

## SIGAR'S LETTER TO SECRETARY JOHN KERRY: INCORRECT

(July 25, 2013) The July 22, 2013 letter from the Office of the Special Inspector General for Afghanistan Reconstruction (SIGAR) to the U.S. Secretary of State John Kerry regarding the International Development Law Organization (IDLO) contains a number of factual errors and assertions based on incorrect or incomplete information.

The International Development Law Organization (IDLO), the only inter-governmental organization with a mandate solely devoted to the promotion of the rule of law, has a proven track record in successfully delivering rule of law programs in Afghanistan, and many other parts of the world, on time and within budget. Our monitoring and evaluation procedures are robust and extensive. We take the transparency, effective delivery of our work, and responsible use of tax-payer dollars very seriously.

The U.S. State Department Bureau of International Narcotics and Law Enforcement Affairs (INL) approached IDLO about partnering on a critical project to transition donor led legal training to the Afghan government from efforts that were previously conducted by private, for-profit companies. The training of legal and judicial professionals is in line with IDLO's strength as an international justice sector training organization for more than three decades. IDLO has provided legal training for over 25,000 people from the developing world and has been present in Afghanistan since 2002.

During the negotiation phase of the Justice Training Transition Program (JTTP), INL noted that the budget for the program would be transferred by a donation to IDLO set out in a bilateral Letter of Agreement incorporating project documents. During the program design phase, both IDLO and INL focused on including robust oversight, monitoring and evaluation provisions into the project documentation. IDLO's relationship with INL is based on a bilateral agreement, similar to those governing programs carried out by the United Nations and the International Organization for Migration with U.S. Government funding, and is regulated by U.S. federal laws and standards, which are different from those governing contracts entered by the USG with private, profit-making entities.

The agreement between INL and IDLO did not only consist of a 2.5-page Letter of Agreement, as is stated by SIGAR, but also, very importantly, of a lengthy project proposal that was incorporated by reference into the Letter of Agreement and annexed to the Agreement. This annex contains many oversight provisions, including on monitoring and evaluation. These monitoring provisions have been further strengthened with additional measures agreed between IDLO and INL, which SIGAR appears not to have noted.

The project budget is subject to detailed review by INL, and IDLO is required to submit detailed explanations of proposed budget expenditure. Agreed-upon monitoring and evaluation measures include: (1) weekly conference calls between INL/Washington DC, IDLO/Rome, and IDLO/Afghanistan (with more frequent meetings and conversations by the Program Manager and INL in Kabul); (2) bi-weekly program and activity reports; (3) monthly activity reports using a format provided by INL; (4) quarterly program reports including a financial report; (5) a mid-term 3rd party assessment; and (6) three separate completion reports, including a final program evaluation. These include a review of the quality of the implementation of IDLO's programming. These reporting requirements are more robust than SIGAR's language suggests.

Moreover, IDLO and INL have agreed that the program can be audited by an independent third party at any time, at the request of INL.

In addition to the specific oversight arrangements to which IDLO and INL agreed for JTTP, IDLO is undertaking – on its own initiative – to engage an independent, internationally known auditing firm to review and report on financial controls, as part of its due diligence measures. The results of this review will be shared and discussed with the State Department as a measure of transparency and accountability.

Furthermore, as an inter-governmental organization, IDLO is accountable to its Member Parties, including the U.S. Government, which plays an active role in the oversight of the Organization.

The United States is a founding Member of IDLO and has served as President of the Organization since March 2011 (represented by [Ambassador David Lane](#) in Rome). As such, the U.S. presides over IDLO's Standing Committee which oversees the management and financial health of the Organization.

The Audit and Finance Committee (the relevant governance body that specifically oversees financial matters) provides reports to the Standing Committee and also approves IDLO's external audit. Please note that the U.S. was a member of the Audit and Finance Committee from 2008-March 2011 (and its Chair from November 2009 until March 2011 when it assumed the post of President of IDLO).

IDLO has fully cooperated with SIGAR, providing information in writing on April 29 and then, in response to more detailed requests, on 30 May 2013, regarding IDLO's organizational structure, Governance Documents, 2013 budget and relations with INL. This had been preceded by lengthy in-person meetings between IDLO staff members and SIGAR representatives in Kabul and Rome that provided oral answers to these issues. IDLO reiterated its readiness to provide further information and answer any further questions to SIGAR on May 30 but did not receive any further queries from SIGAR.

IDLO has been surprised and disappointed at statements made by SIGAR on the basis of incomplete or inaccurate information. In particular, IDLO refutes the following statements in Mr. Sopko's letter to the Secretary of State are not borne out by facts.

*“Preliminary information gathered by SIGAR auditors suggests that IDLO is ill-prepared to manage and account for how U.S.-tax payer funds will be spent on the JTTP.”*

IDLO strongly refutes this assertion as being factually incorrect.

IDLO is the only inter-governmental organization with an exclusive mandate focused on the rule of law. IDLO has a history of effectively implementing programs in Afghanistan since 2002. Excluding JTTP, IDLO has implemented programs in Afghanistan worth 35 million EUR (approx. 45 million USD) funded by a number of donors, including Italy, Japan, Canada, Netherlands, France, the UK, U.S. and the World Bank. There has been no complaint from any donor on program delivery or financial management. On the contrary, the increasingly large portfolio of contracts from a range of donors indicates their satisfaction with IDLO's programs in Afghanistan.

Regarding work with INL, IDLO has partnered successfully with INL since 2010 on rule of law programming in Afghanistan; and we have demonstrated responsible management of progressively increasing INL program funds from 11 million USD to more than 47 million USD.

Afghanistan is a Member Party of IDLO and this link further strengthens our engagement, and our effectiveness with local Afghan authorities and stakeholders.

Regarding JTTP, it should be noted that the project has been executed above and beyond expectations since it started earlier this year. Despite a worsening security situation where courts and court officials have been targeted, IDLO has met every single JTTP implementation milestone to date, which is factual evidence of our capacity to manage this project:

- The transition from JSSP (PAE) to JTTP (IDLO) was done smoothly and within the timeline set by INL. The handover was on time and carried out with full support of all stakeholders, including the Afghan authorities in March 2013;
- Implementation of training programs post-handover have exceeded targets, including training to over 700 justice sector officials and legal professionals in the past five months in 16 provinces around the country;
- IDLO has been able to access less secure areas in Afghanistan to implement program activities and reach justice professionals that no other organization or private contractor had reached previously.

*“IDLO’s budget has declined in recent years, even as its portfolio of projects has increased, forcing IDLO to implement its projects with less funding... lacks proper financial certifications, which prevents it from validating its internal spending.”*

IDLO strongly refutes this assertion as being factually incorrect.

IDLO’s budget is not declining. On the contrary, it has been increasing steadily over the past few years, including in relation to core or unrestricted funding, and reflects the strong and continuing confidence of donors in IDLO’s performance.

IDLO’s annual budget forecast for 2013 is 27.6 million EUR (approximately 35.9 million USD) and is forecasted to reach 42 million EUR (approximately 55 million USD) by 2016. SIGAR was provided with IDLO’s annual approved budget, as of March 2013. SIGAR did not seek information of past annual budgets which would have clarified that the budget has been increasing.

IDLO is audited by an international, leading audit firm on an annual basis and the Organization has always received clean audit reports. There are financial systems in place to account for all of the Organization’s transactions, and project expenditures are recorded and monitored individually and then consolidated. Project reports showing actual expenditure compared against budget are produced on a monthly basis. IDLO has satisfactorily met the financial reporting requirements for all of its programs and all its donors to date.

IDLO has numerous layers of internal oversight including (1) the Assembly of Parties; (2) the Standing Committee; (3) the Board of Advisers; and (4) the Audit and Finance Committee. The IDLO governance documents that were provided to SIGAR are available [here](#).

## Background on IDLO and its governance

IDLO is an inter-governmental organization established in 1988 by an international treaty, ratified by its Member Parties. The U.S. is a founding Member Party of IDLO. Afghanistan is also a Member Party of IDLO. The IDLO Assembly of Parties, comprising all Member Parties of IDLO (including 26 governments and one multi-lateral organization), is IDLO's highest decision-making body responsible for governing the Organization. It convenes at least annually and its main tasks are to determine the Organization's policies and oversee the work of the Director-General, and approve the Annual Plan and Budget. The President of the Assembly of Parties is currently the U.S.

The IDLO Standing Committee provides the link between the Assembly, the Board of Advisers and the Director-General. The Standing Committee currently includes the President (U.S.) and Vice-Presidents of the Assembly (Italy and Kuwait), the Chair and Vice-Chair of the Board of Advisers, and two Member Parties (Peru and Paraguay) elected by the Assembly. Its main functions are to oversee the management and budget of IDLO and report to the Assembly.

IDLO's Audit and Finance Committee provides guidance and oversight with respect to auditing and compliance, implementation of financial reporting, and maintenance of effective and efficient financial performance. It is currently chaired by the Financial Controller of the Ministry of Finance of the Government of the Netherlands (the individual holding this position is a professionally qualified auditor). The previous Chair of the Audit and Finance Committee was the U.S.

The [Board of Advisers](#) (which is not the same as the International Advisory Council whose members serve as goodwill ambassadors and advisors to the Director-General) is currently composed of ten members, elected by the Assembly for a four-year term. All members of the Board of Advisers are selected on the basis of their expertise in the fields of development or law, or their experience with managing international organizations. They serve in a personal capacity and not as representatives of their governments or organizations. The Board of Advisers is chaired by Ambassador Apakan, the former Turkish Ambassador to the United Nations in New York.

## About IDLO

The International Development Law Organization (IDLO) enables governments and empowers people to reform laws and strengthen institutions to promote peace, justice, sustainable development and economic opportunity. IDLO works along the spectrum from nation and peacebuilding to economic recovery in countries emerging from conflict or striving towards democracy. It supports emerging economies and middle-income countries to strengthen their legal capacity and rule of law framework for sustainable development and economic opportunity.

For more information, please visit <http://www.idlo.int> and follow us on Twitter @IDLOnews.

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