



One Hundred Seventeenth Congress
U.S. House of Representatives
Committee on Foreign Affairs
2170 Rayburn House Office Building
Washington, DC 20515
www.foreignaffairs.house.gov

December 1, 2022

The Honorable Antony Blinken
Secretary of State
U.S. Department of State
2201 C Street Northwest
Washington, DC 20520

The Honorable Janet Yellen
Secretary of the Treasury
U.S. Department of the Treasury
1500 Pennsylvania Avenue, N.W.
Washington, D.C. 20220

The Honorable Samantha Power
Administrator
U.S. Agency for International Development
Ronald Reagan Building
Washington, D.C. 20523

Dear Secretary Blinken, Secretary Yellen, and Administrator Power,

I write regarding the Department of State, Department of the Treasury, and USAID's ongoing refusal to comply with requests by the Office of the Special Inspector General for Afghanistan Reconstruction (SIGAR). This refusal is a flagrant violation of the law and part of a lengthy pattern of obstruction by the Biden Administration towards oversight efforts related to its catastrophic withdrawal from Afghanistan and the current situation in the country.

The State Department, Treasury Department, and USAID's conduct is at odds with President Biden's express commitments on the independence of Inspectors General. In April 2022 remarks, President Biden stated, "in my administration, the watchdogs are back" and "[n]obody in my administration is telling the inspector generals what they have to do. They're totally independent. They make a judgment. If they want to investigate something, do it."¹ Yet, in

¹ Remarks by President Biden with Inspectors General on Commitment to Oversight, Accountability, and Transparency (April 29, 2022).

responding to SIGAR, the State Department, Treasury Department, and USAID have done precisely the opposite.

SIGAR's October 30, 2022 Quarterly Report to Congress states that, "SIGAR, for the first time in its history, is unable this quarter to provide Congress and the American people with a full accounting of this U.S. government spending due to the noncooperation of several U.S. government agencies."² USAID and the Treasury Department "refused to cooperate with SIGAR in any capacity," while the State Department was "selective in the information it provided pursuant to SIGAR's audit and quarterly data requests, sharing high-level funding data but not details of agency-supported programs in Afghanistan."³

This follows SIGAR's June 22, 2022 letter notifying Congress that the State Department and USAID are "are unreasonably refusing to provide information and assistance requested by SIGAR, in direct violation of Section 1229(h)(5)(A) of the NDAA for FY 2008...and Section 6(c)(1) of the Inspector General Act of 1978, as amended."⁴

In defiance of the law, the State Department and USAID have refused to cooperate with SIGAR requests, including audits and reviews examining the collapse of the U.S.-backed government in Afghanistan, State Department and USAID compliance with laws prohibiting the transfer of funds to the Taliban, and ongoing humanitarian and development programs. According to Special Inspector General John Sopko, "State and USAID have, in some cases, simply ignored our communications, refused to make staff available for interviews, or refused to permit SIGAR to travel internationally to conduct research on the ground."⁵

Over \$1 billion in taxpayer dollars have been spent in Afghanistan since the Taliban's seizure of power. The State Department and USAID have wrongly asserted that they do not need to comply with SIGAR's requests, claiming in a July 8, 2022 letter that "[s]ince the Taliban takeover in August 2021, the United States has stopped providing assistance for the purpose of the reconstruction of Afghanistan" and that SIGAR requests are unrelated to "reconstruction" and thus exceed the scope of its jurisdiction.⁶

In fact, Congress endowed SIGAR with a broad mandate to conduct oversight related to Afghanistan reconstruction, and the inquiries being obstructed are within its authority, as outlined in considerable detail in SIGAR's letters to Congress and the State Department and USAID. SIGAR's authorizing legislation defines the term "amounts appropriated or otherwise made available for the reconstruction of Afghanistan" as including not only specified funding

² Special Inspector General for the Reconstruction of Afghanistan, *Quarterly Report to the United States Congress*, (October 30, 2022).

³ Id.

⁴ Letter from John F. Sopko, Special Inspector Gen. for Afghanistan Reconstruction to H. Comm. on Foreign Affairs, et. al. (June 22, 2022)

⁵ Letter from John F. Sopko, Inspector Gen. for Afghanistan Reconstruction to Antony Blinken, Secretary of State, and Samantha Power, Administrator, USAID. (June 22, 2022) al. (June 22, 2022)

⁶ Letter from Richard C. Visek, Acting Legal Adviser, Department of State, and Margaret L. Taylor, General Counsel, USAID, to John G. Arlington, General Counsel, SIGAR (July 08, 2022).

sources, but also those made available under “any other provision of law.”⁷ The legislation also directs SIGAR to report to Congress on funding mechanisms to “build or rebuild physical infrastructure of Afghanistan,” “establish or reestablish a political or societal institution of Afghanistan” and “provide products or services to the people of Afghanistan.”⁸

Historically, SIGAR has conducted the majority of oversight by Inspectors General on Afghanistan-related matters other than warfighting. By their own acknowledgement, the State Department and USAID previously complied with requests on numerous subjects they now purport are outside SIGAR’s jurisdiction including emergency food assistance, gender equity, healthcare, and economic development. They justify this by claiming that “[w]hile certain assistance may once have fallen under SIGAR’s jurisdiction insofar as it was part of the United States’ broader reconstruction effort, our assistance after August 2021 is no longer being provided for the reconstruction of Afghanistan.”⁹ The State Department and USAID have failed to provide any statutory basis for this nebulous definition of “reconstruction.”

The State Department and USAID do not have the authority to determine the scope of SIGAR’s jurisdiction or evade it on the grounds that they no longer deem their programs “reconstruction.” SIGAR’s authorizing statute grants the Special Inspector General “the authorities provided in section 6 of the Inspector General Act of 1978”¹⁰ which include the authority “to make such investigations and reports relating to the administration of the programs and operations of the applicable establishment as are, in the judgment of the Inspector General, necessary or desirable.”¹¹

The words “in the judgment of the Inspector General” are crucial. It would fundamentally subvert the purpose of the Inspector General Act and the principle of the independence of Inspectors General if a department or agency were allowed to choose which overseers it will deign to comply with. This is especially relevant in cases such as this, where there is a distinct possibility that the requests could yield findings that would be politically damaging or embarrassing to the entities obstructing them.

Furthermore, departments and agencies are explicitly required by law to comply with SIGAR’s requests. SIGAR’s authorizing statute states that “[u]pon request of the Inspector General for information or assistance from any department, agency, or other entity of the Federal Government, the head of such entity shall, insofar as is practicable and not in contravention of any existing law, furnish such information or assistance to the Inspector General, or an authorized designee.”¹² It further states that, “[n]o officer of the Department of Defense, the Department of State, or the United States Agency for International Development shall prevent or prohibit the Inspector General from initiating, carrying out, or completing any audit or investigation related to amounts appropriated or otherwise made available for the reconstruction

⁷ NDAA for FY2008, § 1229(m)(1)(B).

⁸ NDAA for FY2008, § 1229(i)(2).

⁹ Letter from Richard C. Vissek, Acting Legal Adviser, Department of State, and Margaret L. Taylor, General Counsel, USAID, to John G. Arlington, General Counsel, SIGAR (July 08, 2022).

¹⁰ NDAA for FY2008, § 1229(g)(1).

¹¹ Inspector General Act of 1978, 5 U.S.C. app. § 6(c)(2)

¹² NDAA for FY2008, § 1229(h)(5)(A).

of Afghanistan . . .”¹³ Simply put, by refusing to comply, the State Department, Treasury Department, and USAID are breaking the law.

The State Department and USAID also suggest that SIGAR’s inquiries are unnecessary and duplicative because other Inspectors General and Congress are conducting their own oversight efforts. This is not only legally irrelevant, but substantively misleading. SIGAR coordinates and deconflicts its work with the Inspectors General for the State Department and USAID, including through the OIG Afghanistan Project Coordination Group, which meets every six weeks.¹⁴ SIGAR stands distinct from other Inspectors General in its cross-jurisdictional authority to audit across agencies and its longstanding expertise in Afghanistan oversight. Cutting SIGAR out would fundamentally weaken Afghanistan-related oversight.

It is also misleading for the State Department and USAID to suggest they have been responsive to congressional oversight. State and USAID purport to have provided “over 150 briefings on Afghanistan-related matters, participated in hearings addressing these topics, and responded to numerous requests for information. . .” In fact, they have routinely obstructed Congress’ inquiries into the calamitous Afghanistan withdrawal. A mere handful of substantive briefings have been provided on the withdrawal itself, with the bulk of the supposed “over 150” figure cited being periodic updates on evacuations. The State Department and USAID have withheld crucial documents, information, and witnesses from Congress for over a year.

The refusal to cooperate with SIGAR and refusal to cooperate with Congress are each part of a larger pattern of obstruction. It additionally remains unclear what internal actions the State Department has taken to examine and respond to its failures in Afghanistan more than a year after Secretary Blinken promised “a series of internal reviews focused on our planning and execution for the evacuation and relocation effort in Afghanistan.”¹⁵ The State Department must provide Congress with the results of these reviews.

The State Department, Treasury, and USAID’s refusal to comply with SIGAR’s requests is unlawful and unacceptable. I urge you in the strongest terms to promptly ensure that the entities which you lead end this obstruction and return to full compliance with SIGAR’s oversight before congressional action becomes necessary.

To provide Congress a better understanding of the State Department, Treasury Department, and USAID’s failure to comply with SIGAR’s oversight, I request the following no later than December 15, 2022:

1. All documents and communications referring or relating to the State Department, Treasury Department, and/or USAID’s refusal to comply with any SIGAR request since August 16, 2021.

¹³ NDAA for FY2008, § 1229(e)(2).

¹⁴ E-mail from Special Inspector Gen. for Afghanistan Reconstruction to H. Comm. on Foreign Affairs (Nov. 11, 2022)

¹⁵ Remarks by Secretary Antony J. Blinken on the Modernization of American Diplomacy (October 27, 2021).

2. A list of all SIGAR requests which the State Department, Treasury Department, or USAID have refused to comply with in any aspect.
3. A detailed description of any coordination between the State Department, Treasury Department, and/or USAID related to responding to SIGAR requests, since August 16, 2021.
4. A detailed description of all State Department, Treasury Department, and/or USAID consultation/coordination with the White House, Department of Justice, and/or Office of Management and Budget related to responding to SIGAR requests, since August 16, 2021.
5. All documents resulting from State Department internal reviews related to the Afghanistan withdrawal, evacuation, and/or relocation effort.

I look forward to your prompt responses.

Sincerely,



MICHAEL T. McCAUL
Ranking Member
House Foreign Affairs Committee