



Independent Joint Anti-Corruption

Monitoring & Evaluation Committee

Transitioning Control of Afghanistan's Air Space to the Afghanistan Civil Aviation Authority

Executive Summary

In late 2001, the U.S. military took formal control of Afghanistan's airspace, contracting air-traffic control positions to international firms. While an eventual transfer of full management responsibilities to the Afghanistan Civil Aviation Authority (ACAA) is envisioned, a lack of qualified air-traffic controllers, and widespread corruption mainly in recruitment and contracting aspects, are obstructing this planned transition.

The information provided about corruption in this paper is mainly based on the interviews with different ACAA officials as well as some of the important reports including SIGAR's Audit Report (15-58, May 2015). Despite huge amounts spent to turn the ACAA into an independently functioning authority (The US has spent \$562.2 million on ACAA-related activities since 2002), it still lacks adequate expertise to independently control Afghan airspace.

Corruption has impeded the transition process principally by:

- Influence in the recruitment process by high-ranking GIRoA officials, political leaders, and MPs, which results in key ACAA positions filled by incompetent and uncommitted individuals.
- Abuse of contracting processes, particularly when contracting with outside service providers. MEC has learned that the Contracting Department in ACAA is not conducting the required inquiries on the background of companies participating in bidding. Companies winning the contract through collusion rather than the legal bidding process may not fulfill all their contracting obligations, including building Afghans' technical capacities, which is a key to ACAA independent control of airspace.

Of the 12 officials MEC interviewed in ACAA, the majority are of the opinion that a number of ACAA officials are interested to continue contracting external service companies mainly because of the benefit they get from these companies. Thus, they are not interested to initiate reforms, important human resource decisions and create a comprehensive capacity development mechanism to ensure adequate technical expertise for air traffic controllers. However, these claims have not been confirmed by independent sources.

While the ACAA has generated about \$33 million in annual revenue in recent years—70% of which has come from charging fees to airlines overflying Afghanistan—the potential exists for the ACAA to generate even more revenue if and when it meets internationally recognized aviation standards and assumes control over Afghan airspace. Now, its failure to meet these benchmarks means that many countries, including those of the European Union prevent their airlines from landing in Afghanistan. This deprives the ACAA of the ability to charge them landing fees, which constitute a major revenue stream for most countries' civil aviation authority. However, the dearth of trained air-traffic controllers makes it difficult to estimate when the ACAA will be able to meet international standards and thereby allow more airlines to introduce services to Afghanistan.

I. ACAA's Legal Status

ACAA was established as a separate budgetary unit based on Presidential Decree No. 88, dated 1391/08/08 (October 30, 2012).

II. Background

Afghanistan's civil-aviation system plays an important role in the country's economy. However, the previous three decades of instability and civil conflict inflicted huge losses and severely impaired the sector. Amidst the turmoil of war, the Afghan government did not have the infrastructure or the capability to manage its airspace or provide other civil aviation services. The Civil Aviation Law was also passed in 2012. The ACAA's key responsibilities include regulating and monitoring activities of air-transport providers, representing Afghanistan at International Civil Aviation Organization (ICAO) meetings, developing policies to govern air travel, and managing operations of the nation's airports.¹

Afghanistan has 63 domestic and four international airports (located in Kabul, Kandahar, Herat, and Balkh provinces). Afghanistan's civil-aviation system consists of both airspace management and airport services. Airspace management denotes air-traffic control services, as well as airspace communication and navigation systems. Airport services consist of control-tower operations, meteorology reporting, and rescue services. Overseeing the civil-aviation system is the primary responsibility of the ACAA.

Improving the substandard state of Afghanistan's civil-aviation system was among the top priorities of the international community in the post-Taliban era. Beginning in 2002, the U.S. Department of Defense (DOD) and Federal Aviation Authority (FAA) stepped in to help rebuild the system. In total, U.S. agencies have spent \$562.2 million for civil aviation-related activities in Afghanistan since 2002, with DOD funding amounting to \$500.2 million (which mainly paid contractors to administer the airspace) and FAA funding amounting to \$56.5 million.² In addition, USAID provided the Afghan government with a \$5.5 million grant to help rehabilitate two regional airports in 2010. Other Coalition partners and international organizations, among them the German, Japanese, and Portuguese governments, as well as the World Bank (WB), also provided support to building Afghanistan's civil-aviation system. (See the Appendix for a comprehensive list of international assistance to Afghan civil aviation.)

Delays in transitioning control and the end of U.S. funding

From late 2001 to December 31, 2014, Afghanistan airspace management services were provided by foreign governments and militaries (FAA, DOD, and Coalition forces). The U.S. had planned the transition of airspace management responsibilities to GIRoA at the end of 2014, but could not since GIRoA was not ready to accept the responsibilities. According to the former head of the Ministry of Transportation and Civil Aviation, the main reason for delaying the transition was the lack of certified air-traffic controllers, which provided the basis for extending the military contract from January through June 2015. With the expiration of the U.S. military's air-traffic control contract in June, and to avoid any disruptions in air services, the Department of State funded an interim DOD-managed contract for \$29.5 million that ran through September 2015. U.S. representatives made it clear to their Afghan interlocutors that further extensions or bridge contracts were not in the offing.

¹ Report of ACAA's Human Resource Department, July 2015

² SIGAR, 15-58 Audit Report, May 2015.

The threat of imminent disruption to air services forced the Afghan government into action. In June 2015, the government signed a \$47.9 million two-year contract with RMS after this company won the competition against five other companies (September 2015 through September 2017). RMS will manage Afghan airspace, including the operation and maintenance of equipment, supply of spare parts, and training of selected technical staff. The contract was approved by the new National Procurement Authority (NPA). The NPA claimed that this new contract constituted a substantial savings, since the previous \$236 million contract was for five years. According to ACAA's officials, the main reason behind the significant decrease in the cost of contract with RMS, as compared to previous ones, is the increased involvement of ACAA's contracting department in the process of contracting and a decreased number of Afghan professionals to be trained under this contract.

However, this is dubious since if the previous contract had worked out as planned, it would have resulted in Afghanistan taking control of its own airspace and there would have been no need to spend almost \$50 million on a new contract.

Despite the millions invested, the ACAA still lacks qualified air-traffic controllers

The ACAA estimates that 55 trained and certified controllers would be required at the Kabul Area Control Center and the Kabul Approach Control facility alone. An additional 84 controllers would be needed to fully staff the control towers at Kabul, Kandahar, Herat, and Mazar-e-Sharif international airports.

Although the FAA provided training for 96 Afghan civil-aviation personnel, the program did not succeed in producing enough air-traffic controllers to operate the civil-aviation system. According to Afghan officials, the majority of FAA-trained Afghan personnel (including air traffic controllers) have not yet completed the required on-the-job training programs.³ Security concerns in the Kabul Area Control Center and Kabul Approach Control facility, which contain information about Coalition military flights and operations, prevented students from accessing these facilities. The FAA also faced problems when trying to send the students abroad for training because many of them could not obtain visas. Furthermore, most of the ACAA's and Coalition's training programs funded only basic academic training in air-traffic control and were not supplemented with essential on-the-job training.

As a result, the Air Traffic Controllers are not fully capable to carry out the entire airspace control functions.

Essentially, the Afghan government's inability to field a sufficient number of trained personnel ended up costing it \$47.9 million, not saving \$188 million.⁴ According to an ACAA official, the ACAA plans to carry out about 80% of the airspace-management services by the time this contract concludes in late 2017.⁵ The question remains as to how the remaining 20% of airspace-management services are covered.

³ MEC interview with ACAA official, July 2015.

⁴ 1TV, "U.S. Company to manage Afghan airspace for the next two years," <http://www.1tvnews.af/en/news/afghanistan/17345-us-company-to-manage-afghan-airspace-for-next-two-years>, dated June 29, 2015.

⁵ MEC interview with ACAA official, July 2015.

Ensuring transparency and accountability in implementation of contracts remains as a challenge to the ACAA

As part of the measures to ensure transparency, the contract with RMS was delivered to the public through news bulletins and a press conference. The ACAA is actually responsible to monitor the contracts with RMS and other contractors, but due to a lack of adequate technical expertise, it cannot assess whether RMS provides services meeting international aviation standards.

The international community has trained technical staff for ACAA to carry out functions in different sections of ACAA's system including airspace control, communication, navigation, and surveillance, fire and crash rescue services, basic electronics and flight safety. However, the lack of a well-equipped oversight department with highly qualified inspectors capable to oversee and control the functions of all mentioned sections to ensure their conformity with internationally recognized aviation standards is still a major challenge. The Afghan government and the international partners are both responsible as they have failed to create and apply a comprehensive capacity building mechanism with specified benchmarks and clearly defined end goal.

To cover this gap, the ACAA intends to recruit eight International Safety Oversight Inspectors to assess conformation of RMS services with international standards and train Afghan personnel to obtain this skill. If the contracting company failed to implement the contract, it can face sanctions such as an oral warning, written notice, and termination of contract, although no information is available about sanctions applied on a defaulting company thus far.

After having failed to build capacity for over almost 1.5 decades, this task cannot be completed in 2 years. However, having well-trained technical professionals in all its sections is the key for ACAA's independence. It is the responsibility of the both Afghan government and the Donors to ensure the RMS- trained air traffic controllers will be fully capable to at least partly replace the external experts in this part of airspace management services. This will also require consistent and effective monitoring of the RMS training process by professional safety inspectors.

ACAA's revenue structure

The revenues for ACAA stem from multiple sources: airspace over flight fees, (\$500 per flight); passenger fees (\$30/passenger for international flights and \$1/passenger for domestic flights); aircraft landing and parking fees (landing fee of \$10/MT for international airlines and \$3/MT for domestic airlines; parking fee of \$4/aircraft during 24 hours for both domestic and foreign aircraft); flight fees (\$150/flight); rent charges for shops inside Kabul International Airport; and licensing fees (\$400/year for pilots, \$150/year for co-pilots and board engineers, \$100/year for dispatchers, \$1,000/year for aircraft registration and AFN 20,000 for aircraft certificates).⁶ From 2009 to 2013, the ACAA generated an average income of about \$33 million per year. Over flight fees made up about 70% of this income.⁷ The exact amount of ACAA revenue differs slightly from month to month, depending on the number of airlines flying over the country's airspace (usually between 6,000-7,000 flights per month), the number of domestic flights, and other, related variables. By not meeting internationally recognized air-traffic-control standards, the ACAA's ability to generate additional revenue is limited. One recent media report cites unnamed international officials as saying that, if Afghanistan managed

⁶ SIGAR, 15-58 Audit Report, May 2015.

⁷ ACAA, Report of the Finance and Administration Department, July 22, 2015.

its own airspace with personnel who met international standards⁸, because of the increased confidence on the ACAA's services, it could bring in about \$40 million in a year just from over flight fees, with still more revenue from landing fees levied on new airlines servicing the country.⁹ No information was available on the exacted or presumed revenues from any official side, but at least the money for external contracting would be saved.

The income generated by the ACAA, including over flight fees, is not for the sole use of the ACAA. Over flight, fees and other income from international airlines are first transferred to the ACAA's account with the International Air Transport Association (IATA) through a payment tariff issued by the ACAA. It is then further transferred to ACAA's account with the Ministry of Finance (MOF). ACAA's income from domestic sources also goes to its account for domestic income with the MOF according to the tariff issued by the ACAA, which includes the amount and the revenue source. ACAA's revenue from provincial sources can be first deposited in a Da Afghanistan Bank (DAB) provincial branch, which later on can be transferred to its account with DAB in Kabul. Accordingly, ACAA's entire income goes to the national Treasury as a first step, with ACAA receiving a line item in the annual budget. The ACAA was approved as an independent budgetary unit based on the Presidential Decree 88 dated 1391/08/08. The ACAA's budgetary autonomy is not mentioned in the decree. According to Article 11 of the Civil Aviation Law, the ACAA acts as independent authority by having its own independent government budget and structure (Tashkeel). It has the authority to use 5% of its revenue collected from different fees. It also has free hand to submit a request for additional funds from MoF for improvement of civil aviation. Thus, even if the ACAA generates more revenue, its lack of budgetary autonomy could theoretically still be hampered if the MOF elected to reduce its funding.

In an attempt to increase revenue, the Afghan government recently took a number of steps, including increasing over flight fees from \$400 to \$500 per flight (enforced as of April 2015), eliminating certain training programs, and reducing overall labor costs.

A number of measures are in place to ensure transparency and accountability in collecting and transferring ACAA's revenue. All domestic and international airlines pay their fees according to the tariff issued by the ACAA. A bank receipt is issued by DAB documenting the fee payment. DAB also issues a financial statement to the ACAA at the end of each year. According to the officials, the ACAA's revenue collection and transformation process does not have systematic or structural problems and officials state that the entire process is electronic, which prevents any possible abuses. However, there is a need for deeper scrutiny in this regard in order to substantiate the claim, but to date, no financial audit report was available. According to the ACAA, all domestic airlines are in arrears to the ACAA, but MEC was not provided with a figure about the total amount of debt. To avoid bankruptcy of these airlines, the MOF decided to collect the debts in installments (20% at the end of each year), although it contradicts the ACAA's regulations. Reports say that Ariana Airlines, Kam Air, and Safi Airlines already paid the first installment of their debt.

⁸ The International Civil Aviation Standards are prepared by International Civil Aviation Organization (ICAO) and their application is regularly monitored. These standards cover all aspects related to civil aviation including: flight safety; civil aviation rules and regulations; human resources; preservation of the environment; technical conditions of airplane; civil aviation facilities including the airports, terminals, control towers, depots ; administration, financial & managerial aspects ;technical equipment of all kinds (RADAR; VSAT; MLAT; communication, navigation & surveillance equipment; fire and crash rescue equipment; aeronautical information equipment; basic electronics, etc.)

⁹ RT, "Int'l chaos feared if U.S. stops managing Afghan airspace," <http://www.rt.com/usa/256301-us-management-afghan-airspace/>, May 7, 2015.

Corruption and ACAA's inadequate internal control

According to ACAA officials, corruption adversely affects all of the Authority's functions, with the greatest problems found in staff recruitment (favoritism), and contracting with outside service providers, and the procurement of goods. The causes of corruption within the ACAA are similar to those at other government institutions: a lack of punitive measures; abuse of decision-making power by ACAA officials; poor incentive structures; economic and political instability; ineffective regulations and policies; and needlessly complex internal procedures. Corruption also impeded the process of building the capacity of ACAA's technical staff. Unconfirmed reports from Afghan government employees allege that some ACAA officials have a vested interest in seeing international companies manage Afghanistan's airspace indefinitely as such a development would obviate the need to make difficult reforms and potentially controversial human-resources decisions. ACAA officials with whom MEC spoke conceded the seriousness of the corruption problem and they recommended reforming the existing capacity building mechanism, strengthening anti-corruption efforts, and responding appropriately to overcome the ACAA's funding deficit.

ACAA has an Internal Audit Department (IAD), which attempts to implement anti-corruption policies proffered by the Supreme Audit Office (SAO) for all government institutions. However, most interviewees described the IAD as ineffective. The IAD suffers from a lack of authority to mount independent investigations of corruption cases without the express permission of senior leadership, which suggests a lack of political will to fight corruption within the uppermost echelons of the Authority. Moreover, the IAD is lacking funds and usually unable to travel outside of Kabul to the degree necessary to execute its oversight mission.

The IAD encounters two major challenges such as lack of adequate funding and lack of authority. Particularly when there is a need to decide, which corruption cases shall be addressed first or which case shall not be addressed at all. These decisions are mainly made by the ACAA's top leadership. The IAD is responsible to address cases of corruption both in Kabul and in the provinces, but the annual budget merely covers the current IAD expenses including the salary, some minor purchases, and its audit missions in and around Kabul.

Complaints about corruption in the ACAA in the past were normally collected by the High Office of Oversight and Anti-Corruption (HOO), but according to a Cabinet Resolution,¹⁰ the entity shall only concentrate its activities on asset registration and simplification of procedures in the government. All complaints directly posted to the ACAA shall be investigated by the IAD, which afterwards either refers them to the AGO or settles internally depending on the nature of the case. During 2014 and the first quarter of 2015, the IAD carried out investigations on seven complaints posted directly to the ACAA, three of which were referred to the AGO, with the other four settled internally (no information was made available to MEC about the precise disposition of these four cases).¹¹ According to the IAD, the total number of complaints posted directly to the ACAA during the mentioned period was 17, however no figures were provided about the number of ACAA related corruption complaints received and investigated by the HOO. A lack of both qualified oversight personnel and comprehensive oversight mechanisms are among the challenges in all of ACAA's technical departments, which causes the lack of assurance in meeting international civil aviation standards by foreign companies contracted by the ACAA.

¹⁰ Resolution No 3, 1393/08/01

¹¹ MEC interview with IAD officials, July 26, 2015

Corruption is existed throughout the ACAA, but no employee has the courage to provide reliable data substantiating the claims. The information provided in this report was collected during the interviews with current ACAA's employees and a number of its former employees. Interviews also conducted with at least three travel agencies. According to the information collected during the interviews, the number of the flights/week by domestic airlines to countries of region has decreased significantly, while the number of Afghan and foreign passengers using Afghan airlines has been constantly decreasing from 2013 to 2015. According to the President of Laws & Air Transport Agreements of the ACAA, the failure of ACAA to ensure that, all its functions meet the international aviation standards is the main reason for a decreasing rate of trust among Afghans and foreigners towards Afghan airline companies. Despite the high investments in the organization, a lack of well-trained professionals in different ACAA's departs and the ongoing dependency on external assistance give clear evidence of the corruption particularly in recruitment, financial and capacity building as well as in contracting aspects.

III. Conclusion

The prime result of the 13 years of international community investment and assistance to the Afghan aviation system was rebuilding the ACAA, which was on the verge of collapsing. The ACAA was re-established in 2013 and significant improvements were made in terms of its legal structure, regulatory regime, infrastructure, security, and human capacities.

Despite these efforts and the huge amounts invested, the ACAA still lacks an adequate number of technical staff as well as financial resources. Most of the trained civil aviation personnel in the ACAA received only basic academic training in air-traffic control and were not provided with essential on-the-job training. In spite of the adequate annual revenue generated, the ACAA lacks the authority to use all its income to fund the services it provides. The annual budget allocation to ACAA is far inadequate to ensure proper airspace management and other technical services.

Given the corruption level within the ACAA, the existing anti-corruption arrangements are inadequate. The IAD suffers from the lack of authority to mount independent investigations. It is also underfunded and its staff is usually unable to travel to the provinces to the degree necessary to execute its oversight missions. The totality of these challenges resulted in the ACAA's extended dependence on international community financial and technical assistance, and hindered the transition of control of Afghanistan airspace to the Afghan authority. To overcome the existing obstacles, there is a dire need for enhancing the ACAA's technical capabilities, providing it with adequate funding to cover all its services, improving the recruitment and contracting systems and strengthening the existing anti-corruption capacities.

Afghanistan Civil Aviation Authority

Recommendations

Indicator		Recommendation		Baseline
1	Capacity needs assessment report prepared	1.1	Afghanistan Civil Aviation Authority(ACAA) , with the assistance of the international community (Federal Aviation Authority , Department of Defense, and Coalition forces) conduct a capacity needs assessment covering human, institutional and physical aspects	March 25, 2016 No capacity needs assessment conducted so far either by ACAA or by international partners.
2	A comprehensive capacity building plan prepared and implemented	2.1	Based on the findings of the capacity needs assessment, the ACAA prepares and implements a comprehensive capacity building plan which shall include human, institutional(policies, rules and regulations, procedures and mechanisms) and physical (civil aviation equipment and infrastructures such as airports, terminals, depots etc.)	March 25, 2016 ACAA lacks a planned and consistent capacity-building program and the current endeavors in this regard are carried out based on ad hoc donor plans. Most of the training programs planned so far, lacks an on-the-job (OJT) component
3	Adequate number of trained technical personnel existed in ACAA	3.1	ACAA with the assistance of the international community (FAA, DoD and Coalition forces) trains required number of technical personnel to ensure its self-reliance	March 25, 2016 No consistent training program, which is prepared, based on a capacity needs assessment undertaken so far, and most of training program undertaken based on immediate and ad hoc plans of donors. The majority of FAA-trained personnel received only basic academic training without any OJT component

4	Recruitment of the ACAA's staff according to the existing IARCSC's recruitment procedure	4.1	ACAA, Independent Administrative Reform and Civil Service Commission recruit the ACAA's staff according to the existing IARCSC recruitment procedure	March 25, 2016 The recruitment process in ACAA is sometimes influenced by high-ranking GIRoA officials, political leaders and MPs which means some of the key positions are occupied by individuals which are not qualified for these positions
5	Bidding process conducted based on the National Procurement Law	5.1	The ACAA's Contracting Department allows only those contractors, which cleared their tax obligations and have valid business license to participate in the bidding process. All ACAA's contracts (with foreign and domestic companies) publicized in ACAA's website	March 25, 2016 Lack of adherence of the ACAA's Contracting Department to existing legal contracting process, occasionally results to awarding of the contracts to companies with unclear tax obligations and no valid business license
6	Airspace management services provided by ACAA/contractors meet international civil aviation standards through effective safety oversight	6.1	ACAA in cooperation with international partners(FAA, DoD and coalition forces) strengthens the existing safety Oversight Department by providing adequate equipment, well-trained safety oversight inspectors and creates a comprehensive oversight mechanism	March 25, 2016 ACAA lacks a strong and well-equipped Oversight Department with adequate number of expert safety oversight inspectors as well as oversight mechanism to ensure the technical functions carried out by ACAA itself or contractors meet international civil aviation standards.
7	Strengthening Internal Audit Department (IAD) in ACAA	7.1	a) ACAA's leadership Gives the IAD adequate authority to independently address all cases of corruption without express permission of the leadership b) ACAA's leadership ensures that, there is adequate number of AC inspectors recruited for IAD and provided with essential trainings on corruption-related subjects including the investigation of the corruption cases	March 25, 2016 ACAA's leadership occasionally interferes in IAD affairs, which prevents addressing corruption cases properly. Lack of AC expertise in IAD is also stands as a challenge to ACAA. Some of the inspectors in IAD lack adequate expertise in AC and proper investigation of the corruption cases, which results to ineffective performance of the IAD.

Appendix: International Support for Civil Aviation

Developing institutions

- Establishment of ACAA (FAA)
- Drafting a Civil Aviation Law and associated regulations and policies, creating aviation revenue structures, and security-oversight systems (FAA)
- Contributing to the Afghan government's development of a Civil Aviation Roadmap and Aviation Action Plan (FAA)

Upgrading infrastructure

- Installing an approach-control system at Kabul International Airport (KAIA) (FAA)
- Reconstructing KAIA's control tower and radio equipment (FAA)
- Reconstructing KAIA's runway (WB)
- Providing KAIA with communications and air-traffic control equipment (WB)
- Expanding Afghanistan's Aperture Terminal Network, which provides surveillance services to military and civilian aircraft (DOD)
- Transferring seven very-small-aperture terminal systems and one radar system (DOD)
- Establishing the Kabul Area Control Center (FAA)

Improving Airport Security

- Constructing a security building and airport perimeter fence (FAA)
- Helping to develop and implement an aviation security system for Afghanistan (FAA)

Developing human capacity

- Training of 36 (FAA) and 58 (Coalition forces) air-traffic controllers
- Training of 19 inspectors; 14 communication, navigation and surveillance personnel; 13 managers; 10 fire and crash rescue service officers; and four aeronautical information service staff (FAA)
- Training ACAA staff on basic electronics and flight safety inspections (German government)
- Conducting English classes, as well as equipment-theory training for communications, navigation, and surveillance students (Portuguese Air Force)