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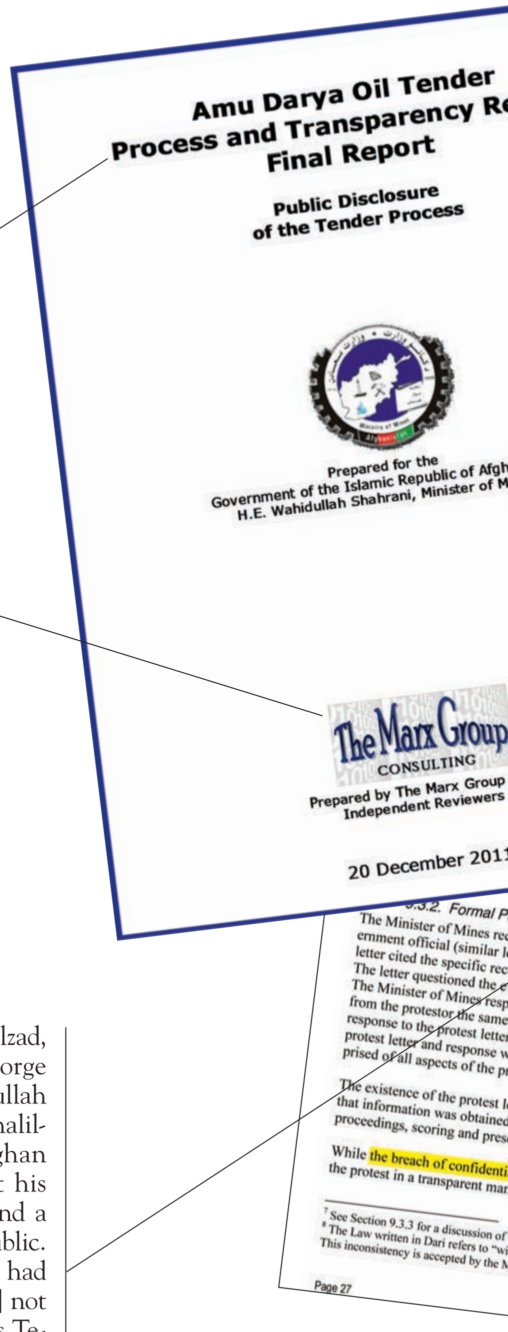
A former U.S. ambassador peddles influ

The report itself looks fairly innocuous. In 2010, after the Afghan Ministry of Mines began planning for a tender—a request for bids—on a contract to drill for oil in the Amu Darya Basin, it asked for an independent "transparency review" of the process. The amount of oil is relatively small: the contract area, which lies near Afghanistan's northern border, is estimated to hold about 80 million barrels, and the country as a whole is thought to have reserves of about 1.6 billion barrels—roughly the amount that Saudi Arabia produces every five months. Nevertheless, the stakes are high. The United States government has spent ten years trying to open Afghanistan to private foreign investment; the tender was supervised by the Pentagon's Task Force for Business and Stability Operations. The Amu Darya project will mark the first time since the Soviet era that a major foreign oil company has operated in Afghanistan, and if Afghans are actually going to benefit from the development of their oil fields, they will need to do a better job of negotiating contracts than have other resource-rich countries in the developing world.

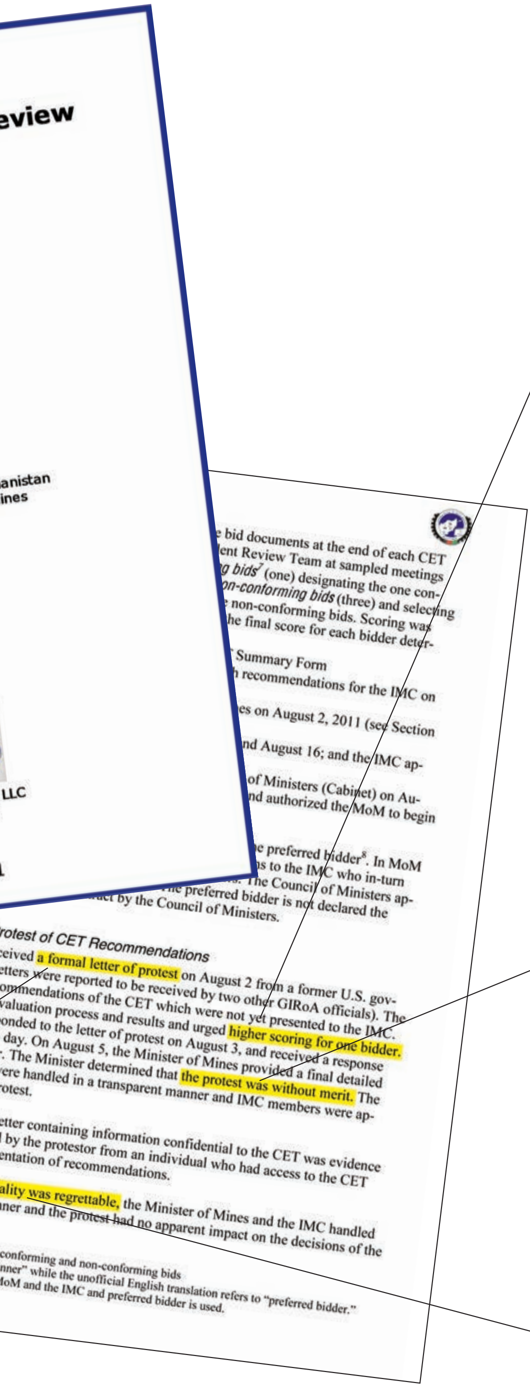


To the chagrin of one of the largest Western oil companies involved, Tethys Petroleum, the contract went to China National Petroleum Corporation (CNPC). This is the second major resources contract to be awarded by Afghanistan to China—in 2007, the state-owned Metallurgical Corporation of China was granted a thirty-year lease on the country's largest known copper deposit. With funding from the Pentagon, the Ministry of Mines hired the Marx Group, a Virginia-based consulting firm, to conduct the independent review. Marx specializes in helping the governments of poor nations attract foreign investment. In the report, they deemed the tender both fair and transparent. CNPC offered a royalty rate of 15 percent to the Afghan government—well above the 4 percent bid by Tethys, and the highest overall. Marx's review, however, does mention one troubling irregularity: an individual identified in the report as "a former U.S. government official" had pressured the Afghan government to award the contract to Tethys despite the better terms offered by CNPC.

Upon investigating, I discovered that the U.S. official in question was Zalmay Khalilzad, former U.S. ambassador to Afghanistan, Iraq, and the U.N. under President George W. Bush. Khalilzad had attempted to persuade the Afghan minister of mines, Wahidullah Shahrani, to change the decision of the Contract Evaluation Team (CET). Because Khalilzad, who was born in Afghanistan, is considered a leading candidate for the Afghan presidency in 2014, few people involved in the bidding process would speak about his actions on the record. But I obtained copies of the correspondence—three emails and a message sent via BlackBerry—discussed in the Marx Group's review but never made public. Well before the CET's decision was announced, Khalilzad wrote to Shahrani that he had heard "disturbing reports" about the outcome of the tender and warned that "it [would] not reflect well on the Ministry" if CNPC were to get the contract. Khalilzad was acting as Tethys's representative through his consulting firm, Gryphon Capital Partners, but it is clear from the messages that he's trading on the political capital of the United States government. The original "formal letter of protest" mentioned by the Marx Group was received on August 2, 2011; copies were apparently sent to Afghan president Hamid Karzai and minister of finance Omar Zakhilwal.

ET, CRUDE

ence in Afghanistan, *by Antonia Juhasz*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bid documents at the end of each CET
ent Review Team at sampled meetings
g bids' (one) designating the one con-
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non-conforming bids. Scoring was
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Summary Form
recommendations for the IMC on

es on August 2, 2011 (see Section

nd August 16; and the IMC ap-

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nd authorized the MoM to begin

e preferred bidder*. In MoM
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. The Council of Ministers ap-
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by the Council of Ministers.

rotest of CET Recommendations
ceived a formal letter of protest on August 2 from a former U.S. gov-
etters were reported to be received by two other GIRoA officials). The
ommendations of the CET which were not yet presented to the IMC.
valuation process and results and urged higher scoring for one bidder.
onded to the letter of protest on August 3, and received a response
day. On August 5, the Minister of Mines provided a final detailed
. The Minister determined that the protest was without merit. The
ere handled in a transparent manner and IMC members were ap-
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etter containing information confidential to the CET was evidence
by the protestor from an individual who had access to the CET
entation of recommendations.

ality was regrettable, the Minister of Mines and the IMC handled
ner and the protest had no apparent impact on the decisions of the

conforming and non-conforming bids
nner" while the unofficial English translation refers to "preferred bidder."
MoM and the IMC and preferred bidder is used.

Khalilzad has devoted much of his career in public service to bringing foreign oil companies to Afghanistan and Iraq. Now that he's in the private sector, he's cashing in. Tethys, which is registered in the Cayman Islands but was spun off from the U.S. company CanArgo Energy, was pursuing the Amu Darya contract as part of a larger investment across the border in Tajikistan. The contract for those resources was finalized in 2008, on terms remarkably favorable to Tethys, particularly in comparison with a Tajik contract signed the same year with Russia's Gazprom. (In 2012, Khalilzad joined the Tethys board and was issued options for 43,400 company shares.) In his response to Khalilzad's protest letter, Minister Shahrani wrote that although Tethys was looking for terms similar to those it had secured in "other Central Asian countries," "I would like to state that the system in those countries is pretty much different than our system where we have more standard procedures." Khalilzad only hinted at the possible political consequences of choosing CNPC over Tethys, but Shahrani made clear that he understood the "**strategic implications on Afghanistan**" (emphasis in the original).

In his letter, Khalilzad argued that those evaluating the bids had ignored CNPC's "horrible record in Africa and throughout the developing world" and pointed to a potential conflict of interest: Afghanistan's deputy minister of public works was on the board of CNPC's local partner company, the Watan Group. In his response, Shahrani rejected claims that CNPC had poor environmental and human rights records (although it would be more accurate to say that CNPC is no worse than any other oil company) and deadpanned that he was "happy to report" that the deputy minister of public works was no longer affiliated with the Watan Group. He reiterated that the reason Tethys's bid had been rejected was the low royalty rate and added that there were "serious concerns on the competence of Tethys," including its unwillingness to commit adequate capital to carry out its contractual obligations in Amu Darya. Last year, Tethys president David Robson proved that the company's attitude toward CNPC had evolved since the tender: he called it a "world-class company" and announced that Tethys would partner with CNPC to finance its operations in Tajikistan.

In his protest letter, Khalilzad refers to confidential findings of the CET that had not yet been formally submitted to the Afghan government. An official with intimate knowledge of the proceedings told me that Khalilzad had paid for this information—which, if true, could amount to an illegal bribe under Afghanistan's Hydrocarbons Law and the U.S. Foreign Corrupt Practices Act. (The official asked that his name not be disclosed.) Shahrani told Khalilzad that it was "disturbing" that representatives from Tethys were attempting to influence the bidding process. When that attempt failed, Khalilzad was anything but abashed: he took to the pages of *Foreign Policy* to decry the outcome as a failure of U.S. policy. Whether the CNPC contract will ever benefit the people of Afghanistan is an open question. But Shahrani assured Khalilzad that the decision would prove "correct, fair and in the best interest of Afghanistan"—though not, perhaps, in the best interest of the former U.S. ambassador. ■

Antonia Juhasz is a fellow at the Investigative Reporting Program at the University of California's Berkeley Graduate School of Journalism. Her most recent book is Black Tide: The Devastating Impact of the Gulf Oil Spill.