

RICHARD J. DURBIN, ILLINOIS, CHAIR

PATRICK J. LEAHY, VERMONT	CHARLES E. GRASSLEY, IOWA
DIANNE FEINSTEIN, CALIFORNIA	LINDSEY O. GRAHAM, SOUTH CAROLINA
SHELDON WHITEHOUSE, RHODE ISLAND	JOHN CORNYN, TEXAS
AMY KLOBUCHAR, MINNESOTA	MICHAEL S. LEE, UTAH
CHRISTOPHER A. COONS, DELAWARE	TED CRUZ, TEXAS
RICHARD BLUMENTHAL, CONNECTICUT	BEN SASSE, NEBRASKA
MAZIE HIRONO, HAWAII	JOSHUA D. HAWLEY, MISSOURI
CORY A. BOOKER, NEW JERSEY	TOM COTTON, ARKANSAS
ALEX PADILLA, CALIFORNIA	JOHN KENNEDY, LOUISIANA
JON OSSOFF, GEORGIA	THOM TILLIS, NORTH CAROLINA
	MARSHA BLACKBURN, TENNESSEE

United States Senate

COMMITTEE ON THE JUDICIARY
WASHINGTON, DC 20510-6275

July 1, 2022

VIA ELECTRONIC TRANSMISSION

Samantha Power
Administrator
United States Agency for International Development

Dear Administrator Power:

I write to you today regarding disturbing reports that the United States Agency for International Development (USAID) has decided to not comply with requests for information and employee interviews made by the Special Inspector General for Afghanistan Reconstruction (SIGAR).¹ The Congress specifically requested that SIGAR conduct investigations into, among other things, the collapse of the Afghan government after President Biden hastened the removal of U.S. troops from the country, USAID and U.S. Department of State (State Department) compliance with applicable law prohibiting the transfer of funds to the Taliban, and ongoing delivery of humanitarian aid to the Afghan people.² Further, Congress established SIGAR for many purposes including, but not limited to, promoting the efficiency and effectiveness of reconstruction programs, and to prevent and detect waste, fraud, and abuse.³ The National Defense Authorization Act for Fiscal Year 2008 granted SIGAR jurisdiction to audit, investigate, and report on projects and programs that support, among other things, efforts to rebuild the physical infrastructure of Afghanistan, establish or reestablish the political or societal institutions of Afghanistan, and provide products or services to the people of Afghanistan.⁴ At best, it is alarming that as USAID Administrator, you would substitute your own judgment for that of the United States Congress on this matter.

Over the past decade, SIGAR has issued a multitude of reports covering numerous critical topics, including the Afghanistan Reconstruction Trust Fund, public corruption,

¹ See Lara Seligman, *State, USAID refuse to cooperate on Afghanistan audits, watchdog says*, POLITICO (June 22, 2022), <https://www.politico.com/news/2022/06/22/state-usaid-afghanistan-00041505>; see also Courtney Buble, *The Afghanistan Watchdog Blasts State and USAID for 'Sudden Refusal to Cooperate'*, GOV'T EXEC. (June 23, 2022), <https://www.govexec.com/oversight/2022/06/afghanistan-watchdog-blasts-state-and-usaid-sudden-refusal-cooperate/368518/>.

² See Letter from Carolyn B. Maloney, Chairwoman, and James Comer, Ranking Member, H.R. Comm. on Oversight and Reform, to the Hon. John F. Sopko, Special Inspector Gen. for Afg. Reconstruction (Sept. 10, 2021), <https://www.sigar.mil/pdf/spotlight/2021-09-10-CBM-SFL-Comer-Grothman-to-Sopko-SIGAR-re-Follow-up-Reports.pdf>.

³ H.R. 4986, 110th Cong. § 2 (2008); see also 5 U.S.C. App. 3 § 2.

⁴ SIGAR has jurisdiction to audit, investigate, and report on projects and programs using: “any . . . funding mechanism” that supports “any of the following purposes: (A) To build or rebuild physical infrastructure of Afghanistan. (B) To establish or reestablish a political or societal institution of Afghanistan. [and] (C) To provide products or services to the people of Afghanistan.” H.R. 4986, 110th Cong. § 1229(i)(2) (2008).

education, environmental, gender, and food assistance programs.⁵ According to an April 25, 2022 letter from the USAID General Counsel, Margaret L. Taylor, and State Department Acting Legal Advisor, Richard C. Visek, most, if not all, of these reports would have been prohibited by your brand new, suffocating interpretation of SIGAR's jurisdiction and scope, which plainly conflicts with congressional intent and *years* of precedent regarding SIGAR's scope and authorities.⁶ SIGAR has operated across several presidential administrations, and has authored report after report that shined the light on waste, fraud, and abuse of taxpayer money in Afghanistan. SIGAR has not pulled punches, and even when politically embarrassing or inconvenient for the political party in power, SIGAR has remained steadfast in providing timely and accurate information to Congress. This work must continue unhindered.

The Inspector General (IG) Act gives IGs express authority to request information and assistance from federal agencies so that they may carry out their statutorily mandated respective duties.⁷ The IG Act further states that, upon request, "the head of any federal agency involved *shall*, insofar as is practicable and not in contravention of any existing statutory restriction or regulation of the Federal agency from which the information is requested, furnish to such Inspector General, or to an authorized designee, such information or assistance."⁸ It is utter nonsense that USAID has now elected to take a different interpretation of the requirement to comply with SIGAR's investigations compared to that of past administrations, as well as the beginning of this administration.

Lastly, and perhaps most concerning of all, it is further reported that you have instructed USAID employees to not comply with SIGAR's ongoing investigative work, contravening

⁵ SPECIAL INSPECTOR GEN. FOR AFG. RECONSTRUCTION, SIGAR 22-15, AFGHANISTAN RECONSTRUCTION TRUST FUND: THE WORLD BANK IMPROVED ITS MONITORING, PERFORMANCE MEASUREMENT, AND OVERSIGHT, BUT OTHER MANAGEMENT ISSUES PERSIST (2022), <https://www.sigar.mil/pdf/evaluations/SIGAR-22-15-IP.pdf>; *see also* SPECIAL INSPECTOR GEN. FOR AFG. RECONSTRUCTION, SIGAR 20-10, EMERGENCY FOOD ASSISTANCE TO AFGHANISTAN: INCOMPLETE REPORTING AND LIMITED SITE VISITS HINDERED USAID'S OVERSIGHT OF MILLIONS OF DOLLARS OF FOOD ASSISTANCE (2019), <https://www.sigar.mil/pdf/audits/SIGAR-20-10-AR.pdf>; SPECIAL INSPECTOR GEN. FOR AFG. RECONSTRUCTION, SIGAR 22-11, DEMINING AFGHANISTAN: STATE MADE PROGRESS IN ITS DEMINING EFFORTS, BUT DID NOT CONDUCT TIMELY OVERSIGHT AND THE AMOUNT OF CONTAMINATED LAND INCREASED (2022), <https://www.sigar.mil/pdf/audits/SIGAR-22-11-AR.pdf>; SPECIAL INSPECTOR GEN. FOR AFG. RECONSTRUCTION, SIGAR 15-83, AFGHAN REFUGEES AND RETURNEES: CORRUPTION AND LACK OF AFGHAN MINISTERIAL CAPACITY HAVE PREVENTED IMPLEMENTATION OF A LONG-TERM REFUGEE STRATEGY (2015), <https://www.sigar.mil/pdf/audits/sigar-15-83-ar.pdf>; SPECIAL INSPECTOR GEN. FOR AFG. RECONSTRUCTION, SIGAR 21-47, AFGHANISTAN'S ANTI-CORRUPTION EFFORTS: CORRUPTION REMAINED A SERIOUS PROBLEM IN THE AFGHAN GOVERNMENT AND MORE TANGIBLE ACTION WAS REQUIRED TO ROOT IT OUT (2021), <https://www.sigar.mil/pdf/audits/SIGAR-21-47-AR.pdf>; SPECIAL INSPECTOR GEN. FOR AFG. RECONSTRUCTION, SIGAR-21-18, SUPPORT FOR GENDER EQUALITY: LESSONS FROM THE U.S. EXPERIENCE IN AFGHANISTAN (2021), <https://www.sigar.mil/pdf/lessonslearned/SIGAR-21-18-LL.pdf>; SPECIAL INSPECTOR GEN. FOR AFG. RECONSTRUCTION, SIGAR 20-33, THE AMERICAN UNIVERSITY OF AFGHANISTAN: STATE AND USAID HAVE TAKEN ACTION TO ADDRESS CONCERNS WITH THE MANAGEMENT, PROCESSES, AND SYSTEMS AT THE UNIVERSITY (2020), <https://www.sigar.mil/pdf/audits/SIGAR-20-33-AR.pdf>.

⁶ *See* Letter from Richard C. Visek, Acting Legal Adviser, Dep't of State, and Margaret L. Taylor, Gen. Couns., USAID, to John G. Arlington, Gen. Couns., Off. of the Special Inspector Gen. for Afg. Reconstruction (Apr. 25, 2022), https://cdn.govexec.com/media/gbc/docs/pdfs_edit/062322cb1.pdf.

⁷ 5 U.S.C. App. 3 § 6(c)(3).

⁸ 5 U.S.C. App. 3 § 6(c) (emphasis added).

federal law requiring federal employees to comply with IG investigations.⁹ IGs may request information necessary to carry out their duties, which includes obtaining sworn testimony from federal employees.¹⁰ Further, federal agencies are prohibited from threatening “to take any action against any employee as a reprisal for making a complaint or disclosing information to an Inspector General . . .”¹¹ Instructing federal employees to obtain permission to cooperate with an IG investigation is clearly at odds with federal law and your duties as the head of an agency to permit federal employees to testify to an IG. It is also reported that you have refused to permit SIGAR employees to travel internationally to conduct on-the-ground research necessary to SIGAR’s work.¹² Forbidding SIGAR employees from traveling abroad would clearly prohibit them from conducting their oversight work and would also be at odds with the IG Act provision forbidding agency heads from preventing or prohibiting IGs from “initiating, carrying out, or completing any audit or investigation, or from issuing any subpoena during the course of any audit or investigation.”¹³

USAID must take immediate, corrective action to remedy these issues, instruct USAID employees to comply with any and all SIGAR requests for information or employee interviews, and immediately comply with SIGAR’s oversight requests. It is imperative that you allow SIGAR to conduct the work that the Congress has requested, and stop any attempt to withhold information due to SIGAR.

In addition, I respectfully request that you provide answers to the following questions no later than July 15, 2022:

1. Have you, or anyone at USAID, instructed any employee, contractor, or person otherwise working on behalf of the USAID, to not cooperate with SIGAR’s investigations into any of the work that Congress has instructed SIGAR to carry out?
 - a. If so, please provide the legal justification on which the USAID is relying and why you believe that this instruction would supersede statutory requirements that federal employees cooperate with IG investigations.
2. The USAID General Counsel states, in an April 25, 2022, letter to SIGAR that tax dollars should be spent effectively and that investigative work should be left to those entities which have the requisite expertise to carry out this work. SIGAR has spent over a decade

⁹ See Lara Seligman, *State, USAID refuse to cooperate on Afghanistan audits, watchdog says*, POLITICO (June 22, 2022), <https://www.politico.com/news/2022/06/22/state-usaid-afghanistan-00041505>; see also Courtney Buble, *The Afghanistan Watchdog Blasts State and USAID for ‘Sudden Refusal to Cooperate’*, GOV’T EXEC. (June 23, 2022), <https://www.govexec.com/oversight/2022/06/afghanistan-watchdog-blasts-state-and-usaid-sudden-refusal-cooperate/368518/>; 5 U.S.C. App. 3 § 6(a).

¹⁰ 5 U.S.C. App. 3 § 6 (a)(3).

¹¹ 5 U.S.C. App. 3 § 7.

¹² Lara Seligman, *State, USAID refuse to cooperate on Afghanistan audits, watchdog says*, POLITICO (June 22, 2022), <https://www.politico.com/news/2022/06/22/state-usaid-afghanistan-00041505>; see also Courtney Buble, *The Afghanistan Watchdog Blasts State and USAID for ‘Sudden Refusal to Cooperate’*, GOV’T EXEC. (June 23, 2022), <https://www.govexec.com/oversight/2022/06/afghanistan-watchdog-blasts-state-and-usaid-sudden-refusal-cooperate/368518/>.

¹³ 5 U.S.C. App. 3 § 3(a).

conducting work in Afghanistan and employs a multitude of subject matter experts who have a wide variety of exposure and experience in Afghanistan. Please explain who the USAID believes would be better positioned to carry out this important work and why.

3. The USAID General Counsel asserts that SIGAR must limit its information requests to solely that of reconstruction expenditures. Please provide the legal justification for this conclusion and why the USAID believes it is better positioned to make this determination than the Congress.
4. The USAID General Counsel asserts that other investigative bodies are currently performing work. Please explain which oversight bodies are conducting this oversight work and how this ongoing work would be duplicative in nature as to what Congress has explicitly instructed SIGAR to do.
5. SIGAR has conducted a multitude of audits, inspections, evaluations, and investigations in the past decade that State Department and USAID now claim are outside of its jurisdiction.¹⁴ Please explain why these are substantively different than the work Congress has now instructed SIGAR to do.

¹⁴ SPECIAL INSPECTOR GEN. FOR AFG. RECONSTRUCTION, SIGAR 22-15, AFGHANISTAN RECONSTRUCTION TRUST FUND: THE WORLD BANK IMPROVED ITS MONITORING, PERFORMANCE MEASUREMENT, AND OVERSIGHT, BUT OTHER MANAGEMENT ISSUES PERSIST (2022), <https://www.sigar.mil/pdf/evaluations/SIGAR-22-15-IP.pdf>; *see also* SPECIAL INSPECTOR GEN. FOR AFG. RECONSTRUCTION, SIGAR 20-10, EMERGENCY FOOD ASSISTANCE TO AFGHANISTAN: INCOMPLETE REPORTING AND LIMITED SITE VISITS HINDERED USAID'S OVERSIGHT OF MILLIONS OF DOLLARS OF FOOD ASSISTANCE (2019), <https://www.sigar.mil/pdf/audits/SIGAR-20-10-AR.pdf>; SPECIAL INSPECTOR GEN. FOR AFG. RECONSTRUCTION, SIGAR 22-11, DEMINING AFGHANISTAN: STATE MADE PROGRESS IN ITS DEMINING EFFORTS, BUT DID NOT CONDUCT TIMELY OVERSIGHT AND THE AMOUNT OF CONTAMINATED LAND INCREASED (2022), <https://www.sigar.mil/pdf/audits/SIGAR-22-11-AR.pdf>; SPECIAL INSPECTOR GEN. FOR AFG. RECONSTRUCTION, SIGAR 15-83, AFGHAN REFUGEES AND RETURNEES: CORRUPTION AND LACK OF AFGHAN MINISTERIAL CAPACITY HAVE PREVENTED IMPLEMENTATION OF A LONG-TERM REFUGEE STRATEGY (2015), <https://www.sigar.mil/pdf/audits/sigar-15-83-ar.pdf>; SPECIAL INSPECTOR GEN. FOR AFG. RECONSTRUCTION, SIGAR 21-47, AFGHANISTAN'S ANTI-CORRUPTION EFFORTS: CORRUPTION REMAINED A SERIOUS PROBLEM IN THE AFGHAN GOVERNMENT AND MORE TANGIBLE ACTION WAS REQUIRED TO ROOT IT OUT (2021), <https://www.sigar.mil/pdf/audits/SIGAR-21-47-AR.pdf>; SPECIAL INSPECTOR GEN. FOR AFG. RECONSTRUCTION, SIGAR-21-18, SUPPORT FOR GENDER EQUALITY: LESSONS FROM THE U.S. EXPERIENCE IN AFGHANISTAN (2021), <https://www.sigar.mil/pdf/lessonslearned/SIGAR-21-18-LL.pdf>; SPECIAL INSPECTOR GEN. FOR AFG. RECONSTRUCTION, SIGAR 20-33, THE AMERICAN UNIVERSITY OF AFGHANISTAN: STATE AND USAID HAVE TAKEN ACTION TO ADDRESS CONCERNS WITH THE MANAGEMENT, PROCESSES, AND SYSTEMS AT THE UNIVERSITY (2020), <https://www.sigar.mil/pdf/audits/SIGAR-20-33-AR.pdf>.

Thank you for your attention to this important matter. Should you have any questions, contact Quinton Brady of my Committee staff at (202) 224-5225.

Sincerely,

A handwritten signature in blue ink that reads "Chuck Grassley". The signature is written in a cursive, flowing style.

Charles E. Grassley
Ranking Member
Committee on the Judiciary