

I. SUMMARY OF THE CARD-F INQUIRY

MEC has conducted an inquiry into concerns about the operation of the Comprehensive Agriculture and Rural Development Facility (CARD-F) Program. This inquiry was initiated by allegations from five separate whistleblowers, all of which were investigated, plus significant information provided by others.

CARD-F aims to increase rural employment, incomes and business opportunities through the design and implementation of Economic Development Packages (EDPs). The program is implemented by an Afghan Management Unit (MU) while an Inter-Ministerial Committee provides strategic guidance. CARD-F reports to a Technical Steering Committee (TSC), which consists of the Deputy Ministers for Technical Affairs from the Ministry of Agriculture, Irrigation and Livestock (MAIL), Ministry of Rural Rehabilitation and Development (MRRD) and the Ministry of Counter Narcotics (MCN), plus DFID, representing the donors, in respect of more detailed technical matters. The Program is funded off-budget by DFID and DANIDA.¹

The program is in two Phases. Phase I (30 million British Pounds (BP)) started in 2009 and ended in 2014. This was followed by Phase II (60 million BP), which will continue until December 2018. Because this report is the result of an inquiry into possible malpractice, whether past or current, some of the findings relate to Phase I, and some relate to Phase II. Where relevant, this is made clear in the report.

MEC approached the main donors, DFID and DANIDA, to better understand the issues, and learned from DFID that they themselves had previously received information from one whistleblower,² who made 29 whistleblower complaints related to CARD-F. DFID told MEC that they had commissioned a major forensic audit in response to this. According to DFID, “23 of the 29 allegations were either deemed unproven or false, or if true, unlikely to have had a major impact; three where the impact or veracity is unclear, and three that could appear to be true.” However, the donors declined to share the audit report with MEC, or any part of it, citing confidentiality as the reason.

This inquiry does not examine the benefits of the program for Afghanistan’s farmers. It is focused purely on concerns about poor practices and possible corruption. The CARD-F program has some impressive achievements. According to the CARD-F Management Unit, the program has established 6,294 agricultural enterprises across 14 provinces. It has created or safeguarded 59,956 employment opportunities, and it has increased the net income of Afghan farmers by AFN 1.2 billion.

¹ Off-budget means that “aid assistance is provided (directly) by a donor and/or implementing agency that bypasses the core national budget.” Definition of the MoF Directorate General of Budget, <http://www.budgetmof.gov.af/>

² Information from CARD-F Management Unit responses to MEC, comment number 4; September 30, 2017.

Findings

1. Nepotism and cronyism in the CARD-F Management Unit

Allegations about malpractice in the MU have been made by several sources. MEC's findings show that at least some of these allegations were justified. The former Executive Director (ED)³ was hiring and promoting staff based at his own discretion, interpreting the applicable HR Manual to his own benefit. He used the following mechanisms in this regard:

- Headhunting approach for hiring targeted people without going through the formal recruitment process.
- Promotion of staff based on a business memo issued by the HR Department on the instruction of the ED. This is also a violation of the HR Manual, which requires promotions to be based on the results of annual performance reviews.

As a result of this practice, for example, 15 percent of the employees are from the same province and many of them from the same district as the former ED. A significant number of drivers, office cleaners and guards who are originally from the province of the former ED are employed to work in Herat, Kabul and Helmand Provinces. CARD-F could easily hire support staff from the respective provinces and does not need to deploy people from another province. Exporting junior staff from the province of the former ED to jobs in another province is nepotism.

These practices were not detected, despite several layers of monitoring, audit and control established by the donors – Fund Manager (Atos Consulting Ltd.), the Independent Monitoring Agent (Crown Agents in Phase I) Technical Reviewer (Coffey International in Phase II) and the auditors (first KPMG and since 2016, Ernst & Young (E&Y)). These control units were either not doing their job or were impeded by the blurred lines of responsibilities. In addition, MEC learned from one of the whistleblowers of allegations against other senior members of the MU. MEC has not pursued this particular set of allegations.

These issues cover the periods of both Phase I and II. Donors have informed MEC that the control weaknesses that allowed this to happen have been corrected, but MEC has not done any assessment of the improvements.

2. There have been Irregularities in the awarding of grants and procurement contracts

³ The whistleblower reports that MEC received concerned the nepotistic conduct of the ED who was in office when MEC started this inquiry. The ED then resigned from his position at the end of June 2017. Therefore, this report refers to him as the former ED.

In order to implement the EDPs, CARD-F enters into contracts with private companies. It also supports investors in the agriculture business through the provision of grants. The applicable manuals for the procurement of goods and services, and the provision of grants were developed by Atos for Phase I and amended by the MU, reviewed by Atos and then approved by the TSC for Phase II. The Monitoring Agent (Crown Agents in Phase I) was in charge of providing NOLs for the procurement contracts. MEC's findings show irregularities and violations of the applicable manuals and related Afghan national laws. These irregularities include:

- Use of contracting companies that are debarred by the Afghan National Procurement Authority,
- Accepting informal proposals, edited by hand,
- Accepting bidding documents beyond the closing date,
- Accepting different and contradicting ownership documents, and
- Accepting different bank statements after the deadline.

These irregularities should not have occurred in any project; especially not given the presence and the approval procedures of International Monitoring Agents.

3. Funds in Phase 1 went primarily to international contractors

The complicated governance structure has led to the inefficient expenditure of the funds and weak control mechanisms during Phase I. The plan for Phase I was for 60 percent of the total budget to go to the end users, with the rest roughly equally spent between project management and TA. However, only 33percent reached the end users, instead of 60 percent. The foreign contractor (Atos) received the bulk of the funds. The budget for TA in Phase I was also overspent by 64 percent, resulting in substantially less funds being available for EDP investments.

Expending 64% percent of the Phase I budget on 'support and assistance,' which then goes almost entirely to foreign firms, is a very poor of donor funds. However positive may be the impact of the remaining 33 percent for Afghan farmers, practices such as this reinforces a belief held by Afghans that donor money is largely for the benefit of the donors and their contractors.

This matter has been examined by MEC in respect of Phase I. It may or may not be true for Phase II, as MEC has not followed this up further.

Donors have responded that the numerical figures are misleading or incorrect, and that MEC is not considering the difficulties encountered with establishing the program, or the amount of capacity building that was required in the early stages to build the Management Unit.⁴ MEC has re-examined all the numbers used and corrected any incorrect figures. Donors further comment that MEC should first conduct a complete value for money assessment before drawing any

⁴ DFID comment number 13, in response to MEC's second draft of this inquiry report.

conclusions⁵, which is an impractical suggestion for an inquiry.

4. There have been conflicts of interest for the international contractor in Phase 1

In Phase I, Atos had a conflict of interest that was not controlled. Atos was simultaneously managing the funds of CARD-F on behalf of DFID, hiring the CARD-F local staff and providing Technical Assistance (TA) to CARD-F's MU. In this triple role, Atos had wide discretion in determining the need and quantity of TA at least during Phase I, therefore had an incentive to maximize its benefits from the arrangement. This was evident from the 100 percent overspend on TA in Phase I.

MEC has been informed by DFID that new measures have been adopted in Phase II to monitor the discretionary power of Atos, but it is not part of this inquiry for MEC to confirm any new arrangements.

5. The donors' externally-commissioned forensic audit lacks credibility

After receiving the 29 allegations from the whistleblower, the donors contracted E&Y to conduct a major forensic audit and check all these allegations. MEC was informed by DFID and other core MEC donors that the results of the E&Y audit were largely clean.

However, MEC was not informed until the end of this inquiry that the allegations were all from a single whistleblower. This suggests that the allegations of the other whistleblowers, including those who had left or not been fired, had not been sought out or even noted.

MEC made attempts to obtain and review the forensic audit report without breaching any confidentiality issues – by offering to see the report after redacting all the names, or by seeing it only – but these offers were not accepted.

MEC therefore had to intuit the content of the forensic audit from others. In doing this, MEC was informed by two senior sources, one of who had read the forensic audit report, that this audit was a compliance audit than a forensic audit. MEC is of course unable to verify whether this is true.

Overall, this 'major forensic audit' therefore lacks credibility.

Also a conflict of interest may exist, because one organization, E&Y, carried out both the regular audits and the forensic audit, though they were from different offices. Detection of impropriety would have possibly indicated negligence of E&Y in its auditor's responsibility. The donors have informed MEC that this was not a conflict of interest, because "a separate E&Y office (Dubai) was contracted to conduct the audit, which was considered to be materially different from the financial compliance audit role E&Y Pakistan."

⁵ DFID comment number 27, in response to MEC's second draft of this inquiry report.

6. The governance arrangements are complex and were poorly monitored in Phase 1

Because CARD-F is operating as a ‘program,’ rather than as an established legal entity, it has the disadvantage that it cannot enter into any contractual agreements.⁶ This contractual arrangement resulted in an inefficient structure of the program,⁷ possible conflicts of interest among the foreign contractors used (see below) and ineffective oversight. The complex governance arrangements also led to a smaller proportion of funds going to the Afghan contractors in Phase I, with the rest going to the foreign contractors (see below).

The complex governance structure is still in place, but donors have assured MEC that the monitoring and control arrangements are now much stricter in the current Phase II. Donors, as evidence, provided MEC with significant material, including a report and follow up on Future Governance Options, and details of audit recommendations and their improvement for the period 2016-2017.⁸ MEC has not evaluated these changes.

7. There is possible illegality in employee contracting

Because DFID has to contract with a foreign entity to operate CARD-F, the foreign contractor, in turn, has to subcontract a separate Afghan entity, because the foreign contractor is not registered in Afghanistan and has no bank account in Afghanistan. This means that Atos cannot hire any national or international staff. The contractor, Atos, therefore subcontracted the financial management aspects to an Afghan company (Afghan Image Business Development).

The Afghan subcontractor applied for work permits at the Ministry of Labor, Social Affairs, Martyrs and Disabled (MoLSAMD) presenting itself as the employer.⁹ However, this employment relation does not actually exist.

MEC also followed up this issue with the relevant tax office in Kabul and found out that no income taxes were paid by Afghan Image for “the company’s” international consultant.

MEC considers that this technical device for gaining work permits may be illegal, as the substance of the work being done is different from the legal application.

This matter is relevant for both Phase I and II.

The donors and Atos have informed MEC that they believe that these arrangements are legal.

⁶ Article 5 of the MoU between the Government of the United Kingdom of Great Britain and Northern Ireland acting through the Department for International Development (“DFID”) and the Government of the Islamic Republic of Afghanistan, acting through the Ministry of Finance together called “the Participants” United Kingdom / Afghanistan: Comprehensive Agriculture and Rural Development Facility (CARD-F) Technical Cooperation Grant 2014-18

⁷ DFID as the lead donor had contracted a foreign company (Atos Consulting Ltd, in the UK) to provide financial management services, hire national staff for the program and provide services. A second foreign company (Crown Agents, also in the UK) was contracted in Phase I to monitor and evaluate the program.

⁸ DFID comment number 58, in response to MEC’s second draft of this inquiry report.

⁹ MEC has received some of these contracts including the application forms and work permits of Atos Consulting Ltd employees. The contracts are signed by both parties and define Afghan Image Business Development as the employer and the foreign citizens (who actually work for Atos) as the employee. According to the contracts, the foreign citizen is hired as a consultant with Afghan Image.

The contractor, Atos, has commented that the structure was established with the help of professional advisers.¹⁰

8. Donors oppose examination of their own practices

MEC had hoped that donors would respond positively to an independent examination of possible corruption concerns in a major donor-funded program. However, MEC's inquiry was opposed by donors until a late stage. The existence of the donors' 'major forensic audit' was cited by donors as a key reason why MEC should not be concerned. Yet MEC had independent whistleblower information, and the donor audit appears to have been less comprehensive than MEC was given to believe. The right response would surely have been to welcome such scrutiny, as has been the case in recent MEC analyses of the Ministries of Public Health and Education.

Donor responses and overall system improvements

Donors raised the question to MEC whether this inquiry constitutes an assessment of Phase II. The answer is clear: it does not. This is an inquiry responding to concerns raised by whistleblowers – whether the allegations occurred in Phase I or Phase II. This inquiry does not constitute a systematic evaluation of either Phase I or Phase II.

Donors have stated to MEC that they have put in place significant governance improvements since the end of Phase I and after the findings of the forensic audit, and have provided documents to this effect. MEC has no reason to doubt any of this evidence. However, it is not the role of this inquiry to assess the integrity of the overall current system.

Conclusions

In conclusion, MEC has confirmed that many of the concerns of whistleblowers about problems in CARD-F were justified, with significant instances of malpractice and potential illegality in the governance and operation of the CARD-F Program. At least two of the whistleblowers were fired, and others felt they had to leave, and left. MEC recommends that DFID examines how it can build a culture in its projects and programs that genuinely welcomes and protects whistleblowers and is open to discussion of potential weaknesses.

Second, while it is clear that Phase II is operating differently from Phase I, which has closed, and that governance practices in Phase II are better than in Phase I, many things remain the same and many individuals who were party to the earlier failures are still in place. Some of the concerns identified in this inquiry are of an ongoing nature e.g., the doubtful validity and possible illegality of the employment contracts and the EDP contracting process. MEC expects that DFID will want to commission an independent external review on the totality of Phase II integrity.

¹⁰ DFID comment number 20, in response to MEC's second draft of this inquiry report.