim. The process for terminating a contract for convenience is specified in the Federal Acquisition Regulation (FAR).<sup>11</sup> When the government terminates a contract, the CO must send a written termination notice to the contractor indicating whether the termination is for convenience or default. The written notice may also contain special instructions and steps that the contractor should take to minimize the impact on personnel if the termination, together with all other outstanding terminations, will significantly reduce the contractor's work force.<sup>12</sup> The CO must review the contract to identify and remove funds in excess of those that will likely be needed for final payment within 30 days after a contract's physical completion.<sup>13</sup> In the case of a termination, a contract is considered physically complete when the government has given the contractor a notice of complete contract termination.<sup>14</sup>

Department guidance<sup>15</sup> states that, before issuing a notice for a termination for convenience, the CO must obtain the advice of the Bureau of Administration's Office of the Procurement Executive (OPE) desk officer and the Office of the Legal Adviser, Office of Buildings and Acquisitions. In addition, Department guidance states that the termination notice should set a reasonable due date for receipt of the contractor's settlement proposal.<sup>16</sup>

Upon receiving the notice of termination, the contractor is required to stop all work immediately under the terminated portion of the contract and terminate all related subcontracts.<sup>17</sup> When inventories exist, the contractor must, as directed by the CO, deliver to the government a "termination inventory"<sup>18</sup> that lists materials produced or acquired under the

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<sup>11</sup> FAR Part 49, "Termination of Contracts."

<sup>12</sup> FAR 49.102(a), "Notice of termination."

<sup>13</sup> 14 Foreign Affairs Handbook (FAH)-2 H-573.5-14(b)(4), "Contractor's Final Invoice Has Been Submitted."

<sup>14</sup> FAR 4.804-4(a)(2), "Physically completed contracts."

<sup>15</sup> Bureau of Administration, Office of the Procurement Executive, *Overseas Procurement Guide – First Edition* (June 2021), "Chapter 8 – Contract Modification/Contract Closeout, VIII. Termination Documentation (Cure Notice, Show Cause Letter, Etc.), D. Termination, 2. Termination for Convenience (T for C)," page 79.

<sup>16</sup> *Ibid.*, 2. Termination for Convenience (T for C), page 82.

<sup>17</sup> FAR 49.104(a),(b), "Duties of prime contractor after receipt of notice of termination."

<sup>18</sup> FAR 49.206-3; FAR 2.101, "Definitions."

contract and government-furnished property. The contractor must account for all inventory related to the terminated portion of the contract by completing termination inventory disposal schedules, generally within 120 days of the effective date of the termination.<sup>19</sup> The contractor must dispose of all remaining property, as agreed with the government.<sup>20</sup> The contractor also begins the process of settling with its subcontractors.<sup>21</sup>

The contractor has 1 year from the effective date of the termination to submit a final settlement proposal to the CO, unless the period is extended by the CO handling the termination.<sup>22</sup> The amount of the settlement proposal reflects all costs for which the contractor believes it is owed, including incurred costs for work performed before the effective termination date and termination costs.<sup>23</sup> All proposed termination settlements shall be reviewed and approved by the Office of the Legal Adviser for legal sufficiency.<sup>24</sup>

Contract closeout is the administrative procedure at the end of the business agreement with the contractor and includes the archiving of documents in the contract file. Closeout of a contract occurs after the CO verifies that the contract has been physically completed.<sup>25</sup> A contract is complete when all services have been rendered; all articles, material, and reports have been delivered and accepted; administrative actions have been accomplished; and final payment has been made to the contractor.<sup>26</sup>

The timeframe for closing a contract is based upon both the type of contract and the date of physical completion (termination). The standard timeframes for closeout range from 6 to 36 months.<sup>27</sup> A contract file must not be closed unless all termination actions have been completed.<sup>28</sup> A summary of the termination for convenience process is shown in Figure 1.

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<sup>19</sup> FAR 49.206-3, "Submission of inventory disposal schedules," and 49.303-2. "Submission of inventory disposal schedules."

<sup>20</sup> FAR 49.104(i), "Duties of prime contractor after receipt of notice of termination."

<sup>21</sup> FAR 49.104(g).

<sup>22</sup> FAR 49.206-1(a), "Submission of settlement proposals," and 49.303-1, "Submission of settlement proposals."

<sup>23</sup> Bureau of Administration, Office of the Procurement Executive, Overseas Procurement Guide – First Edition (June 2021), Chapter 8 – Contract Modification/Contract Closeout, VIII. Termination Documentation (Cure Notice, Show Cause Letter, Etc.), D. Termination, 2. Termination for Convenience (T for C), pages 82; 14 FAH-2 H-543.4-1 "Termination for Convenience."

<sup>24</sup> Department of State Acquisition Regulation (DOSAR) 649.111, "Review of proposed settlements."

<sup>25</sup> FAR 4.804-1(a), "Closeout by the office administering the contract."

<sup>26</sup> 14 FAH-2 H-571(a), "General."

<sup>27</sup> 14 FAH-2 H-573.2, "Regulatory Timeframe for Contract Closeout."

<sup>28</sup> FAR 4.804-1(c) "Closeout by the office administering the contract."

**Figure 1: Contract Termination for Convenience Process**

**Source:** Generated by OIG using the FAR and Department policies, procedures, and guidance.

### ***Contract Files***

Contract files must include sufficient documentation to constitute a complete history that supports actions taken, provides information for reviews and investigations, and furnishes essential facts in the event of litigation or congressional inquiries.<sup>29</sup> When a contract is terminated, the contract file must include a termination docket.<sup>30</sup> The termination docket includes:

- rationale for termination of the contract.
- termination notice to the contractor.
- evidence of post-termination conference.
- evidence of initial release of excess funds within 30 days after receipt of termination notice.
- contractor’s settlement proposal.
- evidence of review of settlement agreement.
- settlement negotiation memorandum.
- general correspondence (e.g., emails, memoranda, meeting or conversation records) between the contractor and the government. For example, general correspondence might document delays in the termination process or extensions granted to the contractor to submit a settlement proposal.<sup>31</sup>

The FAR requires that contract files effectively document contract actions, be readily accessible to principal users, and comply with agency regulations for file location and maintenance.<sup>32</sup> The Department of State Acquisition Regulation (DOSAR) states that offices may maintain files in

<sup>29</sup> FAR 4.801, “General.”

<sup>30</sup> FAR 4.803(a)(38), “Contents of contract files;” 4.804-5(a)(11), “Procedures for closing out contract file;” and 49.105-3, “Termination Case File.”

<sup>31</sup> List generated by OIG based on: FAR 4.802, “Contract files,” 4.803, “Contents of contract files,” and 49.1, “General Principles,” and Bureau of Administration, OPE’s Overseas Procurement Guide – First Edition (June 2021), “Chapter 8 – Contract Modification/Contract Closeout, VIII. Termination Documentation (Cure Notice, Show Cause Letter, Etc.), D. Termination, 2. Termination for Convenience (T for C),” page 82.

<sup>32</sup> FAR 4.802(c).

electronic media, provided all documentation is maintained as required by FAR subpart 4.8. The DOSAR also states that electronic files dispersed in multiple locations or maintained with no naming convention do not constitute adequate electronic records.<sup>33</sup> Additionally, the DOSAR requires that all contracts, regardless of dollar value, be properly documented to provide a complete record of pre-solicitation activities; the solicitation, evaluation, and award process; and the administration of the contract through closeout.<sup>34</sup>

The Department's Integrated Logistics Management System includes a module, eFiling, which is the Department's mandatory contract award management system. As such, eFiling is a repository for COs and Contracting Officer's Representatives (COR) to maintain contract files and assists COs and CORs in contract management from pre-award to closeout.<sup>35</sup>

## **Roles and Responsibilities**

Contract administration, which includes termination and closeout of contracts, requires coordination among multiple disciplines and personnel within the Department. The Foreign Affairs Handbook (FAH)<sup>36</sup> states that a high degree of cooperation between team members is essential to increasing the efficiency of the acquisition process.<sup>37</sup> The FAH also states that, although the CO and COR are the most directly involved in the administration of a contract, other members of the team may include officials from OPE, the Bureau of the Comptroller and Global Financial Services (CGFS), and the Office of the Legal Adviser.

### ***Bureau of Administration***

The Bureau of Administration provides support programs to the Department and U.S. embassies and consulates. The Assistant Secretary for the Bureau of Administration directs administrative oversight and the services of OPE.<sup>38</sup>

### ***Office of the Procurement Executive***

One of OPE's responsibilities is to provide leadership over Department-wide acquisition and federal assistance policies, including developing, issuing, and maintaining acquisition and federal assistance regulations, procedures, and guidance. OPE is also responsible for providing Department-wide leadership over the full range of acquisitions management services.<sup>39</sup>

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<sup>33</sup> DOSAR 604.802(f), "Contract files."

<sup>34</sup> DOSAR 604.803-70(a), "Contract file table of contents."

<sup>35</sup> AQM Memorandum 17-04, "Electronic Contract Files (eFiling)," February 1, 2017; OPE, Procurement Information Bulletin No. 2020-04, "Electronic Contract Filing (eFiling)," June 4, 2020.

<sup>36</sup> 14 FAH-2 H-146, "The Team Approach."

<sup>37</sup> The acquisition process is comprised of the pre-solicitation, solicitation, award, and contract administration phases.

<sup>38</sup> 1 Foreign Affairs Manual (FAM) 211.2(j), "Assistant Secretary Responsibilities."

<sup>39</sup> 1 FAM 212.2(b),(c), "Office of the Procurement Executive (A/OPE)."

## Office of Acquisitions Management

Under the leadership of the Procurement Executive, the Office of Acquisitions Management (AQM) is responsible for managing, planning, and directing the Department's acquisition programs and conducting contract operations in support of activities worldwide. AQM is also responsible for providing a full range of professional contract management services, including acquisition planning, contract negotiations, cost and price analysis, and contract administration.<sup>40</sup> Furthermore, AQM is responsible for providing the acquisition expertise to develop policies, standards, and procedures for the implementation of worldwide contracting.<sup>41</sup>

## Contracting Officers

A CO is an agent authorized by the U.S. government to deal with contractors. The CO has sole authority to solicit proposals; negotiate, award, administer, modify, terminate, and closeout contracts; and make related determinations and findings on behalf of the U.S. government. Within the Department, the CO performs duties at the request of the requirements office and relies on the requirements office for technical advice concerning the supplies or services being acquired.<sup>42</sup> Additionally, the CO is responsible for initiating administrative closeout of the contract after receiving evidence of its physical completion.<sup>43</sup> In the case of terminated contracts, the CO cannot begin closeout until the termination process is complete.<sup>44</sup> For closeouts, the CO must ensure, among other requirements, that the following actions, as applicable, occur:<sup>45</sup>

- Termination docket is completed.
- Contract audit is completed.
- Contractor's closing statement is completed.
- Contractor's final invoice is submitted.
- Contract funds review is completed, and excess funds are deobligated.<sup>46</sup>

## ***Program Office***

The program or requirements office is responsible for working closely with the CO to determine when a contract should be terminated. The requirements office is also responsible for assisting

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<sup>40</sup> 1 FAM 212.2-2(a), "Office of Acquisitions Management (A/OPE/AQM)."

<sup>41</sup> 1 FAM 212.2-2(e).

<sup>42</sup> 14 FAH-2 H-141(a),(b)(13), "Responsibilities of the Contracting Officer."

<sup>43</sup> 14 FAH-2 H-573.5, "Contract Closure Procedures."

<sup>44</sup> 14 FAH-2 H-573.2(c)(2).

<sup>45</sup> 14 FAH-2 Exhibit H-573.5-15(b), "Contract Closeout Checklist (Contracts Over the [Simplified Acquisition Threshold])."

<sup>46</sup> Government Accountability Office (GAO), *Principles of Federal Appropriations Law, Volume 2, Third Edition* (GAO-06-382SP, February 2006), Chapter 7, "Deobligation," defines the term deobligation as an agency's cancellation or downward adjustment of previously incurred obligations. 4 FAM 052.1, "Applicability," defines obligations incurred as amounts of orders placed, contracts awarded, services rendered, and similar transactions during a given period requiring the expenditure of funds.

with contract closeout by informing the CO when the work has been completed and by completing contract closeout documentation.<sup>47</sup>

### ***Bureau of the Comptroller and Global Financial Services***

CGFS is responsible for ensuring timely and accurate information on contract disbursements in relation to projected costs and actual commitments and ensuring systems are adequate to produce useful, reliable, and timely financial and related programmatic information.<sup>48</sup> According to CGFS, it is also responsible for providing bureaus with monthly unliquidated obligations (ULO)<sup>49</sup> reports to be used by the bureaus to review and make decisions on the validity of those obligations. CGFS issues guidance and instructions about actions that need to be taken by the bureaus on ULOs. Bureaus are responsible for reviewing open obligations and attesting to whether they are valid. CGFS is responsible for reporting the financial information. At the end of each fiscal year, all ULOs must be validated and supported by documentary evidence. Other reporting requirements for ULOs may be issued by CGFS, as necessary.<sup>50</sup>

### ***Office of the Legal Adviser***

The Office of the Legal Adviser is responsible for providing legal advice to the Department for and representation in the solicitation, award, and administration of federal acquisition contracts.<sup>51</sup> DOSAR requires the Office of the Legal Adviser to review and approve all proposed termination settlements for legal sufficiency.<sup>52</sup>

## **AUDIT RESULTS**

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### **Finding A: The Department Did Not Perform Advance Planning or Take Steps To Identify and Track Afghanistan Specific Contracts**

OIG found the Department did not adequately identify contracts that would require termination prior to or after the suspension of operations in Afghanistan, nor did it assess the bona fide needs of open obligations related to Afghanistan until requested to do so by the financial statement auditor. More specifically, the Department did not perform advance planning to identify contracts that could be impacted by the suspension of operations or take steps to identify and track Afghanistan-specific contracts. This condition occurred, in part, because the Department expected embassy operations in Kabul to continue after the withdrawal of the U.S. military from Afghanistan. In addition, the Department did not have a

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<sup>47</sup> 14 FAH-2 H-141(a); 14 FAH-2 H-142(a), (b)(12),(18), "Responsibilities of the Contracting Officer's Representative."

<sup>48</sup> 1 FAM 611.1(u),(w), "Overall Responsibilities."

<sup>49</sup> ULOs represent the cumulative amount of orders, contracts, and other binding agreements for which the goods and services that were ordered have not been received or the goods and services have been received but payment has not yet been made.

<sup>50</sup> 4 FAM 225(f), "Accounting Controls and Obligation Management."

<sup>51</sup> 1 FAM 246.2(1), "Buildings and Acquisitions (L/BA)."

<sup>52</sup> DOSAR 649.111, "Review of proposed settlements."

process defined in policy and procedures requiring the identification of contracts that could require termination following the suspension of operations. Instead, the Department employed an ad hoc process after the suspension of operations occurred in Afghanistan to begin the tasks of identifying and terminating contracts. As a result, the Department was not in an optimal position to terminate unneeded contracts, deobligate excess contract funds that could be used for other valid purposes, mitigate the loss of goods and equipment, or accurately account for these contracts in its financial statement.

***Department Did Not Perform Advance Planning To Assess and Mitigate the Potential Impact That a Suspension of Operations Resulting from the Anticipated Military Withdrawal Might Have on Open Contracts***

OIG found that the Department did not perform advance planning to assess and mitigate the potential impact that a suspension of operations resulting from the anticipated military withdrawal might have on open contracts. OIG acknowledges that the Department expected and was planning for embassy operations in Kabul to continue after the withdrawal of the U.S. military from Afghanistan. However, the Department should have considered the potential for a large-scale event, such as the suspension of operations in Afghanistan, which would create a significant impact on Afghanistan-related open contracts. Specifically, OIG found that OPE did not take action prior to the suspension of operations in Afghanistan to identify Afghanistan-related contracts or consider which of those contracts would require termination in such a contingency. OIG confirmed with COs for selected contracts<sup>53</sup> that there was no effort prior to the suspension of operations to identify contracts that would require termination.

OPE officials stated that the Department complied with Department guidance on collecting data on contingency contracts,<sup>54</sup> which was put into place to comply with Public Law 112-239.<sup>55</sup> However, OPE did not provide documentation showing that it had obtained data on contingency contracts or how it leveraged the information to perform comprehensive advance planning efforts in coordination with program offices.

OIG also asked CGFS officials whether they performed any advance planning efforts to identify open obligations that could be impacted in the event of a suspension of operations following the departure of and loss of support from the U.S. Military from Afghanistan and to determine the potential effect on financial reporting. CGFS officials stated that CGFS had not performed any advance planning or preparatory efforts. Specifically, CGFS officials stated that because of the sudden development of the situation in Afghanistan, reviewing open obligations was not a primary focus of CGFS operations. CGFS officials added that CGFS reacts to situations as they arise and reviews the risks and steps needed as situations develop.

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<sup>53</sup> Appendix A provides details on the contracts selected for review.

<sup>54</sup> 14 FAM 243.1, "Collection of Data," states that the Department should have the capability to collect and report data on contract support for contingency operations that includes the total number of contracts as of the date of any report as well as the status and value of such contracts. The FAM section states that the information would be obtained from the Federal Procurement Data System.

<sup>55</sup> Public Law 112-239, "National Defense Authorization Act for Fiscal Year 2013," January 2, 2013, § 844, "Data Collection on Contract Support For Future Overseas Contingency Operations Involving Combat Operations."

***The Department Did Not Adequately Identify and Track Contracts That Required Termination Following the Suspension of Operations in Afghanistan***

OPE officials stated that efforts were initiated following the evacuation from Afghanistan to identify contracts that were no longer needed. For example, OPE officials stated that various offices and bureaus, including AQM and Embassy Kabul, kept a comprehensive list of contracts used to support operations in Afghanistan. However, OPE did not provide OIG with the lists from AQM and Embassy Kabul. OPE officials also stated that AQM conducted meetings with and responded to information requests from program offices that were impacted by the suspension of operations in Afghanistan. According to OPE officials, AQM also issued verbal and written stop-work orders and issued termination notices following the evacuation.

OIG identified only one Department effort to comprehensively identify open Afghanistan contracts: an effort performed by CGFS between September and October 2021 (i.e., beginning the month after the suspension of operations at Embassy Kabul on August 31, 2021). CGFS officials acknowledged that this effort was performed in response to a request for information from the financial statement auditors performing work on OIG's behalf during the end of FY 2021. During the mandated audit of the Department's FY 2021 financial statements, OIG and its external auditors recognized the potential impact that the suspension of operations in Afghanistan would have on the significant amount of ULOs<sup>56</sup> related to Afghanistan operations. Specifically, because the Department suspended operations in Afghanistan, it was likely that there was no longer a bona fide need for some of the obligations.

In response to the financial statement auditor's request, CGFS and other pertinent bureaus began to discuss the impact that the suspension of operations at Embassy Kabul would have on the Department's financial statements related to property and obligations. As a result, CGFS worked to prepare a list of impacted contracts with open obligations. The financial statement auditor performed testing on open obligations included in CGFS's list and identified a considerable number and amount of invalid ULOs<sup>57</sup> related to Afghanistan. The financial statement auditor made this determination based on communications with Department officials and the auditor's review of supporting documentation regarding the impact of suspending operations on the continuing bona fide need for the ULOs.<sup>58</sup>

Had the financial statement audit cycle not followed shortly after the suspension of operations in Afghanistan, it is unclear when the Department would have taken action to identify a list of contracts or obligations impacted by the suspension of operations. CGFS stated that standard ULO reports are shared with bureaus monthly and should be used by the bureaus to determine whether obligations are valid. However, the financial statement auditor noted that not all

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<sup>56</sup> ULOs represent the cumulative amount of orders, contracts, and other binding agreements for which the goods and services that were ordered have not been received, or the goods and services have been received but payment has not yet been made.

<sup>57</sup> ULOs are deemed invalid based on expired periods of performance, lack of supporting documentation, and the inability to support their bona fide need.

<sup>58</sup> OIG, *Independent Auditor's Report on the U.S. Department of State FY 2021 and FY 2020 Financial Statements* (AUD-FM-22-10, November 2021), pages 5-6.

allotment holders were performing periodic reviews of ULO balances as required. Finally, the financial statement auditor concluded that “the Department did not develop and implement a process to assess how an extraordinary event, such as an evacuation of a large post, impacted financial reporting related to ULOs.”<sup>59</sup>

OIG recognizes that the priority during an emergency situation, such as the suspension of operations at an embassy, must be the safety and security of people. Therefore, it is reasonable that the Department’s focus was not on developing and analyzing a list of Afghanistan-related contracts during and immediately after the suspension of operations. However, when OIG began the audit, almost 9 months after the suspension of operations, the only listing of Afghanistan contracts provided by the Department was one prepared in support of the financial statement audit.

***The Department Did Not Implement Necessary Internal Controls***

According to OPE officials, OPE did not identify contracts that would require termination prior to the suspension of operations because it expected that operations would continue after the withdrawal of the U.S. military from Afghanistan. In fact, OPE officials, including COs, stated that embassy leadership directed OPE to expand contract operations at the embassy prior to the U.S. military withdrawal. For example, one CO stated that there were plans to expand airfield operations to account for the military departure. Similarly, CORs received instructions to build up contracts because the Department expected Embassy Kabul would continue to operate. For example, CORs were instructed to obtain additional food and supplies. The expectation that operations would continue, coupled with directions from Department and mission leadership, was one reason that OPE did not prepare for a scenario such as the one that culminated with the evacuation of embassy personnel and the suspension of operations on August 31, 2021.

However, in recent years, events such as post evacuations or suspension of operations at an embassy have occurred frequently enough to demonstrate the need for improved internal controls to prepare for such events. For example, the Department suspended operations at Embassy Damascus, Syria, on February 6, 2012, and at Embassy Sanaa, Yemen, on February 11, 2015. On March 11, 2019, the Department also announced the suspension of operations at Embassy Caracas, Venezuela, and the withdrawal of diplomatic personnel. Additionally, the Department most recently suspended operations at Embassy Kyiv on February 14, 2022, at Embassy Minsk, Belarus, on February 28, 2022, and at Embassy Khartoum, Sudan, on April 22, 2023. Even though evacuations and suspensions of operations may be infrequent, management has a responsibility to prepare to address changes in the environments in which it conducts its mission. According to the Government Accountability Office (GAO), “[m]anagement should identify, analyze, and respond to significant changes that could impact the internal control system.”<sup>60</sup>

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<sup>59</sup> Ibid., page 6.

<sup>60</sup> GAO, *Standards for Internal Control in the Federal Government* (GAO-14-704G, September 2014), Principle 9, “Identify, Analyze, and Respond to Change,” § 9.01.

GAO also states that “[m]anagement should design control activities to achieve objectives and respond to risks.”<sup>61</sup> Specifically, according to GAO, management should establish control activities through policies and procedures to achieve objectives.<sup>62</sup> OPE officials acknowledged that OPE did not have a process that triggered the identification of contracts that were no longer needed in the event of a suspension of operations at a post. Nonetheless, this type of process is needed to assist in planning for resources and tracking required efforts to terminate unneeded contracts, deobligate related funds, and apply those funds to valid purposes.

Instead of implementing a structured process to address contract administration issues related to Afghanistan contracts, the Department was unprepared to assess open contracts and obligations and used ad-hoc processes to identify and initiate termination actions following the suspension of operations at Embassy Kabul. Specifically, COs received direction on which contracts to terminate from a variety of sources that included program offices, OPE leadership, and Department leadership during a period in which COs were also supporting evacuation efforts by modifying existing contracts and performing end-of-fiscal year (i.e., the suspension of operations occurred on August 31, 2021, which is near the end of the fiscal year) and normal contract administration responsibilities for other non-Afghanistan contracts.

Responding to contract administration needs during and after a suspension of operations requires the input of many parties, including COs, program office officials, and legal counsel. Given the importance of such coordination, it is essential that the Department ensure it has a process in place for future large-scale events such as the Afghanistan evacuation and suspension of operations. Therefore, OPE leadership should establish procedures that could be instituted as part of the emergency action plan process<sup>63</sup> and that would monitor the risk of changes in operating environments and develop strategies and mechanisms to respond to those changes. The goals of the process should not be limited to identifying a comprehensive list of contracts. The process should also include, for example, determining the appropriate contract administration actions (i.e. stop-work order, termination, modification). Additionally, it should involve considering the potential timing of termination actions to mitigate the risk of terminating contracts too early, which could leave personnel and contractors unsupported, or of spending funds unnecessarily by purchasing supplies or maintaining services that are no longer needed.

### ***Comprehensive Department-Wide Process Needed***

As a result of not having a comprehensive process to identify and track contracts impacted by the suspension of operations in Afghanistan, the Department was not in an optimal position to promptly initiate terminations, deobligate funds that could be used for other valid purposes,

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<sup>61</sup> Ibid., Principle 10, “Design Control Activities,” § 10.01.

<sup>62</sup> Ibid., page 44.

<sup>63</sup> U.S. embassies are required to develop and maintain emergency action plans, which provide procedures for responding to emergency situations. For more information on emergency action planning at Embassy Kabul, see OIG’s classified report *Review of Emergency Action Planning Guiding the Evacuation and Suspension of Operations at U.S. Embassy Kabul, Afghanistan* (AUD-MERO-23-15, May 2023).

mitigate the loss of goods and equipment, or accurately account for these contracts in its financial statements. Moreover, without developing and implementing a formalized process, the Department places additional taxpayer dollars at risk in the event another evacuation or suspension of operations occurs. Therefore, OIG is offering the following recommendation to address the deficiency identified during this audit involving internal control activities to identify and respond to risks.

**Recommendation 1:** OIG recommends that the Bureau of Administration, in coordination with the Bureau of the Comptroller and Global Financial Services, develop and implement a process that can be used in response to an emergency situation at an overseas post to identify contracts that require termination or other contract administration actions.

**Management Response:** The Bureau of Administration concurred with the intent of the recommendation, stating that it would collaborate with CGFS to develop and implement a process that can be used in response to an emergency situation at an overseas post to identify contracts that require termination or other contract administration actions.

**OIG Reply:** On the basis of the Bureau of Administration's concurrence with the recommendation, OIG considers this recommendation resolved, pending further action. This recommendation will be closed when OIG receives documentation demonstrating that the Bureau of Administration, in coordination with CGFS, developed and implemented a process that can be used in response to an emergency situation at an overseas post to identify contracts that require termination or other contract administration actions.

## **Finding B: Contracting Officers Did Not Terminate Contracts in Accordance With Requirements or Maintain Documentation To Support Contract Actions Taken**

With respect to the eight contracts reviewed for this audit that were impacted by the suspension of operations in Afghanistan,<sup>64</sup> OIG found that the COs assigned did not terminate these contracts in accordance with federal and Department requirements, nor did they maintain sufficient, required documentation to support the contract actions taken. One reason for the contract administration deficiencies was insufficient management oversight by OPE and AQM. In addition, the Department did not have an effective mechanism to track contracts from termination to closeout, and COs did not always maintain contract administration files in the mandated document storage system, eFiling. Furthermore, Department policies and procedures related to contract termination were inadequate to guide the process. Until these deficiencies are corrected, the Department will be limited in its ability to execute proper stewardship of U.S. taxpayer funds and protect the legal and financial rights of the Department when executing contract termination and closeout procedures.

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<sup>64</sup> Appendix A provides details of the contracts selected for review.

**Documentation Did Not Sufficiently Demonstrate That Contracting Officers Performed Required Steps in the Termination Process**

The FAR<sup>65</sup> requires the completion of specific steps to terminate a contract and documentation that supports those steps during the termination process. For example, the FAR requires COs to issue a termination notice, promptly hold a conference to discuss next steps to effect settlement, determine if excess funds can be released within 30 days of termination notice, review the contractor’s settlement proposal, and prepare a settlement negotiation memorandum and records of all actions taken to arrive at settlement.<sup>66</sup> The FAR also requires that COs ensure contract files include sufficient documentation to constitute a complete history that supports actions taken, provides information for reviews and investigations, and furnishes essential facts in the event of litigation or congressional inquiries.<sup>67</sup>

OIG selected eight awards for review.<sup>68</sup> Figure 2 provides a description of the selected contracts and details on whether each contract was Afghanistan-specific or worldwide.

**Figure 2: Contracts Selected for OIG Review**



**Source:** Generated by OIG using award data obtained from the Bureau of Administration.

Based on a review of the documentation provided by OPE, of eight selected contracts, OIG determined that three (or the portion of those contracts related to Afghanistan) had not been formally terminated in accordance with requirements. Specifically, one contract provided services worldwide, including in Afghanistan (the contract included line items specific to

<sup>65</sup> FAR Subpart 49.1, “General Principles.”

<sup>66</sup> FAR 49.102 “Notice of Termination,” 49.105(c) “Duties of termination contracting officer after issuance of notice of termination,” 49.105-2 “Release of excess funds,” 49.110 “Settlement Negotiation Memorandum,” and 49.105-3 “Termination case file.”

<sup>67</sup> FAR 4.801 “General;” FAR 1.602-2 “Responsibilities.”

<sup>68</sup> Appendix A provides details of the sample selection.

Afghanistan). The CO modified the contract in March 2022 to remove the work related to Afghanistan and deobligate the Afghanistan-related line items, but the overall contract remained open and active in FY 2023. However, OPE did not provide OIG with documentation for this contract that explained why this contract was managed differently than another worldwide contract reviewed in the audit sample, which was instead partially terminated. Additionally, OPE did not provide information on what transpired with the contract between the suspension of operations in Afghanistan in August 2021 and the modification performed in March 2022. In addition, OPE did not provide documentation detailing when the program office determined that the Afghanistan-related services were no longer needed or what was negotiated with the contractor and when.

The second contract OIG reviewed was allowed to continue until the end of the contract's period of performance (December 28, 2021). Specifically, the CO stated that additional services were added to this contract due to the suspension of operations. The CO further stated that the award was used for refugee services because it was already established. However, OPE did not provide documentation related to the decision to modify the scope of the contract. For the third contract that OIG selected for review, the CO issued a stop-work notice on September 24, 2021, but did not act to formally terminate the contract. In this instance, the CO should have either canceled the stop-work order or formally terminated the contract within the 90 day stop-work order period, as required by FAR 52.242-15(a). Neither of which was carried out.

The five remaining awards that OIG selected for review had been formally terminated. On the basis of the documentation provided, OIG determined that COs did not always perform or document key steps in the termination process of these five awards. Table 1 summarizes the documentation provided for the selected awards related to key steps in the termination process.

**Table 1: Summary of Termination Documentation Provided for Selected Awards**

Award	Termination Notice	Post-Termination Conference	Review of Funds	Settlement Proposal	Settlement Negotiation Memorandum
<b>Bureau of International Narcotics and Law Enforcement Affairs</b>					
1	No	No	No	Not Due <sup>a</sup>	N/A
2	Yes <sup>b</sup>	No	No	No <sup>c</sup>	No
<b>Bureau of South and Central Asian Affairs</b>					
3	Yes	No	No	Not Due <sup>a</sup>	N/A
4	Yes	No	No	No <sup>c</sup>	No
<b>Bureau of Diplomatic Security</b>					
6	Yes	No	No	Yes <sup>d</sup>	No

<sup>a</sup> FAR 49.303-1 requires that a contractor submit a final settlement proposal to the CO within 1 year of the effective date of termination, unless the period is extended by the CO. Although not yet over a year, it was unclear when COs expected to receive a final settlement proposal from the contractor. For Award 3, the termination notice did not set a due date for the contractor to submit the settlement proposal.

<sup>b</sup> This contract provided worldwide services. The CO issued a termination notice for the Afghanistan-related contract line items.

<sup>c</sup> FAR 49.303-1 requires that a contractor submit a final settlement proposal to the CO within 1 year of the effective date of termination, unless the period is extended by the CO. These two contracts had been terminated for more than 1 year at the time that OIG conducted testing and documentation did not include settlement proposals. No evidence of extensions was provided by the COs.

<sup>d</sup> The CO received the settlement proposal in July 2022. In November 2022, almost 4 months later, the CO stated that he was beginning to review the proposal and added that it would take months to negotiate a settlement.

**Source:** Generated by OIG using information obtained from documentation provided on November 21, 2022, by the Bureau of Administration and the results of audit testing.

Although the COs responsible for the awards in Table 1 stated that the contracts had been terminated or were in the termination process, OIG was not provided documentation to confirm required steps were completed or to understand why required steps had not been performed or documented. For example, the COs did not provide documentation indicating why post-termination conferences were not necessary or what factors or issues were delaying settlement agreements. Also, OPE did not provide evidence that COs had identified and removed funds in excess of those needed for final payment in a timely manner.<sup>69</sup> The documentation provided for two awards indicated that COs, prompted by OIG's audit, were reviewing contract files to obtain needed information. For these two awards, the only documentation provided was termination notices and acknowledgements of receipt from the two contractors that were signed in November 2022.

Overall, COs did not drive the termination process or hold contractors accountable for providing required documentation to reach prompt settlement. For example, Department

<sup>69</sup> FAR 49.105-2(a), "Release of excess funds."

guidance<sup>70</sup> states that termination notices should set a reasonable due date for receipt of the settlement proposal. None of the provided termination notices included a due date. Also, as shown in Table 1, no evidence was provided to support that post-termination conferences were held to discuss the topics outlined in FAR 49.105(c),<sup>71</sup> which aim to facilitate prompt settlement. Furthermore, the FAR<sup>72</sup> requires contractors to submit inventory schedules within 120 days from the effective termination date. Termination notices obtained for four of the awards mentioned the requirement for termination inventories; however, the documentation provided for those contracts did not include the inventory schedules.

***Several Factors Impacted Prompt Completion of the Termination Process for Selected Awards***

One reason for the deficiencies identified was that Bureau of Administration leadership did not sufficiently oversee the COs to ensure that they complied with federal guidance and Department policies related to terminating contracts. Management should have been aware of turnover among COs that impacted their efforts and of competing priorities for COs' time, such as supporting evacuation efforts by modifying existing contracts, end of year responsibilities, and contract administration responsibilities for other contracts. However, OIG did not identify steps taken by management to ensure that terminations and closeouts were completed in a timely and well-documented manner. Furthermore, the Department did not act to comprehensively identify and track contracts impacted by the suspension of operations in Afghanistan, as described in Finding A of this report. Without a comprehensive list of contracts that required action, COs were unable to track and manage the surge of contracts that needed to be terminated and closed in accordance with federal and Department requirements.

In addition, the Department did not have an effective mechanism to track contracts from termination through closeout. For example, COs did not have electronic tools to readily identify relevant contracts that required termination, ascertain the steps remaining to complete the termination process of the relevant contracts, the time elapsed between key steps of the termination process, or, in the case of completed contracts, whether they were overdue for closeout. OPE identified at least 30 Afghanistan-related contracts that were in the termination process, which underscores the need for a tool to track contracts during the termination and closeout phases and provide information to management to effectively determine the status of contracts. For example, to provide data and documentation to OIG during this audit, OPE officials indicated that they had to perform a labor-intensive data call to gather information from COs and to analyze files in various locations.

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<sup>70</sup> Bureau of Administration, OPE Overseas Procurement Guide – First Edition (June 2021), “Chapter 8 – Contract Modification/Contract Closeout, VIII. Termination Documentation (Cure Notice, Show Cause Letter, Etc.), D. Termination, 2. Termination for Convenience (T for C),” page 82.

<sup>71</sup> Topics that should be discussed at the conference and documented include: extent of the termination, point at which work is stopped, status of any continuing work, tentative schedule for negotiation of the settlement, and actions taken by the contractor to minimize impact upon employees affected adversely by the termination.

<sup>72</sup> FAR 49.206-3, “Submission of inventory disposal schedules.”

OIG also found that contract administration files were decentralized and were not always maintained in eFiling<sup>73</sup> as required.<sup>74</sup> OIG searched eFiling and could not find any relevant contract administration documentation for the eight selected awards reviewed for this audit. OPE officials confirmed that COs did not use eFiling to maintain documentation related to four of the selected awards. When asked why eFiling was not used, COs stated that eFiling was cumbersome and difficult to use and that inputting files was time-consuming and tedious. One CO stated that eFiling was a confusing system and it was hard to identify types of documents. Also, according to another CO, using eFiling was not a priority because the files were in a bureau shared drive. Nonetheless, having centralized contract files that are readily available is not only important to maintain data about key milestones, but also essential during turnover of procurement officials. COs, OIG, and other stakeholders should not need to contact prior COs to obtain a complete history of contract actions taken or decisions made.

Furthermore, according to GAO, management should establish control activities through policies and procedures to achieve objectives.<sup>75</sup> Generally, COs for the terminated contracts stated that they followed the FAR and did not need additional guidance. However, OIG determined that some of the deficiencies identified could be addressed if the Department improved its policy and procedures related to contract termination. For some topics, the policy and procedures regarding contract termination was lacking and disjointed. Specifically, Department policy and procedures did not provide guidance or expectations on timeframes for key segments of the termination process. For example, the FAH<sup>76</sup> states that contract termination results in the creation of a termination docket, but does not discuss the termination process, including how long this process should take the CO to complete. In addition, OPE Overseas Procurement Guide<sup>77</sup> states that the termination notice should set a reasonable due date for the contractor to submit a settlement proposal; however, the Guide does not include the timelines required by the FAR or sufficiently emphasize the timeliness requirements of FAR Part 49 and how COs must drive the termination process to reach settlement as promptly as possible (although it does reference the FAR section that includes the timelines). Furthermore, an Exhibit in the OPE Overseas Procurement Guide<sup>78</sup> discusses the termination for convenience process; however, this section includes no timeframes or benchmarks for key segments of the process.

OIG also noted that the FAM, FAH, and OPE Overseas Procurement Guide<sup>79</sup> did not include a checklist or provide examples of the documents that COs are required to maintain in a termination docket. Policy and procedures also did not reinforce that COs should document all key steps in the termination process or document why or what issues delayed prompt

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<sup>73</sup> eFiling is the Department's repository for COs and CORs to maintain contract files.

<sup>74</sup> OPE, Procurement Information Bulletin No. 2020-04, "Electronic Contract Filing (eFiling)," June 4, 2020.

<sup>75</sup> GAO-14-704G, September 2014, page 44.

<sup>76</sup> 14 FAH-2 H-573.5-11, "Termination Docket is Completed Subcontracts."

<sup>77</sup> Bureau of Administration, OPE Overseas Procurement Guide (June 2021), Chapter 8, "Contract Modifications/Contract Closeout," page 75-105.

<sup>78</sup> Ibid., Exhibit 8-25, "Termination for Convenience Process," page 88.

<sup>79</sup> Ibid., Chapter 8, page 79.

completion of the termination process. Finally, OIG determined that contract administration training offered by the Department at the Foreign Service Institute did not sufficiently address contract termination or the contract termination process. For example, training did not address key steps in the termination process, timeframes, or what constitutes a complete termination docket.<sup>80</sup>

### ***Department Stewardship of Taxpayer Funds at Risk***

Prudent administration of contracts, which includes establishing policies and procedures to assist COs in terminating awards, is necessary for the proper stewardship of U.S. taxpayer funds and to protect the legal and financial rights of the Department when executing contract termination and closeout procedures. In addition, improvements to the termination and closeout process would help the Department to identify obligated funds that are no longer needed and deobligate such funds in a timely manner for use toward other valid purposes. For example, OPE's review of the universe of Afghanistan-related contracts (performed in response to OIG's request) identified at least 30 contracts that were in the termination process, with outstanding obligation amounts totaling \$176 million. Moreover, OPE's review identified 76 expired contracts, 52 of which had outstanding obligation amounts totaling over \$112 million. Until these potentially unneeded obligations are addressed and the contracts are closed out, funds remain in use, which not only creates possible legal risks, but also could limit the Department's ability to use those funds for other purposes or to return unneeded funds to the Department of the Treasury. Contract termination and closeout activities can also impact the contractor; therefore, consistent application of requirements could make the process more efficient and effective for the contractor. Therefore, OIG is making the following recommendations to improve internal controls related to contract termination and closeout.

**Recommendation 2:** OIG recommends that the Bureau of Administration develop and implement a contingency action plan that could be enacted to optimize Contracting Officers' workload management during challenging periods, such as when a surge of contracts need to be terminated, suspended, or closed out.

**Management Response:** The Bureau of Administration concurred with the intent of the recommendation, stating that it will collaborate with the Under Secretary for Management to develop and implement a contingency action plan to optimize COs' workload management during challenging periods.

**OIG Reply:** On the basis of the Bureau of Administration's concurrence with the recommendation, OIG considers this recommendation resolved, pending further action. This recommendation will be closed when OIG receives documentation demonstrating that the Bureau of Administration developed and implemented a contingency action plan that

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<sup>80</sup> OIG reviewed the following contract administration modules provided to employees at the Department's Foreign Service Institute and identified by OPE to be related to contract terminations and closeout: PA252, "Contract Administration Workshop," PA296, "How To Be A Contracting Representative," and PA186, "Contracting Officer's Representative."

could be enacted to optimize COs' workload management during challenging periods, such as when a surge of contracts need to be terminated, suspended, or closed out.

**Recommendation 3:** OIG recommends that the Bureau of Administration develop and implement an effective tool to track the status of contracts from termination through closeout. At a minimum, the tool should identify the steps remaining to be completed in the termination and closeout process, including identifying overdue steps, and the time elapsed between key steps.

**Management Response:** The Bureau of Administration concurred with the intent of the recommendation, stating that it plans to upgrade software currently in use in the spring of 2024. The upgraded software includes a milestone functionality that allows users to select a default timeline to identify milestone phases. Once the Bureau of Administration defines baseline steps for termination and close out, templates can be added to the upgraded software. The templates will be able to assign a standard duration to a task. Managers can use a query function in the software to identify overdue steps or phases. The Bureau of Administration anticipates providing training and notices about these changes to users.

**OIG Reply:** On the basis of the Bureau of Administration's concurrence with the recommendation and planned actions, OIG considers this recommendation resolved, pending further action. This recommendation will be closed when OIG receives documentation demonstrating that the Bureau of Administration developed and implemented an effective tool to track the status of contracts from termination through closeout.

**Recommendation 4:** OIG recommends that the Bureau of Administration develop a plan to assess and take action to ensure Contracting Officers' compliance with Department of State requirements regarding maintaining contract administration file documentation in eFiling.

**Management Response:** The Bureau of Administration concurred with the intent of the recommendation, stating that the current eFiling structure is based on the Contract File template. The Bureau of Administration also stated that officials query eFiling for an attachment count on each of the categories represented and present the query findings to the Office of Acquisitions Policy for analysis on compliance.

**OIG Reply:** On the basis of the Bureau of Administration's response to this recommendation, OIG considers this recommendation unresolved. Although the Bureau of Administration stated that it concurred with the intent of the recommendation, the response did not demonstrate that the Bureau of Administration would address the intent of the recommendation. The focus of OIG's recommendation is not just the number of attachments, but also the quality, relevance, and comprehensiveness of the contract file documentation to ensure adherence to the FAR and Department requirements. As presented in the finding, OIG searched eFiling contract files and could not find relevant contract administration documentation for the eight selected awards reviewed. Although the proposal to present findings to the Office of Acquisitions Policy for analysis is a positive

step, the Bureau of Administration's response does not provide clarity on the specific actions that it will take to ensure CO compliance.

This recommendation will be considered resolved when the Bureau of Administration provides a plan of action for addressing this recommendation or an acceptable alternative that fulfills the intent of the recommendation. This recommendation will be closed when OIG receives documentation demonstrating that the Bureau of Administration developed a plan to assess and take action to ensure COs' compliance with Department requirements regarding maintaining contract file documentation in eFiling.

**Recommendation 5:** OIG recommends that the Bureau of Administration conduct a survey among Contracting Officers and Contracting Officer's Representatives to identify issues related to the use of the mandated eFiling module and suggested improvements to the module, specifically pertaining to maintaining contract administration documentation.

**Management Response:** The Bureau of Administration concurred with the intent of the recommendation, stating that it will work to develop a survey for the Department's eFiling system users, which it plans to distribute in the first quarter of FY 2024. The Bureau of Administration stated that the survey will focus on usage, user experience, policy interpretation, technological challenges, and reporting.

**OIG Reply:** On the basis of the Bureau of Administration's concurrence with the recommendation and planned actions, OIG considers this recommendation resolved, pending further action. This recommendation will be closed when OIG receives documentation demonstrating that the Bureau of Administration conducted a survey among COs and CORs to identify issues related to the use of the mandated eFiling module and suggested improvements to the module, specifically pertaining to maintaining contract administration documentation.

**Recommendation 6:** Following implementation of Recommendation 5, OIG recommends that the Bureau of Administration (a) analyze the results of the survey to identify the factors hindering the use of eFiling to maintain contract administration documentation, including technical issues that need to be addressed and (b) develop and implement, if appropriate, a corrective action plan to increase the use of the mandated eFiling module.

**Management Response:** The Bureau of Administration concurred with the intent of the recommendation, stating that it will present its findings with a timeline for recommended enhancements.

**OIG Reply:** On the basis of the Bureau of Administration's concurrence with the recommendation and planned actions, OIG considers this recommendation resolved, pending further action. This recommendation will be closed when OIG receives documentation demonstrating that the Bureau of Administration (a) analyzed the results of the survey to identify the factors hindering the use of eFiling to maintain contract administration documentation, including technical issues that need to be addressed and

(b) developed and implemented, if appropriate, a corrective action plan to increase the use of the mandated eFiling module.

**Recommendation 7:** OIG recommends that the Bureau of Administration update the Foreign Affairs Manual, Foreign Affairs Handbook, and supplemental procurement guidance to assist and support Contracting Officers in conducting contract terminations. At a minimum, the policies and procedures should include guidance detailing the contents of termination dockets, such as the type and extent of documentation to maintain; expected timelines for adding documents; and standardized methods for organizing and naming documents. The policy and procedures should also include helpful tools, such as a checklist of documents that are required to be maintained in the termination docket and a post-termination conference meeting template.

**Management Response:** The Bureau of Administration concurred with the intent of the recommendation, stating that the Senior Procurement Executive approved a new strategic acquisition policy framework to be implemented in FY 2024 to streamline and centralize policies. The Bureau of Administration stated that the centralized policy will be written to implement or supplement the FAR. The Bureau of Administration does not plan to issue a policy or guidance that duplicates guidance in the FAR.

**OIG Reply:** On the basis of the Bureau of Administration's response to this recommendation, OIG considers this recommendation unresolved. Although the Bureau of Administration stated that it concurred with the intent of the recommendation, the response did not demonstrate that the Bureau of Administration would address the intent of the recommendation. For example, the Bureau of Administration did not provide information about how its initiative to streamline and consolidate policies would address the need for clear guidelines related to contract terminations, including the contents of termination dockets, documentation standards, timelines, and organization methods.

This recommendation will be considered resolved when the Bureau of Administration provides a plan of action for addressing this recommendation or an acceptable alternative that fulfills the intent of the recommendation. This recommendation will be closed when OIG receives documentation demonstrating that the Bureau of Administration updated the Foreign Affairs Manual, FAH, and supplemental procurement guidance to assist and support COs in conducting contract terminations.

**Recommendation 8:** OIG recommends that the Bureau of Administration, in coordination with the Foreign Service Institute, modify contract administration training that is offered by the Department of State to include guidance on the contract termination process.

**Management Response:** The Bureau of Administration concurred with the intent of the recommendation, stating that it identified an alternative course of action to address the recommendation. The Bureau of Administration stated that developing a Foreign Service Institute course would require the use of funding that can be used for other priorities, considering that existing courseware is available. To implement the recommendation, the

Bureau of Administration proposes leveraging existing training provided through a platform that does not require additional funding for the Department. The Bureau of Administration stated that it would identify courses that it would “strongly encourage” COs to attend. Lastly, the Bureau of Administration stated that the Office of the Procurement Executive could design and deliver a training that it puts on its website that is specific to contract terminations.

**OIG Reply:** On the basis of the Bureau of Administration’s concurrence with the intent of the recommendation and planned actions for a proposed alternative course of action, OIG considers this recommendation resolved, pending further action. This recommendation will be closed when OIG receives documentation demonstrating that the Bureau of Administration took action to provide training courses that address the Department’s contract termination process to COs.

**Recommendation 9:** Following implementation of Recommendations 7 and 8, OIG recommends that the Bureau of Administration develop a communication strategy and disseminate to procurement personnel the updates to policy, procedures, and training related to contract terminations to ensure awareness of contract termination process requirements, including documentation requirements.

**Management Response:** The Bureau of Administration concurred with the intent of the recommendation, stating that its current communication protocols “exist to disseminate any new policy issuance and training offerings.”

**OIG Reply:** On the basis of the Bureau of Administration’s concurrence with the intent recommendation, OIG considers this recommendation resolved, pending further action. This recommendation will be closed when OIG receives documentation demonstrating that the Bureau of Administration used its existing communication strategy to disseminate to procurement personnel the updates to policy, procedures, and training related to contract terminations to ensure awareness of contract termination process requirements, including documentation requirements.

**Recommendation 10:** OIG recommends that the Bureau of Administration, within 45 days of issuance of this report, develop and implement a plan of action to address the contracts related to Afghanistan that are in the termination process to ensure prompt completion of the process and move contracts to closeout.

**Management Response:** The Bureau of Administration concurred with the intent of the recommendation, stating that that it would develop and implement a plan of action to address the contracts related to Afghanistan that are in the termination process. However, it requires 90 days to take this action, rather than the 45 days included in the recommendation.

**OIG Reply:** On the basis of the Bureau of Administration’s concurrence with the recommendation and planned action, OIG considers this recommendation resolved,

pending further action. OIG considers the additional time to implement the recommendation reasonable. Therefore, this recommendation will be closed when OIG receives documentation demonstrating that the Bureau of Administration developed and implemented a plan of action to address the contracts related to Afghanistan that are in the termination process to ensure prompt completion of the process and move contracts to closeout, within 90 days of report issuance.

**Recommendation 11:** OIG recommends that the Bureau of Administration, within 45 days of issuance of this report, develop and implement a plan of action to address the expired contracts related to Afghanistan that remain open.

**Management Response:** The Bureau of Administration concurred with the intent of the recommendation, stating that that it would develop and implement a plan of action to address the expired contracts related to Afghanistan that remain open. However, it requires 90 days to take this action, rather than the 45 days included in the recommendation.

**OIG Reply:** On the basis of the Bureau of Administration's concurrence with the recommendation and planned action, OIG considers this recommendation resolved, pending further action. OIG considers the additional time to implement the recommendation reasonable. This recommendation will be closed when OIG receives documentation demonstrating that the Bureau of Administration developed and implemented a plan of action to address the expired contracts related to Afghanistan that remain open, within 90 days of report issuance.

**Recommendation 12:** OIG recommends that the Bureau of Administration develop and implement a process to ensure that Contracting Officers comply with Federal Acquisition Regulation termination process requirements.

**Management Response:** The Bureau of Administration concurred with the intent of the recommendation, stating that COs, by virtue of their appointment, are mandated to follow FAR requirements. The Bureau of Administration also stated that its current policy requires that the Senior Procurement Executive be apprised of all terminations, which provides oversight prior to execution of the termination modification. Furthermore, it stated that all terminations are required to be reviewed and cleared by Office of the Legal Adviser. The Bureau of Administration stated that it believed "this process ensures compliance with the FAR."

**OIG Reply:** On the basis of the Bureau of Administration's response to this recommendation, OIG considers this recommendation unresolved. Although the Bureau of Administration stated that it concurred with the intent of the recommendation, the response also indicated that the Bureau of Administration did not plan to take action to address the recommendation. As detailed in the finding, OIG found that COs were not always adhering to FAR requirements related to contract terminations. Therefore, the Bureau of Administration's current processes were not sufficient and need to be enhanced.

This recommendation will be considered resolved when the Bureau of Administration provides a plan of action for addressing this recommendation or an acceptable alternative that fulfills the intent of the recommendation. This recommendation will be closed when OIG receives documentation demonstrating that the Bureau of Administration developed and implemented a process to ensure that COs comply with FAR termination process requirements.

## RECOMMENDATIONS

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**Recommendation 1:** OIG recommends that the Bureau of Administration, in coordination with the Bureau of the Comptroller and Global Financial Services, develop and implement a process that can be used in response to an emergency situation at an overseas post to identify contracts that require termination or other contract administration actions.

**Recommendation 2:** OIG recommends that the Bureau of Administration develop and implement a contingency action plan that could be enacted to optimize Contracting Officers' workload management during challenging periods, such as when a surge of contracts need to be terminated, suspended, or closed out.

**Recommendation 3:** OIG recommends that the Bureau of Administration develop and implement an effective tool to track the status of contracts from termination through closeout. At a minimum, the tool should identify the steps remaining to be completed in the termination and closeout process, including identifying overdue steps, and the time elapsed between key steps.

**Recommendation 4:** OIG recommends that the Bureau of Administration develop a plan to assess and take action to ensure Contracting Officers' compliance with Department of State requirements regarding maintaining contract administration file documentation in eFiling.

**Recommendation 5:** OIG recommends that the Bureau of Administration conduct a survey among Contracting Officers and Contracting Officer's Representatives to identify issues related to the use of the mandated eFiling module and suggested improvements to the module, specifically pertaining to maintaining contract administration documentation.

**Recommendation 6:** Following implementation of Recommendation 5, OIG recommends that the Bureau of Administration (a) analyze the results of the survey to identify the factors hindering the use of eFiling to maintain contract administration documentation, including technical issues that need to be addressed and (b) develop and implement, if appropriate, a corrective action plan to increase the use of the mandated eFiling module.

**Recommendation 7:** OIG recommends that the Bureau of Administration update the Foreign Affairs Manual, Foreign Affairs Handbook, and supplemental procurement guidance to assist and support Contracting Officers in conducting contract terminations. At a minimum, the policies and procedures should include guidance detailing the contents of termination dockets, such as the type and extent of documentation to maintain; expected timelines for adding documents; and standardized methods for organizing and naming documents. The policy and procedures should also include helpful tools, such as a checklist of documents that are required to be maintained in the termination docket and a post-termination conference meeting template.

**Recommendation 8:** OIG recommends that the Bureau of Administration, in coordination with the Foreign Service Institute, modify contract administration training that is offered by the Department of State to include guidance on the contract termination process.

**Recommendation 9:** Following implementation of Recommendations 7 and 8, OIG recommends that the Bureau of Administration develop a communication strategy and disseminate to procurement personnel the updates to policy, procedures, and training related to contract terminations to ensure awareness of contract termination process requirements, including documentation requirements.

**Recommendation 10:** OIG recommends that the Bureau of Administration, within 45 days of issuance of this report, develop and implement a plan of action to address the contracts related to Afghanistan that are in the termination process to ensure prompt completion of the process and move contracts to closeout.

**Recommendation 11:** OIG recommends that the Bureau of Administration, within 45 days of issuance of this report, develop and implement a plan of action to address the expired contracts related to Afghanistan that remain open.

**Recommendation 12:** OIG recommends that the Bureau of Administration develop and implement a process to ensure that Contracting Officers comply with Federal Acquisition Regulation termination process requirements.

## APPENDIX A: PURPOSE, SCOPE, AND METHODOLOGY

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The Office of Inspector General (OIG) conducted this audit to determine whether the Department of State (Department) identified and terminated contracts impacted by the suspension of U.S. operations in Afghanistan in accordance with federal and Department requirements.

OIG conducted this audit from June 2022 to May 2023 in the Washington, DC, metropolitan area. The scope of the audit involved contracts with a place of performance in Afghanistan or benefiting Afghanistan (related to the Department's mission in Afghanistan) that were ongoing in FY 2021. OIG performed audit work at the Bureau of Administration, Office of the Procurement Executive (OPE) and Office of Acquisitions Management (AQM), and the Bureau of the Comptroller and Global Financial Services (CGFS). OIG conducted this performance audit in accordance with generally accepted government auditing standards. These standards require that OIG plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for the findings and conclusions based on the audit objective. OIG believes that the evidence obtained provides a reasonable basis for the findings and conclusions based on the audit objective.

To obtain background information for the audit, OIG reviewed the Federal Acquisition Regulation (FAR), Department of State Acquisition Regulation, Foreign Affairs Manual (FAM), Foreign Affairs Handbook (FAH), and guidance issued by OPE. To gain an understanding of and assess how the Department identified and terminated contracts impacted by the suspension of U.S. operations in Afghanistan, OIG communicated with Department officials from the Bureau of Administration and CGFS. OIG also interviewed Contracting Officers (CO) from AQM who were responsible for administering awards, including terminations. In addition, OIG interviewed Contracting Officer's Representatives (COR) from the Bureau of International Narcotics and Law Enforcement Affairs, Bureau of Overseas Buildings Operations, Bureau of South and Central Asian Affairs, and Bureau of Information Resource Management. Furthermore, OIG reviewed and analyzed contract files, including documentation related to termination and closeout.

### **Data Reliability**

To identify relevant contracts, OIG used computer-processed data from the Department's Global Financial Management System (GFMS), which is the Department's domestic accounting system, and the Regional Financial Management System (RFMS), which is the Department's overseas accounting system. Specifically, OIG relied on GFMS and RFMS open obligation reports that included contract open obligation data.<sup>1</sup> These reports were prepared by CGFS in support of the audit of the Department's FY 2021 financial statements.<sup>2</sup>

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<sup>1</sup> The GFMS and RFMS open obligation reports were dated September and October 2021.

<sup>2</sup> Kearney & Company, P.C., performed the audit of the Department's FY 2021 financial statements [*Independent Auditor's Report on the U.S. Department of State FY 2021 and FY 2020 Financial Statements* (AUD-FM-22-10, November 2021)], on behalf of OIG.

To assess the completeness of the universe of contracts identified from these reports, OIG used computer-processed data from the Federal Procurement Data System (FPDS).<sup>3</sup> By comparing data from FPDS with the data obtained from GFMS and RFMS, OIG identified discrepancies. Contracts identified in FPDS that were not included in the GFMS and RFMS reports were added to the universe for potential sample selection. Overall, OIG concluded that the combined data were sufficient for the purpose of meeting the objective of this audit.

## **Work Related to Internal Control**

During the audit, OIG considered a number of factors, including the subject matter of the project, to determine whether internal control was significant to the audit objective. Based on this consideration, OIG determined that internal control was significant for this audit. OIG then considered the components of internal control and the underlying principles included in the *Standards for Internal Control in the Federal Government*<sup>4</sup> to identify internal controls that were significant to the audit objective. Considering internal control in the context of a comprehensive internal control framework can help auditors determine whether underlying internal control deficiencies exist.

For this audit, OIG concluded that four of five internal control components from the *Standards for Internal Control in the Federal Government*—Control Environment, Risk Assessment, Control Activities, and Monitoring—were significant to the audit objective. The Control Environment component is the foundation for an internal control system. It provides the discipline and structure to help an entity achieve its objectives. The Risk Assessment component assesses the risks facing the entity as it seeks to achieve its objectives. This assessment provides the basis for developing appropriate risk responses. The Control Activities component includes the actions management establishes through policies and procedures to achieve objectives and respond to risks in the internal control system, which includes the entity's information system. The Monitoring component relates to activities management establishes and operates to assess the quality of performance over time and promptly resolve the findings of audits and other reviews, which helps to ensure that internal control remains aligned with changing objectives, laws, environments, and risks. OIG also concluded that five of the principles related to the selected components were significant to the audit objective, as described in Table A.1.

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<sup>3</sup> FPDS is the federal government's central database of information on federal procurement actions. Agencies are required to report all contracts with an estimated value over \$10,000, and modifications to those contracts, in FPDS.

<sup>4</sup> Government Accountability Office, *Standards for Internal Control in the Federal Government* (GAO-14-704G, September 2014).

**Table A.1: Internal Control Components and Principles Identified as Significant**

<b>Components</b>	<b>Principles</b>
Control Environment	Management should establish an organizational structure, assign responsibility, and delegate authority to achieve the entity’s objectives.
Risk Assessment	Management should identify, analyze, and respond to significant changes that could impact the internal control system.
Control Activities	Management should design control activities to achieve objectives and respond to risks.
Control Activities	Management should implement control activities through policies.
Monitoring	Management should establish and operate monitoring activities to monitor the internal control system and evaluate the results.

**Source:** Generated by OIG from an analysis of internal control components and principles from the Government Accountability Office, *Standards for Internal Control in the Federal Government* (GAO-14-704G, September 2014).

OIG then reviewed criteria, interviewed Department officials, and reviewed award documentation to obtain an understanding of the internal controls related to the components and principles identified as significant for this audit. OIG assessed the design and implementation of key internal controls for the eight selected awards. Specifically, OIG:

- Reviewed eFiling to determine if award documentation was readily available and maintained within the system as required.
- Analyzed award file documentation to determine compliance with termination and closeout requirements.
- Interviewed COs and CORs to obtain an understanding of the termination actions and contract status.

Internal control deficiencies identified during the audit that are significant within the context of the audit objective are presented in the Audit Results section of this report.

### **Sampling Methodology**

OIG’s sampling objective was to select contracts for testing to determine whether the Department terminated contracts impacted by the suspension of U.S. operations in Afghanistan in accordance with requirements. To identify the universe of contracts benefiting Afghanistan or with a place of performance in Afghanistan (related to the Department’s mission in Afghanistan) that were ongoing in FY 2021, OIG obtained reports that included contract open obligation data from GFMS and RFMS. These reports were prepared by CGFS in support of the FY 2021 annual financial statement audit. OIG also searched FPDS and identified a list of contracts with a “last modified date” of March 30, 2022. Specifically, OIG identified a list of open contracts in FPDS with completion dates in FY 2021 and later that were not included in the GFMS and RFMS reports. OIG added those open contracts to the universe for potential sample selection. The combined lists of contracts from GFMS, RFMS, and FPDS resulted in a universe of 376 contracts, with \$1,709,037,643 in obligated funds.

OIG judgmentally selected 14 contracts, totaling \$836,353,276, for testing from the universe of 376 contracts with open obligations. One criterion for selecting contracts was large dollar value. OIG also considered the awarding bureau (to ensure that OIG selected a mix of bureaus) and the type of deliverable (to ensure that OIG selected a mix of goods and services). OPE stated that of the 376 contracts, AQM directly managed 224.

Because the universe of contracts identified included all Afghanistan-related contracts with open obligations, OIG anticipated that some of the 14 selected contracts may not need to be terminated even though the embassy had suspended operations. For example, some contracts had been completed before the evacuation but had not been closed out. After receiving data from the Bureau of Administration in November 2022 related to the 14 contracts selected, OIG determined that 6 of 14 contracts did not require termination as a result of the suspension of operations. Therefore, OIG removed those six contracts from the items selected for testing. The remaining eight contracts totaled \$730,936,148.

Three of the contracts selected were not formally terminated. Of these three, one contract (Award 5) was not terminated following a stop-work order issued by the CO. The second contract (Award 7) was a worldwide contract. The CO deobligated funds related to the Afghanistan-specific tasks and the contract is open and ongoing as of FY 2023. The third contract (Award 8) was used until the end of the contract's period of performance. The CO stated that additional services were added to this contract due to the suspension of operations. Table A.2 provides details of the eight contracts selected for review for this audit.

**Table A.2: Contracts Selected for Review**

Award Number	Award Type	Description	Bureau and Period Performance	Termination Date	Obligation Amount
<b>Bureau of International Narcotics and Law Enforcement Affairs</b>					
1	Hybrid Firm-Fixed-Price <sup>a</sup> and Time-and-Materials <sup>b</sup>	Security and Life Support Services	6/25/2018–3/18/2024	7/4/2022	\$13,173,559
2	Cost-Plus-Fixed-Fee <sup>c</sup>	Global Aviation Services	6/1/2021–5/31/2023	8/18/2021	\$48,100,000
<b>Bureau of South and Central Asian Affairs</b>					
3	Labor-Hour <sup>d</sup>	IT-Related Services	8/27/2018–8/27/2022	1/31/2022	\$59,311,062
4	Cost-No-Fee <sup>e</sup>	Embassy Food Service	8/20/2020–8/19/2022	9/30/2021	\$14,906,535

Award Number	Award Type	Description	Bureau and Period Performance	Termination Date	Obligation Amount
5	Fixed Price	Operations and Maintenance Support	2/2/2017–12/31/2021	9/24/2021 <sup>f</sup>	\$173,111,679
<b>Bureau of Diplomatic Security</b>					
6	Time-and-Materials	Security Services	9/29/2017–12/28/2021	9/28/2021	\$277,339,175
7	Cost-Plus-Incentive-Fee <sup>g</sup>	Security, Engineering, and Supply Chain Services	6/19/2019–8/7/2024	N/A <sup>h</sup>	\$133,338,784
8	Fixed Price	Embassy Support Services	12/29/2017–12/28/2021	N/A <sup>i</sup>	\$11,655,355
<b>Total</b>					<b>\$730,936,149</b>

<sup>a</sup> A firm-fixed-price contract provides for a price that is not subject to any adjustment on the basis of the contractor's cost experience in performing the contract.

<sup>b</sup> A time-and-materials contract provides for acquiring supplies or services on the basis of actual cost for materials and direct labor hours at specified fixed hourly rates that include wages, overhead, general and administrative expenses, and profit.

<sup>c</sup> A cost-plus-fixed-fee contract is a cost-reimbursement contract that provides for payment to the contractor of a negotiated fee that is fixed at the inception of the contract. The fixed fee does not vary with actual cost but may be adjusted as a result of changes in the work to be performed under the contract.

<sup>d</sup> A labor-hour contract is a variation of a time-and-materials contract, differing only in that materials are not supplied by the contractor.

<sup>e</sup> A cost contract is a cost-reimbursement contract in which the contractor receives no fee.

<sup>f</sup> The CO did not issue a termination notice. The documentation for this award consisted of a stop-work order issued to the contractor on September 24, 2021, which was 90 days before the end of the period of performance.

<sup>g</sup> A cost-plus-incentive-fee contract is a cost-reimbursement contract that provides for an initially negotiated fee to be adjusted later by a formula based on the relationship of total allowable costs to total target costs. Cost-reimbursement contracts provide for payment of allowable incurred costs to the extent prescribed in the contract. These contracts establish an estimate of total cost for the purpose of obligating funds and establishing a ceiling that the contractor may not exceed (except at its own risk) without the approval of the CO.

<sup>h</sup> A modification, dated March 4, 2022, that OIG obtained from GFMS indicated that the CO deobligated funds related to the Afghanistan line items because of the evacuation. No documentation was provided for this contract.

<sup>i</sup> The CO stated that work was added to this contract and used until the end of its period of performance.

**Source:** Generated by OIG using award data obtained from the Bureau of Administration and the Department's financial systems.

## Prior Office of Inspector General Reports

In *Independent Auditor's Report on the U.S. Department of State FY 2021 and FY 2020 Financial Statements* (AUD-FM-22-10, November 2021), the financial statement auditor stated that, at the time of the evacuation of Embassy Kabul, Afghanistan, the Department reported a significant amount in open obligations related to the Department's mission in Afghanistan. The auditor also stated that because the Department suspended operations in Afghanistan, there was an increased risk that there was no longer a bona fide need for some of the obligations.

The auditor identified a considerable number and amount of invalid unliquidated obligations (ULO) related to Afghanistan, based on inquiries with Department officials and supporting documentation regarding the impact of the withdrawal on the continuing bona fide need for the ULOs. The auditor stated that the Department did not develop and implement a process to assess how an extraordinary event, such as an evacuation of a large post, impacted financial reporting related to ULOs. In addition, the auditor stated that funds that could have been used for other purposes may have remained open as invalid ULOs and that the risk of duplicate or fraudulent payments increased. As a result of the invalid ULOs that were identified during the audit, the Department adjusted its FY 2021 financial statements.

*In Information Report: Systemic Weaknesses Related to the Administration and Oversight of Department of State Contracts and Federal Assistance From FY 2017 to FY 2019 (AUD-CGI-20-44, September 2020),* OIG reported that 51 (71 percent) of 72 reports reviewed contained findings related to contract files that were incomplete, missing, or not readily available. Some of the reasons cited in these reports for incomplete contract files included CORs who did not understand what documentation should be maintained in the contract files, inconsistent maintenance of files, and inadequate oversight of CORs and their contract files performed by COs and bureau and post management. OIG also reported that 9 (13 percent) of 72 reports reviewed contained findings related to contract closeout. These reports included findings that identified instances of failure to initiate the contract closeout process after the contract was completed and other instances in which steps were taken toward contract closeout even when the required supplies or services had not been successfully delivered by the contractor. The report also stated that the Department had made progress in implementing OIG's recommendations from earlier reports; however, the Department still had work to do to make lasting changes and improvements. This ongoing need is demonstrated by the recurring nature of OIG's contract administration and oversight findings. This report did not include formal recommendations but, instead, encouraged senior officials to examine policies and procedures for contracts. It further encouraged senior official to ensure use of eFiling which would assist the Department to improve oversight, accountability, and transparency of contract administration.

## APPENDIX B: BUREAU OF ADMINISTRATION RESPONSE

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United States Department of State

Washington, DC 20520

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August 25, 2023

### MEMORANDUM

TO: OIG/AUD – Norman P. Brown

FROM: A/OPE/AQM – Ramona Watts-Sutton

Ramona E Watts-Sutton

Digitally signed by Ramona E Watts-Sutton  
Date: 2023.08.25 17:37:47 -04'00'

SUBJECT: Draft Report - Audit of Department of State Efforts to Identify and Terminate Unneeded Contracts Related to Afghanistan (AUD-CGI-23-XX, August 2023)

Thank you for the opportunity to provide an update to the subject report. The point of contact for this report is the A/OPE Front Office ([A-OPEFrontOfficeAssistants@state.gov](mailto:A-OPEFrontOfficeAssistants@state.gov)).

**Recommendation 1:** OIG recommends that the Bureau of Administration, in coordination with the Bureau of the Comptroller and Global Financial Services, develop and implement a process that can be used in response to an emergency situation at an overseas post to identify contracts that require termination or other contract administration actions.

**Management Response (8/25/23):** The Office of the Procurement Executive, Office of Acquisitions Management (A/OPE/AQM) concurs with the intent of the recommendation. A/OPE/AQM will collaborate with the Bureau of the Comptroller and Global Financial Services to develop and implement a process that can be used in response to an emergency situation at an overseas post to identify contracts that require termination or other contract administration actions.

**Recommendation 2:** OIG recommends that the Bureau of Administration develop and implement a contingency action plan that could be enacted to optimize Contracting Officers' workload management during challenging periods, such as when a surge of contracts need to be terminated, suspended, or closed out.

**Management Response (8/25/23):** The Office of the Procurement Executive, Office of Acquisitions Management (A/OPE/AQM) concurs with the intent of the recommendation. A/OPE/AQM will collaborate with A Bureau and Under Secretary for Management (M) to develop and implement a contingency action plan for Requiring Offices and the Contracting Officers to optimize Contracting Officers' workload management during challenging periods, such as when a surge of domestic and overseas contracts need to be terminated, suspended, or closed out.

**Recommendation 3:** OIG recommends that the Bureau of Administration develop and implement an effective tool to track the status of contracts from termination through closeout.

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At a minimum, the tool should identify the steps remaining to be completed in the termination and closeout process, including identifying overdue steps, and the time elapsed between key steps.

**Management Response (8/25/23):** The Office of the Procurement Executive, Office of Acquisitions Management (A/OPE/AQM) concurs with the intent of the recommendation. Currently A/OPE/AQM uses GFMS/RFMS Momentum 7.9 as it contracts writing software. The software contains a milestone functionality that allows users assign templated milestones to a procurement and or contract file. OPE/AQM has attached a detailed outline on the intent of the tool as currently available. OPE/AQM will be upgrading to GFMS/Momentum 8.1 in Spring 2024 which will add more functionality. OPE/AQM can create templated milestone phases where a user selects a defaulted timeline. These specifics of each phase are dependent upon OPE/AP baseline steps for termination and close out. Once the phases have been defined through policy, OPE/AQM can build the templates within the GFMS/RFMS. The template can assign duration of a task and allows for customization once the template has been implemented. Managers can leverage the Milestone Query to identify overdue steps and phases of each procurement in the termination phase. OPE/AQM anticipates additional trainings and notices regarding changes in procedures leveraging the new capabilities.

**Recommendation 4:** OIG recommends that the Bureau of Administration develop a plan to assess and take action to ensure Contracting Officers' compliance with Department of State requirements regarding maintaining contract file documentation in eFiling.

**Management Response (8/25/23):** The Office of the Procurement Executive, Office of Acquisitions Management (A/OPE/AQM) concurs with the intent of the recommendation. The Departments current eFile structure is based on the DS-1930 Contract File template. OPE/AQM will query the eFile system for an attachment count on each of the categories representing. OPE/AQM will present the findings to OPE Policy for analysis on compliance in accordance with current filing requirements.

**Recommendation 5:** OIG recommends that the Bureau of Administration conduct a survey among Contracting Officers and Contracting Officer's Representatives to identify issues related to the use of the mandated eFiling module and suggested improvements to the module, specifically pertaining to maintaining contract administration documentation.

**Management Response (8/25/23):** The Office of the Procurement Executive, Office of Acquisitions Management (A/OPE/AQM) concurs with the intent of the recommendation. OPE/AQM will work with its internal partners to develop a survey for the Departments eFile system. The survey will focus on usage, user experience, policy interpretation, technological challenges and reporting. The survey will be developed with an intended distribution in Q1 2024. OPE/AQM's objective is to better understand the narrative of usage of eFile within the Department.

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**Recommendation 6:** Following implementation of Recommendation 5, OIG recommends that the Bureau of Administration (a) analyze the results of the survey to identify the factors hindering the use of eFiling to maintain contract administration documentation, including technical issues that need to be addressed and (b) develop and implement, if appropriate, a corrective action plan to increase the use of the mandated eFiling module.

**Management Response (8/25/23):** The Office of the Procurement Executive, Office of Acquisitions Management (A/OPE/AQM) concurs with the intent of the recommendation. OPE/AQM concurs with the recommendation and will present its findings with a timeline for recommended enhances whether it be through revised training, increased policy, or adoption of new technology.

**Recommendation 7:** OIG recommends that the Bureau of Administration update the Foreign Affairs Manual, Foreign Affairs Handbook, and supplemental procurement guidance to assist and support Contracting Officers in conducting contract terminations. At a minimum, the policies and procedures should include guidance detailing the contents of termination dockets, such as the type and extent of documentation to maintain; expected timelines for adding documents; and standardized methods for organizing and naming documents. The policy and procedures should also include helpful tools, such as a checklist of documents that are required to be maintained in the termination docket and a post-termination conference meeting template.

**Management Response (8/25/23):** The Office of the Procurement Executive, Office of Acquisitions Policy (A/OPE/OAP) concurs with the intent of the recommendation; however, the Senior Procurement Executive has approved a new strategic acquisition policy framework to be implemented in FY-24. A/OPE/OAP has developed a centralized acquisition policy framework to assist the acquisition workforce in streamlining and consolidating policies. Under the strategic acquisition policy framework, outward facing regulatory guidance will be issued through the rule-making process in the Department of State Acquisition Regulation (DOSAR). These regulations are State-specific and complement the Federal Acquisition Regulation (FAR). For policies, procedures, and guidance, A/OPE will be releasing the Department of State Acquisition Manual (DOSAM). The DOSAM will replace Senior Procurement Executive Memorandums, AQM Memorandums, Procurement Information Bulletins (PIBs), and the Overseas Procurement Guide. The DOSAM will create an easily accessible, one-stop-document for internal acquisition policies and procedures. The DOSAR and the DOSAM will be written to implement or supplement the FAR. As prescribed in FAR 1.304, agency regulations shall not unnecessarily repeat, paraphrase, or otherwise restate material contained in the FAR; therefore, it is not the intent of A/OPE/OAP to issue policy or guidance that is included in the FAR. Finally, the FAH/FAM will consist of internal business requirements that implement technical authority and issue business doctrine and will serve more to address the customer need. A/OPE/OAP will include any acquisition policy, guidance, or procedures in the appropriate area of the strategic acquisition framework as outlined herein.

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**Recommendation 8:** OIG recommends that the Bureau of Administration, in coordination with the Foreign Service Institute, modify contract administration training that is offered by the Department of State to include guidance on the contract termination process.

**Management Response (8/25/23):** The Office of the Procurement Executive, Office of Acquisitions Policy (A/OPE/OAP) concurs with the intent of the recommendation; however, acquisition workforce training is provided through the Federal Acquisition Institute's Cornerstone On Demand (FAI CSOD) platform at no additional cost to the agency. FAI CSOD offers multiple courses specific to contract termination, ranging from 1 hour to 3 days in duration. In addition to the course offerings through FAI CSOD, OPE has its own acquisition workforce platform that offers just-in-time training sessions developed on specific focus areas identified. OPE will identify the courses within FAI CSOD and strongly encourage our Contracting Officers to attend one of those sessions. As necessary, an OPE platform training can be designed and delivered specific to contract terminations. A course at the Foreign Service Institute has not been developed and would require additional funding that can be used for other priorities when existing courseware is currently available.

**Recommendation 9:** Following implementation of Recommendations 7 and 8, OIG recommends that the Bureau of Administration develop a communication strategy and disseminate to procurement personnel the updates to policy, procedures, and training related to contract terminations to ensure awareness of contract termination process requirements, including documentation requirements.

**Management Response (8/25/23):** The Office of the Procurement Executive, Office of Acquisitions Policy (A/OPE/OAP) concurs with the intent of the recommendation. Existing communication protocols exist to disseminate any new policy issuance and training offerings. As any of these policies would be specific to the acquisition workforce, they will be included in the Department of State Acquisition Manual (DOSAM) and follow our current communication strategies. Current termination policy is contained in the Federal Acquisition Regulation (FAR) and the Department of State Acquisition Regulation (DOSAR), and approval requirements are documented in the [Document Review and Approval Matrix](#), on pages 39-42.

**Recommendation 10:** OIG recommends that the Bureau of Administration, within 45 days of issuance of this report, develop and implement a plan of action to address the contracts related to Afghanistan that are in the termination process to ensure prompt completion of the process and move contracts to closeout.

**Management Response (8/25/23):** The Office of the Procurement Executive, Office of Acquisitions Management (A/OPE/AQM) concurs with the intent of the recommendation. A/OPE/AQM will be focused on end of fiscal year activities until September 30, 2023, and will require additional lead time. A/OPE/AQM will develop and implement a plan of action to address the contracts related to Afghanistan that are in the termination process to ensure prompt completion of the process and move contracts to closeout within 90 days of issuance of this report.

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**Recommendation 11:** OIG recommends that the Bureau of Administration, within 45 days of issuance of this report, develop and implement a plan of action to address the expired contracts related to Afghanistan that remain open.

**Management Response (8/25/23):** The Office of the Procurement Executive, Office of Acquisitions Management (A/OPE/AQM) concurs with the intent of the recommendation. A/OPE/AQM will be focused on end of fiscal year activities until September 30, 2023, and will require additional lead time. A/OPE/AQM will develop and implement a plan of action to address the expired contracts related to Afghanistan that remain open within 90 days of issuance of this report.

**Recommendation 12:** OIG recommends that the Bureau of Administration develop and implement a process to ensure that Contracting Officers comply with Federal Acquisition Regulation termination process requirements.

**Management Response (8/25/23):** The Office of the Procurement Executive, Office of Acquisitions Policy (A/OPE/OAP) concurs with the intent of the recommendation. Current policy requires that the Senior Procurement Executive be apprised of all terminations through the Head of Contracting Activity. This type of initial review provides oversight prior to execution of the termination modification. Additionally, Contracting Officers, by virtue of their appointment are mandated to follow the Federal Acquisition Regulation (FAR). Finally, all terminations are required to be reviewed and cleared by L/BA prior to execution. We believe this process ensures compliance with the FAR.

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## ABBREVIATIONS

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AQM	Office of Acquisitions Management
CGFS	Bureau of the Comptroller and Global Financial Services
CO	Contracting Officer
COR	Contracting Officer's Representative
DOSAR	Department of State Acquisition Regulation
FAH	Foreign Affairs Handbook
FAR	Federal Acquisition Regulation
FPDS	Federal Procurement Data System
GFMS	Global Financial Management System
OIG	Office of Inspector General
OPE	Office of the Procurement Executive
RFMS	Regional Financial Management System
ULO	unliquidated obligations

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