



# SIGAR

Testimony

Before the Subcommittee on Oversight and Investigations

U.S. House of Representatives Committee on Armed Services

Procurement of Afghan Army Uniforms: Poor Decisions and Questionable Contracting Processes Added \$28 Million to Procurement Costs

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Chairwoman Hartzler, Ranking Member Moulton, and Members of the Subcommittee,

I am pleased to be here today to discuss SIGAR's June 2017 report assessing DOD's procurement of uniforms for the Afghan National Army (ANA).<sup>1</sup> My testimony today will address the following issues related to that procurement:

- The generation of unnecessary, untested, and costly uniform specifications;
- Circumvention of Federal Acquisition Regulation requirements; and,
- A lack of oversight of direct assistance funds and the violation of U.S. law by the Afghan government.

Again, I thank you for your interest in this important matter and for your shared goal of ensuring that the tens of billions of U.S. taxpayer dollars spent to help rebuild Afghanistan are used wisely and protected from greedy and corrupt actors, as well as from poor decision making. We remain vigilant and as committed as ever to shining the bright light of oversight throughout the Afghan reconstruction effort.

Our report clearly showed that DOD's lack of due diligence and its decision to purchase ANA uniforms using a proprietary camouflage pattern and more costly style resulted in costs that are significantly higher than those for similar nonproprietary camouflage uniforms, potentially costing the U.S. taxpayers between \$26.65 million and \$28.23 million since 2008. Moreover, given our historical and pledged commitments supporting the continued development of the ANA, we found that changing the ANA uniform to a nonproprietary camouflage pattern and less costly style, similar to those procured for comparable ANP units, could save U.S. taxpayers between \$68.61 million and \$72.21 million over the next 10 years.

We are pleased to report that as a result of our report, DOD agreed to (1) take swift action and conduct an assessment to determine whether there is a more effective alternative, considering both operational environment and cost, available for the ANA, and (2) ensure that current contracting practices for ANA uniforms as well as Afghan National Police (ANP) uniforms conform to all Federal Acquisition Regulation requirements.<sup>2</sup>

We first identified the potential issues associated with DOD's requirements generation process for the procurement of uniforms for the ANA through work performed by our Audits and Inspections Directorate for our April 2017 audit examining clothing and equipment requirements for the entire Afghan National Defense and Security Forces (ANDSF).<sup>3</sup> This work uncovered contract anomalies, which the Audits and Inspections Directorate forwarded to our Special Projects Directorate for further review.

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<sup>1</sup> The ANA is a subordinate component of the Afghan Ministry of Defense (MOD).

<sup>2</sup> The ANP is a subordinate component of the Afghan Ministry of Interior and comprises the following police units that use a comparable uniform to that of the ANA with a nonproprietary camouflage pattern: the Afghan Uniform Police (AUP), the Afghan Border Police (ABP), and the Afghan Local Police (ALP). The ANP also includes the Afghan National Civil Order Police, Afghan Anti-Crime Police, Afghan Protection Unit, and the Afghan Public Protection Force, which are not discussed in this report because they either also use a proprietary pattern or have dissimilar uniform requirements or specifications that would not be appropriate for comparison.

<sup>3</sup> See SIGAR, *Afghan National Defense and Security Forces: DOD Needs to Improve Management and Oversight of Uniforms and Equipment*, SIGAR 17-40 Audit Report, April 25, 2017. The audit found that Combined Security Transition Command – Afghanistan's (CSTC-A's) plan to transition procurement responsibility to the Afghan government failed when it became apparent that the Afghans could not purchase these items in compliance with U.S. law, resulting in a uniforms crisis beginning in 2013. Due to organizational restructuring within the coalition, CSTC-A struggled to resume procurements of ANDSF uniforms and

SIGAR's Office of Special Projects, an office I established in 2012 in response to requests from Congress and executive branch agencies for more rapid, actionable assessments on emergent issues, then conducted its work and uncovered more than \$72 million in potential cost savings. The Special Projects review also uncovered questionable actions related to the requirement generation process that were immediately referred to our Investigations Directorate, which opened a criminal investigation related to the matter. I want to specifically express my thanks to Matt Dove and Parker Laite for their outstanding work on this assignment.

## THE CAMOUFLAGE PATTERN SELECTED FOR THE ANA WAS BASED ON INDIVIDUAL PREFERENCES, WITHOUT TESTING FOR EFFECTIVENESS, AND USED A QUESTIONABLE PROCUREMENT PROCESS

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Equipping the ANA and ANP involves numerous Afghan, U.S., and international organizations. Under the current Resolute Support mission and the International Security Assistance Force mission that preceded it, the Combined Security Transition Command–Afghanistan (CSTC-A) is the DOD organization responsible for: overseeing efforts to equip and train the ANA and ANP; validating requirements; validating existing supply levels; submitting requests to DOD components to contract for procurement of materiel for the ANDSF; and ensuring that the Afghan government appropriately uses and accounts for U.S. funds provided as direct contributions from the Afghanistan Security Forces Fund.

From 2002 to 2007, the ANA relied on a hodgepodge of donated uniforms from several nations with little standardization. By 2007, CSTC-A and the Afghan government had achieved some standardization in the ANA uniform through the procurement of a uniform that was a nearly identical variant of the U.S. Army's Woodland Battle Dress Uniform (BDU). However, according to CSTC-A documentation establishing the requirement for a new ANA uniform, the BDU's "prevalence in the region and non-unique nature . . . allowed enemy forces to copy or obtain excess quantities of the uniform. As a result, Enemy forces can easily infiltrate into or around ANA forces."<sup>4</sup> As a result, the Afghan MOD determined that it required a new and distinctive uniform to separate the ANA as armed forces of a sovereign government. At that time, the Minister of Defense, with an endorsement from the President of Afghanistan, requested the development of a new ANA uniform. CSTC-A, responsible for reviewing, validating, and funding all ANA organizational clothing and individual equipment requirements, supported the Afghan government's decision to field a distinctive uniform.

### CSTC-A Officials Appeared to Limit Camouflage Options to Those Developed by HyperStealth, and MOD Selected the Spec4ce Forest Pattern for ANA Conventional Forces

Our review found that CSTC-A officials appeared to limit the camouflage options available for conventional ANA forces to patterns owned by HyperStealth instead of working with DOD experts to determine the availability or effectiveness of existing DOD-owned camouflage patterns, or other proprietary patterns not owned by HyperStealth. Specifically, by February 2007, CSTC-A personnel responsible for assisting the Afghan MOD to identify or develop a new uniform specification had presented the available HyperStealth patterns to the

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equipment through DOD's supply chain. These delays compounded shortages of Afghan uniforms and equipment. Additionally, we found that coalition officials lacked the data they needed to make good decisions. As a result, CSTC-A and coalition officials exacerbated shortages in some cases by failing to order needed items in a timely fashion, and created surpluses in other cases by ordering or re-ordering items that the ANDSF already had or that were already working their way through DOD's supply chain.

<sup>4</sup> CSTC-A, *Afghanistan National Army Uniform Specification*, November 25, 2007.

Afghan Minister of Defense.<sup>5</sup> CSTC-A personnel then requested that HyperStealth provide several camouflage examples with varying color schemes that the Afghan MOD could select from. By May 2007, the Afghan MOD, in coordination with CSTC-A, had selected HyperStealth's Spec4ce Forest camouflage pattern for ANA conventional force uniforms moving forward.<sup>6</sup>

On November 25, 2007, CSTC-A and the Afghan MOD approved new specifications for the ANA combat uniform. According to the specifications, the goal of the new design was to provide a unique ANA uniform that used a pattern that would be difficult to duplicate. CSTC-A developed the specifications in coordination with ANA senior leaders and contractors. The specifications included significant design cues from the U.S. Army Combat Uniform and required the use of a proprietary camouflage pattern—Spec4ce Forest—developed by HyperStealth. The design features taken from the U.S. Army Combat Uniform—including zippers instead of buttons for the blouses, use of hook and loop fasteners, and more pockets—resulted in a uniform that was more difficult and costly to produce than the Battle Dress Uniforms that are used by Afghan Commandos and police.

### The Spec4ce Forest Camouflage Pattern Was Not Tested for Effectiveness in Afghanistan

Determining the effectiveness of an existing uniform pattern for a specific environment requires formal testing and evaluation. Similar testing and evaluation is required when developing a new camouflage pattern for a specific environment. This is a difficult and complex process. According to our review of correspondence with Dr. Timothy O'Neill, founder of West Point's (the U.S. Military Academy's) engineering psychology program and creator of the camouflage pattern which served as the basis for the Army Combat Uniform, "Evaluation of camouflage designs is an extremely fussy and demanding experimental design problem."<sup>7</sup> Dr. O'Neill describes camouflage as a "vision science, which includes visual psychophysics and biophysics, optics, and sensory neuroscience, colorimetry and photonics, environmental surveys, mathematics of spatial patterns, dye and coating chemistry, and very rigorous test design."<sup>8</sup>

A technical paper prepared for the U.S. Marine Corps and the U.S. Army concludes that the most effective way to design camouflage is through the "quantitative definition of tactical environments using spatial and colorimetric analysis"—in other words, it is best to tailor the spatial characteristics and color palette of a camouflage pattern to the specific environment and tactical position where those using the camouflage would be inclined to hide.<sup>9</sup> According to the report, matching a camouflage pattern "with background texture, color, and contrast is essential to all levels of visual processing."<sup>10</sup> Additionally, the contrast used in a particular camouflage's color scheme should match as closely as possible the environment in which it will be used.

CSTC-A, however, made the decision to procure 1,364,602 ANA uniforms (we define a uniform as 1 shirt and 1 pair of pants) and 88,010 extra pairs of ANA pants—totaling approximately \$94 million—using HyperStealth's Spec4ce Forest camouflage pattern without conducting any formal testing or evaluation to determine the pattern's effectiveness for use in Afghanistan

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<sup>5</sup> Our interviews with officials involved in the selection, as well as our review of emails documenting the decision-making process, found no indication that any non-HyperStealth patterns were ever presented to MOD for consideration.

<sup>6</sup> The ANA Commando and Special Forces Units—Afghanistan's most elite forces—continue to wear the Woodland Battle Dress Uniform, a less expensive uniform using a nonproprietary camouflage pattern.

<sup>7</sup> Dr. Timothy O'Neill, email to SIGAR, October 31, 2016.

<sup>8</sup> Ibid.

<sup>9</sup> Timothy O'Neill, "Innovative camouflage measures for the United States Marine Corps" (technical paper prepared for MARCORSYSCOM under Sverdrup Technology Agreement Number 0965-36-01-C1), p. 36.

<sup>10</sup> Ibid.

CSTC-A, in consultation with the Afghan MOD, decided to adopt the camouflage pattern containing a “forest” color scheme for ANA uniforms, despite the fact that forests cover only 2.1 percent of Afghanistan’s total land area.<sup>11</sup> In addition, the National Oceanic and Atmospheric Administration’s National Climatic Data Center characterizes Afghanistan as “a mountainous country in a dry part of the world which experiences extremes of climate and weather. Winters are cold and snowy, and summers hot and dry . . . the country on the whole is dry, falling within the Desert or Desert Steppe climate classification.”<sup>12</sup>

According to a 2010 U.S. Government Accountability Office audit, camouflage patterns are characterized as environment-specific or universal. Environment-specific patterns, such as woodland (or forest) and desert patterns, are expected to perform best in the specific environment.<sup>13</sup> Similarly, our review of correspondence with Dr. O’Neill found that in areas with wide seasonal variations in color (temperate regions) one-pattern camouflage solutions should be avoided. Dr. O’Neill stated, “For this reason the Marines chose a two-pattern family [*sic*] (desert and woodland); both performed very well in their proper environments, but . . . desert designs don’t work well in woodland areas and woodland patterns perform poorly in the desert.”<sup>14</sup>

### CSTC-A Used Questionable Procurement Methods that Limited Competition and May Have Deviated Improperly from Federal Acquisition Regulation Requirements

Our analysis of documentation and correspondence from 2007 showed that to procure the new ANA uniforms, CSTC-A officials recommended that the command pursue a sole-source award to HyperStealth for the camouflage license and uniform design. CSTC-A officials at the time stated that a sole-source acquisition strategy best met Afghan President Karzai and Minister of Defense Wardak’s intent and was most likely to achieve the desired delivery milestones.<sup>15</sup>

The plan to use a sole-source award, however, met resistance from the responsible DOD contracting office, which made it clear that a sole-source award to HyperStealth for the uniform pattern might not have been possible. Our analysis showed that the DOD contracting office raised concerns that, because there were so many available camouflage patterns in the world, a sole-source award would be hard to justify. For example, aside from the many patterns available from commercial sources other than HyperStealth, the U.S. government already had rights to multiple uniform patterns that were not in use by U.S. forces that could have been used by the ANA and may have been equally effective in the Afghan environment. Upon hearing the concerns of the contracting officials, one CSTC-A Senior Afghan MOD Mentor stated in an email to his colleagues, “They [the ANA] have already chosen the pattern they want. We cannot and will not pick for them.”<sup>16</sup> While Afghan government input to a decision by CSTC-A for an Afghan Security Forces Fund procurement may be desirable, it is not required under pseudo FMS processes. Furthermore, in addition to U.S. government-owned patterns, it is possible that camouflage patterns used by other coalition partners could have been made available for use by the ANA.

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<sup>11</sup> World Bank, “Forest Area (% Land Area),” <http://data.worldbank.org/indicator/AG.LND.FRST.ZS?end=2015&locations=AF&start=2015&view=map>, accessed March 2, 2017.

<sup>12</sup> National Climatic Data Center, “Climate of Afghanistan,” <https://www.ncdc.noaa.gov/oa/climate/afghan/afghan-narrative.html>, accessed March 3, 2017.

<sup>13</sup> U.S. Government Accountability Office, *Warfighter Support: Observations on DOD’s Ground Combat Uniforms*, GAO-10-669R, May 28, 2010.

<sup>14</sup> Dr. Timothy O’Neill, email to SIGAR, October 31, 2016.

<sup>15</sup> CSTC-A, *New ANA Combat Uniform, Acquisition Strategies and Other Considerations*, May 13, 2007.

<sup>16</sup> Internal CSTC-A email correspondence, May 19, 2007.

Had CSTC-A decided in early 2007 to use a nonproprietary pattern available to them at the time or to develop a new pattern for the ANA, the Natick Soldier Research, Development and Engineering Center estimated that it would have taken 22 weeks and cost \$156,400 to test the utility of a pre-selected textile pattern for use in Afghanistan; or 26 weeks and \$228,400 to compare the advantages and disadvantages of several pre-selected patterns for use in Afghanistan; or 14 months and \$420,400 to independently develop a textile pattern appropriate for use in Afghanistan.<sup>17</sup>

Our analysis showed that despite the lack of testing of the Spec4ce Forest pattern for Afghanistan, and concerns from the responsible DOD contracting office that choosing such a pattern would be hard to justify given the availability of other patterns (including U.S. government-owned patterns that would not require the payment of a licensing fee or royalty), CSTCA officials pushed forward with the ANA uniform procurement. We found that instead of issuing a sole-source contract to HyperStealth for the Spec4ce Forest camouflage license and uniform design, DOD issued a local acquisition solicitation in June 2008 that included the requirement that the uniforms use the Spec4ce Forest camouflage pattern. This requirement meant that whichever vendor was awarded a contract to provide ANA uniforms would effectively be required to purchase pre-patterned material or obtain the rights to use the proprietary pattern from either HyperStealth or an authorized licensee.<sup>18</sup>

Information obtained during the course of our review, however, indicated that some CSTC-A officials may have disclosed contractor proposal information by facilitating the purchase of HyperStealth's intellectual property by a preferred U.S. contractor. According to the Federal Acquisition Regulation, "Government business shall be conducted in a manner above reproach and, except as authorized by statute or regulation, with complete impartiality and with preferential treatment for none."<sup>19</sup> The FAR goes on to state that persons who are either United States government officials or who have acted as advisors to the government with respect to a procurement are prohibited from disclosing proprietary or source selection information prior to the award of a contract. Acting in such a manner is improper and can be a violation of the Procurement Integrity Act.<sup>20</sup>

According to HyperStealth, the company was told "by [a CSTC-A official] in a phone call that [HyperStealth] would be contacted by ADS [Atlantic Diving Supply Inc.] to represent our pattern as the Prime. ADS Inc. contacted [HyperStealth] by phone to begin the exclusive license for the pattern for Afghanistan."<sup>21</sup> On January 16, 2008, almost a year after CSTC-A initially contacted HyperStealth to express interest in purchasing the rights to the Spec4ce Forest camouflage pattern, HyperStealth signed an agreement granting ADS the exclusive rights and license "to decorate materials or sublicense and subcontract to other companies . . . [the] Spec4ce Afghan Forest Camouflage Patterns." The agreement included a designated authorized customer list that stipulated that items containing the Spec4ce Forest pattern "may not be sold in part or as an end product through ADS or any subcontractor or sub-licensee to any individual or entity outside of the Governments of

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<sup>17</sup> According to the U.S. Army's Natick Soldier Research, Development and Engineering Center, CSTC-A never requested that the center test nonproprietary patterns available at the time or develop a new pattern for the ANA. At our request, the center provided these time and cost estimates in January 2017.

<sup>18</sup> In January 2008, HyperStealth and ADS Tactical signed an exclusive license agreement for the Spec4ce Forest camouflage pattern

<sup>19</sup> 48 C.F.R. § 3.101-1 (2008).

<sup>20</sup> 48 C.F.R. § 3.104-3(a) and 41 U.S.C. § 423(a) entitled *Restrictions on Disclosing and Obtaining Contractor Bid or proposal Information or Source Selection Information, Prohibition on Disclosing Procurement Information*. Violations of 41 U.S.C. § 423(a) can result in criminal, civil and administrative actions, to include confinement, monetary penalties, debarment and/or the recession of a previously awarded contract, 41 U.S.C. 423(e).

<sup>21</sup> Guy Cramer [HyperStealth CEO], email to SIGAR, January 24, 2017.

Afghanistan and the United States.” We are continuing to investigate the possibility that the contractor proposal information may have been inappropriately disclosed.<sup>22</sup>

CSTC-A is responsible for validating ANA uniform requirements, budgeting funds from the Afghanistan Security Forces Fund to procure ANA uniforms, and placing orders to be fulfilled by other U.S. agencies that either contract for new procurements or provide items as sales from existing stocks. As part of this obligation, DOD is required to ensure that requirements meet the Federal Acquisition Regulation. These requirements included documenting how the use of Spec4ce Forest pattern, a brand-name product, was justified, as well as what steps were taken to properly plan the acquisition, conduct market research, and define CSTC-A and the ANA’s needs for this product.

Regarding the requirement that only HyperStealth’s proprietary Spec4ce Forest pattern would be an acceptable camouflage pattern, an acquisition that includes a brand-name description or specifies a brand-name product, or feature of a product particular to one manufacturer and does not provide for full and open competition, must be justified by the contracting activity. This justification should indicate that the use of the brand name is essential to U.S. government requirements, thereby precluding consideration of other products and should contain sufficient facts and rationale, including a description of the market research conducted or a statement why market research was not conducted and a certification by the contracting officer that the justification is accurate and complete. According to the FAR, this justification is required to be approved by the head of contracting activity (a general officer or civilian member of the Senior Executive Service) for procurements with an estimated total value of up to \$78.5 million or by head of the agency’s procuring activity for procurements with an estimated total value higher than \$78.5 million. These justifications are required to be made available for public inspection.<sup>23</sup>

In addition to justifying and seeking approval for the use of a brand-name product, CSTC-A was obligated to conduct acquisition planning and market research to show support of its decision-making process regarding the ANA uniform procurement. According to the FAR, acquisition planning will describe how competition will be sought throughout the acquisition and, if full competition is not contemplated, such as when a brand name is specified, the plan will state who the sources for the acquisition are and why full and open competition cannot be obtained.<sup>24</sup> The Department of Defense Supplement to the FAR, applicable to CSTC-A procurements, also adds the requirement that a written acquisition must be prepared for procurements estimated to be more than \$50 million for all years of the acquisition or for those that are more than \$25 million in a single year.<sup>25</sup> Supporting the acquisition planning process is the FAR’s discussion of market research, which states that it is a policy that agencies must conduct appropriate market research before solicitation of offers and must use the results to determine sources capable of meeting requirements. This market research should be documented appropriately based on the size and complexity of the acquisition.<sup>26</sup>

Finally, the FAR states that when describing agency needs, requirements shall not be written to require a particular brand name, product, or a feature of a product particular to one manufacturer unless the feature is essential to the government’s requirements and market research indicates that other similar products or products lacking a specific feature do not or cannot meet minimum needs. When these exceptions are met, less than full and open competition is contemplated, and the procurement must be justified and approved by

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<sup>22</sup> We have asked ADS to provide any and all communication (emails, internal working documents, etc.) regarding the ADS agreement with HyperStealth for exclusive rights to the Spec4ce Forest camouflage pattern. That information will be used as part of our investigation in this matter moving forward.

<sup>23</sup> 48 C.F.R. §§ 6.302-1(a) and (c), 6.303-2, 6.304 and 6.305 (2008).

<sup>24</sup> 48 C.F.R. §§ 7.102(a) and 7.105 (2008).

<sup>25</sup> 48 C.F.R. § 207.103(d)(i)(A) (2008).

<sup>26</sup> 48 C.F.R. § 10.001(a) (2008).

the head of contracting activity, or the head of the agency's procuring activity, depending on its overall estimated value.<sup>27</sup>

DOD was unable to provide us with documentation demonstrating that the Spec4ce Forest pattern specification was essential to the U.S. government's requirement and market research indicating that other companies' similar products were inadequate to meet DOD's requirements for ANA uniforms. DOD was also unable to provide documentation justifying or approving the Spec4ce Forest requirement in the ANA uniform specification. Based on DOD's inability to provide this documentation and SIGAR's analysis of the circumstances surrounding the use of the Spec4ce Forest pattern in the specification, there appears to have been an improper deviation from the FAR's requirements regarding competition, acquisition planning, market research, and CSTC-A's need for this particular camouflage pattern for the ANA.<sup>28</sup> Neither DOD nor the Afghan government could demonstrate the appropriateness of the ANA uniform for the Afghan environment, the research and planning that went into choosing the Spec4ce Forest pattern, the justification and authorizations for the use of a brand name and the corresponding impact on competition, or show that the new camouflage pattern did not hinder ANA operations by providing a more clearly visible target to the enemy.<sup>29</sup>

## **DOD SPENT APPROXIMATELY \$94 MILLION TO PROCURE ANA UNIFORMS, BUT THE PREFERENCE FOR A PROPRIETARY CAMOUFLAGE PATTERN AND MORE COSTLY STYLE RESULTED IN UP TO \$28 MILLION IN EXCESS COSTS**

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Between November 2008 and January 2017, DOD spent approximately \$93.81 million to procure 1,364,602 uniforms and 88,010 extra pairs of pants for the ANA made using a proprietary pattern.<sup>30</sup> Between November 28, 2008, and August 31, 2011, DOD issued eight task orders through three local acquisition contracts and three blanket purchase agreements (BPAs) for ANA uniforms that included a requirement for uniforms with the Spec4ce Forest camouflage pattern and features of the U.S. Army Combat Uniform. These local acquisition contracts, task orders, and BPAs represent approximately \$50.95 million in expenditures for 870,447 ANA uniforms. From February 27, 2015, to January 8, 2017,<sup>31</sup> Defense Logistics Agency (DLA) issued 17 pseudo FMS task orders under four contracts for ANA uniforms that included a requirement for the Spec4ce Forest camouflage pattern. These pseudo FMS task orders represent approximately \$42.85 million in expenditures for 494,155 uniforms and 88,010 extra pants for the ANA.<sup>32</sup>

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<sup>27</sup> 48 C.F.R. § 11.105(a) (2008).

<sup>28</sup> The FAR's definition of "Deviation" includes the issuance or use of a policy, procedure, solicitation provision, contract clause, method, or practice of conducting acquisition actions of any kind at any stage of the acquisition process that is inconsistent with the FAR. 48 C.F.R. 1.401(a) (2008).

<sup>29</sup> DOD continues to purchase of uniforms for the ANA using the Spec4ce Forest pattern under the color scheme designation of "ANA – Afghan Forest Pattern". To date DOD has not provided SIGAR with any information showing that it has taken steps to correct the improper deviation from the FAR's requirements at the time the initial contracts were awarded. We will continue to investigate this issue further.

<sup>30</sup> DOD spent more than \$154.53 million for 4,139,786 proprietary shirts, pants, field jackets, and caps for the ANA between 2008 and 2016. This total includes \$93.81 million for 1,364,602 uniforms and 88,010 extra pairs of pants; \$54.39 million for 471,547 field jackets; and \$6.33 million for 851,024 caps.

<sup>31</sup> The data we received from DLA regarding pseudo FMS contracts for proprietary uniforms, field jackets, and caps for the ANA was current as of January 8, 2017. Some of the contracts and task orders included in this data were ongoing and may have accrued additional costs after we received the information.

<sup>32</sup> In addition to these procurements, in September 2016, DOD awarded a \$7.8 million firm-fixed-price, sole-source contract to ADS for the production of fabric printed with the Spec4ce Forest uniform pattern necessary



## ANA Uniforms Made with the Spec4ce Forest Camouflage Pattern Cost an Average of 40–43 Percent More than Similar ANP Uniforms Made with Non-Proprietary Camouflage Patterns

We found that ANA uniforms made with the Spec4ce Forest camouflage pattern cost an average of 40–43 percent more than comparable ANP uniforms made with non-proprietary camouflage patterns.<sup>33</sup> Some of the difference in price between proprietary patterned ANA uniforms and non-proprietary patterned ANP uniforms may be attributable to the licensing fee, paid as a defined percentage of fabric sales, to secure the rights to use the Spec4ce Forest pattern from HyperStealth.<sup>34</sup> We also reviewed the uniform specifications for the different uniform types (ANA and ANP components) and found them to be similar, with the primary difference being that the ANA Spec4ce Forest camouflage uniform included design features from the U.S. Army's Combat Uniform.<sup>35</sup> These design features and the required use of the proprietary pattern for the ANA uniform both increased uniform costs. To determine the premium paid for ANA uniforms, we used DLA-provided data (which covered only pseudo FMS procurements from February 2015 through January 2017) to calculate the average unit price per uniform for both ANA (proprietary) and ANP (non-proprietary) components. The calculation resulted in the following average unit prices per uniform: ANA, \$79.14; ABP, \$56.65; ALP, \$53.47; and AUP, \$55.32.<sup>36</sup>

Since the ANA uniforms were the most expensive per unit, we calculated the premium paid for ANA uniforms per unit as a percentage of uniform unit prices for the ANP components. This calculation showed that ANA uniforms were approximately 40 percent more expensive than ABP uniforms per unit, 43 percent more expensive than ALP uniforms per unit, and 43 percent more expensive than AUP uniforms per unit—a range of 40–43 percent.

## Proprietary ANA Uniforms Cost Significantly More than CSTC-A Initially Estimated

In mid-2007, CSTC-A initially estimated that the new ANA uniform, which would use a yet-to-be determined unique camouflage pattern, would cost \$25–\$30 per set. In 2007, ANA BDUs were either contracted for locally

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for the assembly of an additional 195,000 ANA uniforms. This procurement was not included in the \$93.81 million total for proprietary patterned ANA uniforms because it does not include the total cost of the uniforms.

<sup>33</sup> While we did not include any cost comparisons between ANA uniforms made with the Spec4ce Forest camouflage pattern to the cost of U.S. Army combat uniforms in our Special Project report (such a comparison was outside the scope of our objectives), we were able to find open source reports that put the cost of the U.S. Army combat uniforms (shirt and pants only) between \$84 and \$90 (see, Army Public Affairs, "Soldiers to get new camo uniform beginning next summer," August 6, 2014; Kyle Jahner, Army Times, "Army's new camouflage uniforms hit stores July 1," June 1, 2015).

<sup>34</sup> We are not disclosing the amount of the licensing fee to protect information that may be procurement sensitive and could influence other acquisitions.

<sup>35</sup> Besides small variations in button/Velcro use, we found the following differences in textile requirements: the textile specification for ANA uniforms required a cotton/nylon blend, whereas ANP uniforms required a 50% nylon and 50% cotton/polyester blend; ANA uniforms required a breaking strength filling of 125 pounds, whereas ANP uniforms required a breaking strength filling of 130 pounds; ANP uniform specifications included a "rip-stop" requirement, whereas the ANA uniform specifications included no such requirement.

<sup>36</sup> ABP, ALP, and AUP units did not use a proprietary pattern for their uniforms. To determine the uniform cost per unit for the ANA and ANP components, we divided the sum of the total cost of shirts and pants procured for each unit by the total number of shirts and pants procured.

or procured via pseudo FMS programs. BDU sets contracted locally were priced at \$15–\$20. BDU sets procured through FMS in fiscal years 2006 and 2007 were \$57 a set.<sup>37</sup>

As discussed above, CSTC-A also supported—and continues to support—the ANP and provides their operational clothing and equipment. For comparison, in 2007 ANP’s uniforms were manufactured locally at a cost of \$18 (summer) and \$25 (winter) per set. The ANA requested both a summer and winter weight for their new uniform. Based on the ANA BDU and ANP uniform costs, CSTC-A anticipated the ANA’s new uniform using a unique pattern would cost slightly more than the ANA BDUs and ANP uniforms, and estimated a cost of \$25 per set for the summer-weight and \$30 per set for winter-weight uniforms. These estimates were significantly lower than the actual cost per ANA uniform containing the new requirement, which ranged from \$45.42–\$80.39 per set, depending on the contractor and procurement method.

### Total Amount Spent to Procure ANA Uniforms is Unknown Due to Lack of CSTC-A Oversight of Direct Assistance Funds

As stated above, between November 2008 and January 2017, DOD spent approximately \$93.81 million for 1,364,602 uniforms and 88,010 extra pairs of pants for the ANA that were made using a proprietary camouflage pattern. This amount includes both local acquisitions and pseudo FMS contracts, task orders, and BPAs.

DOD has provided uniforms to the ANA and ANP using three procurement strategies: (1) pseudo FMS,<sup>38</sup> under which DOD purchases new supplies from vendors for use by the Afghan government or transfers excess U.S. military items to the Afghan government; (2) local acquisitions under which uniforms are purchased from Afghan vendors through contracts awarded directly by the theater contingency contracting command; and (3) providing U.S. funds to the Afghan Ministries of Defense and Interior as direct assistance to enable the Afghan government to procure uniforms through its own contracts. CSTC-A and other coalition organizations provide the requirements that are executed through pseudo FMS and local acquisition contracts. Contract oversight is provided by the DOD component that awards the contract in coordination with CSTC-A. The Offices of the Undersecretaries of Defense for Policy, Comptroller, and Acquisition, Technology, and Logistics provide oversight of the acquisition strategies and funding execution for the contracts through the Afghanistan Resources Oversight Council, which was established by statute in 2012. The Afghan Ministries of Defense and Interior are responsible for managing direct assistance in accordance with the stipulations contained in commitment letters between the Afghan government and CSTC-A.

SIGAR found that the Afghan government could not track clothing and equipment purchased using direct assistance from 2012 to 2013. Because CSTC-A did not enforce the conditions established in commitment letters requiring the Ministries of Defense and Interior to use electronic systems to track clothing and equipment purchases, the command cannot say how much clothing and equipment the ministries bought with U.S. money. CSTC-A officials said they chose not to enforce these requirements because the mission to fully

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<sup>37</sup> Both these prices were for summer, rather than winter, BDUs. Summer BDUs would generally be cheaper than winter BDUs.

<sup>38</sup> DOD uses the FMS system to provide security assistance to other countries. Typically, traditional FMS cases funded either by the host nation or by State Department Title 22 Foreign Military Financing, and the host nation is responsible for developing and validating requirements and may choose to do so with the assistance of US Embassy elements. Pseudo FMS, in contrast, are typically funded with DOD Title 10 security assistance funding, and DOD organizations may determine and validate requirements and optionally may seek host nation input. Other elements of DOD refer to pseudo FMS as the “Building Partnership Capacity” program, but we use pseudo FMS because that is how CSTC-A referred to these acquisitions.

equip the ANDSF superseded their mission to improve the ministries' financial reporting practices. As a result, CSTC-A did not properly oversee the money given to the Afghan government for clothing and equipment.<sup>39</sup>

## Afghan Government Expenditure of Direct Assistance Funds Violated U.S. Law

Compounding the challenges with CSTC-A's provision of direct assistance are U.S. legal requirements that promote the purchase of certain U.S. goods (referred to as The Berry Amendment).<sup>40</sup> According to DOD,

"The law [Berry Amendment] restricts any funding appropriated or otherwise available to DoD from being used to buy the following end items, components, or materials unless they are wholly of US origin: An article or item of food; clothing; tents, tarpaulins, or covers; cotton and other natural fiber products; woven silk or woven silk blends; spun silk yarn for cartridge cloth; synthetic fabric or coated synthetic fabric (including all textile fibers and yarns that are for use in such fabrics); canvas products, or wool (whether in the form of fiber or yarn or contained in fabrics, materials, or manufactured articles); or any item of individual equipment (Federal Supply Class 8465) manufactured from or containing such fibers, yarns, fabrics, or materials; and hand or measuring tools."<sup>41</sup>

Between 2012 and 2013, when CSTC-A was providing direct assistance to the Afghan government for the purchase of ANA uniforms, CSTC-A included language in its commitment letter with the Afghan government on February 27, 2013, that required that the MOD adhere to Berry Amendment requirements.<sup>42</sup> However, an April 2015 CSTC-A audit found that MOD did not comply with the Berry Amendment for contracts awarded from December 21, 2012 through December 20, 2013, including for nearly \$28 million in contracts MOD issued for ANA and ANP clothing.<sup>43</sup>

In mid-2013, CSTC-A shifted from direct assistance back to procuring all ANDSF clothing and equipment through pseudo FMS orders because of the lack of oversight, MOD's non-compliance with the Berry Amendment, and concerns over the quality of the material MOD was procuring. For the past several years, CSTC-A has worked with the DLA to issue contracts and task orders to directly procure the textiles for ANDSF uniforms using the pseudo FMS process.

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<sup>39</sup> SIGAR, *Afghan National Defense and Security Forces: DOD Needs to Improve Management and Oversight of Uniforms and Equipment*, SIGAR 17-40-AR, April 25, 2017.

<sup>40</sup> According to DOD, the Berry Amendment was originally passed by Congress in 1941 to promote the purchase of certain U.S. goods. The Amendment was included in subsequent defense appropriations acts until it was made permanent in Fiscal Year 1994 by section 8005 of Public Law 103-139. It was subsequently codified as 10 U.S.C. 2533a in 2002 by section 832 of Public Law 107-107. On October 17, 2006, the President signed the National Defense Authorization Act for Fiscal Year 2007. Under section 842 of this Act, the restrictions relating to specialty metals were deleted from 10 U.S.C. 2533a and placed in 10 U.S.C. 2533b (see, Berry Amendment FAQ, [http://www.acq.osd.mil/dpap/cpic/ic/berry\\_amendment\\_faq.html](http://www.acq.osd.mil/dpap/cpic/ic/berry_amendment_faq.html), accessed July 17, 2017.)

<sup>41</sup> *Id.*

<sup>42</sup> CSTC-A obtained a legal opinion on the applicability of the waiver to the clothing items procured after notification of the Berry Amendment. International Security Assistance Force Contract and Fiscal Law Office opined disapproving any request from the MOD to use ASFF direct contribution funds to pay for uniform items procured after 27 February 2013 that do not comply with the Berry requirement.

<sup>43</sup> The CSTC-A audit did not delineate the amount of those clothing funds MOD used to purchase ANA uniforms versus other clothing purchases.

## CONCLUSION

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DOD procured ANA uniforms using a proprietary camouflage pattern without determining the pattern's effectiveness in Afghanistan compared to other available patterns. As a result, neither DOD nor the Afghan government knows whether the ANA uniform is appropriate to the Afghan environment, or whether it actually hinders their operations by providing a more clearly visible target to the enemy. While we understand the importance of providing the ANA with a unique uniform that distinguishes it from its allies and other ANDSF components, we are concerned with the way in which DOD approached requirement generation, validation, and procurement with respect to ANA uniforms. Furthermore, DOD's lack of due diligence and its decision to purchase ANA uniforms using a proprietary camouflage pattern appear to have resulted in unit costs that are significantly higher than those for similar non-proprietary camouflaged uniforms, potentially costing the U.S. taxpayers between \$26.65 million and \$28.23 million, since 2008. Moreover, given our historical and pledged commitments supporting the continued development of the ANA, our analysis found that changing the ANA uniform to a non-proprietary camouflage pattern, similar to those procured for comparable ANP units, could save U.S. taxpayers between \$68.61 million and \$72.21 million over the next ten years. As a result, we suggested that a DOD organization with appropriate expertise in military uniforms conduct a cost-benefit analysis of the current ANA uniform specification to determine whether there is a more effective alternative, considering both operational environment and cost, available to the ANA. Such an analysis should include, at a minimum, establishing the efficacy of the existing pattern against other alternatives (both proprietary and non-proprietary patterns), a consideration of transitioning the ANA uniforms to a pattern owned by the United States, using existing excess inventory where available, and acquiring the rights to the Spec4ce Forest pattern. As previously mentioned, our review uncovered questionable actions related to the requirement generation process. As a result, we referred this matter to our Investigations Directorate, which opened a criminal investigation related to it.

Finally, we are happy to report that initial indications from DOD demonstrate a willingness to address this issue and take steps to ensure the ANA is properly equipped while ensuring the best value for the U.S. taxpayer.

Thank you for the opportunity to testify today. I look forward to answering your questions.

## Appendix I - Relevant Reports

### SIGAR

1. SIGAR, *Afghan National Defense and Security Forces: DOD Needs to Improve Management and Oversight of Uniforms and Equipment*, SIGAR 17-40 Audit Report, April 25, 2017.

### Others

1. DODIG, *Report on the Assessment of U.S. and Coalition Plans to Train, Equip, and Field the Afghan National Security Forces*, SPO-2009-007, September 30, 2009.
2. GAO, *Warfighter Support: Observations on DOD's Ground Combat Uniforms*, GAO-10-669R, May 28, 2010.
3. DODIG, *Assessment of U.S. Government and Coalition Efforts to Develop the Logistics Sustainment Capability of the Afghan National Army*, DODIG-2012-028, December 9, 2011.
4. DODIG, *Development of Individual Equipment Requirements for the Afghan National Army Needs Improvement*, DODIG-2012-092, May 25, 2012.
5. DODIG, *Government of the Islamic Republic of Afghanistan Needs to Provide Better Accountability and Transparency Over Direct Contributions*, DODIG-2014-102, August 29, 2014.
6. DODIG, *The Government of the Islamic Republic of Afghanistan's Controls Over the Contract Management Process for U.S. Direct Assistance Need Improvement*, DODIG-2015-082, February 25, 2015.
7. CSTC-A, *Audit of MoD Berry Amendment Compliance for FY 1392*, April 1, 2015.
8. CSTC-A, *MOI Clothing Purchase*, MOI-1392-A-003, May 20, 2015.