



**Independent Joint Anti-Corruption
Monitoring and Evaluation Committee**

Recommendations and Benchmarks Related to Accountability and Oversight of the Afghanistan Investment Support Agency (AISA)

An audit of AISA is required to address questionable practices within AISA

Significant gaps in the accountability of AISA exist due to a number of inconsistencies in legislation and regulations governing the organization. This has been exacerbated by a lack of oversight exercised by the High Commission on Investment and the absence of corporate governance mechanisms that would normally hold management to account. This has permitted AISA to spend money collected for public services on, among other things, exorbitant salaries and other unnecessary expenses. Since AISA has operated within this vacuum, there is a need for an independent financial and performance audit of AISA, including oversight exercised by the High Commission on Investment, to identify any inappropriate activities or uses of funds.

Recommendation 6.6: The Supreme Audit Office should conduct an independent financial and performance audit of AISA, including of the governance and oversight exercised by the High Commission on Investment, specifically focused on verifying AISA's performance with respect to requirements set out in law and to identify any potential misuse of funds.

Benchmark: Independent financial and performance audit completed and results published by the end of March 2014.

Expected Outcome: Accountability gaps related to AISA and the High Commission on Investment identified and transparency strengthened.

AISA's legal status is unclear and should be reconstructed immediately to enhance accountability and oversight

AISA is governed by several different legislative and legal documents, including the 2005 *Law on Private Investment*, the *Law on Corporations and Limited Liability Companies*, AISA's 2004 charter, and its 2006 bylaw as a limited liability company. The legal and regulatory framework created by these instruments incorporate elements of public- and private-sector governance creating a confusing and inconsistent structure that has allowed AISA to operate without sufficient oversight and accountability. Rather than retaining the fees it collects for performing public services, this revenue should be deposited into the Central Revenue Account of the Government. It is incumbent upon the Ministry of Commerce and Industries and the High Commission on Investment to reconstruct and clarify AISA's status to ensure appropriate oversight.

Recommendation 6.7: The High Commission on Investment should develop and implement a plan to restructure AISA's regulatory framework in a manner that clarifies its legal status and provides enhanced transparency and accountability. The plan should update all relevant instruments (laws, regulations, procedures, charter, bylaw, etc.) related to AISA's mandate,



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authorities, organisational structure, budgeting, reporting requirements, and audit processes. The plan should be shared with the Office of Administrative Affairs and the Civil Service Commission to ensure appropriate approval and implementation.

Benchmark: Plan is developed and submitted to the Office of Administrative Affairs and the Civil Service Commission by the end of March 2014. Implementation commenced by 1 June 2014.

Expected Outcome: AISA's legal status is clarified and transparency and accountability are enhanced.

Lack of transparency regarding High Commission on Investment decision-making creates the potential for undesirable practices

Decisions taken within the High Commission on Investment with respect to the oversight of AISA are not made transparently. The lack of transparency has led to concerns being raised about the appropriateness of AISA's broad scope of activities in commercial affairs and its use of funds.

Recommendation 6.8: The High Commission on Investment should publish all previous and future decisions and meeting outcomes. This should include the outcome of AISA performance reviews, budget approvals, work plans, financial reports, and audit results.

Benchmark: Previous and future decisions and outcomes are published on the Ministry of Commerce and Industry's website by the end of January 2014, and updated continuously thereafter.

Expected Outcome: Increased transparency of the High Commission on Investment's decision-making.

Transfer of responsibility for industrial parks from the Ministry of Commerce and Industries (MoCI) to AISA has raised significant concerns

According to a resolution of the Council of Ministers from October 2012, the Ministry of Commerce and Industries was to transfer industrial park responsibility along with its thousands of jeribs to AISA. Analysis shows that the transfer of responsibility is not in conformity with provisions of the Constitution and laws of Afghanistan. From a practical perspective, the incorporation of a large administrative unit into a relatively small organization presents a number of challenges. Information already received by MEC indicates that transfer procedures have not been transparent and are leading to nepotism and other concerning practices.

Recommendation 6.9: The Ministry of Commerce and Industries, in cooperation with the Ministries of Justice and Finance, should review the legitimacy for the transfer of MoCI's responsibility for industrial parks to AISA and submit the results to the Council of Ministers.



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Benchmark: The review is completed and findings submitted by the end of February 2014.

Expected Outcome: A review of the legitimacy of the transfer would provide an opportunity for the Council of Ministers to review the resolution of the transfer of industrial parks.