



OFFICE OF THE SPECIAL INSPECTOR GENERAL
FOR PANDEMIC RECOVERY

July 28, 2020

TO: BRENT J. MCINTOSH
UNDER SECRETARY FOR INTERNATIONAL AFFAIRS
U. S. DEPARTMENT OF THE TREASURY

FROM: THEODORE R. STEHENY *Theodore R. Steheny*
ASSISTANT INSPECTOR GENERAL FOR AUDITING
SPECIAL INSPECTOR GENERAL FOR PANDEMIC RECOVERY

SUBJECT: Loan Agreements Need to Provide For Appropriate
Access to the Special Inspector General for Pandemic Recovery

The US Department of the Treasury posted its first loan agreement on its website on July 8, 2020. This is Treasury's first Section 4003 loan made under the Coronavirus Aid, Recovery, and Economic Security (CARES) Act. This loan agreement, dated July 7, 2020, does not specifically provide the Special Inspector General for Pandemic Recovery (SIGPR) timely and unrestricted access to all documents and records related to this loan.

Under Section 4018(d)(1) of the CARES Act, the SIGPR is given the "authorities provided in Section 6 of the Inspector General Act." CARES Act § 4018(d)(1). Accordingly, the SIGPR should have "timely access to all records, reports, audits, reviews, documents, papers, recommendations, and other materials available to the applicable establishment which relate to the programs and operations with respect to which that Inspector General has responsibilities under this Act." Inspector General Act § 6. Section 4003 loans constitute a program "with respect to which" the SIGPR "has responsibilities," and the materials related to that program are expressly made available to Treasury.

This first loan agreement contains the following affirmative covenant in Article 6:

Section 6.19. *Treasury Access.* Provide Treasury, the Treasury Inspector General, and such other entities as authorized by Treasury timely and unrestricted access to all documents, papers, or other records, including electronic records, of the Borrower related to the Loans, to enable Treasury and the Treasury Inspector General to make audits, examinations, and otherwise evaluate the Borrower's compliance with the terms of this Agreement. This right also includes timely and reasonable access to the Lender's and its Affiliates' personnel for the purpose of interview and discussion related to such documents.

The covenant does not specifically include the SIGPR as an entity authorized to receive timely and unrestricted access to all documents and records necessary to perform its statutory duties.



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RECOMMENDATION

The Special Inspector General for Pandemic Recovery recommends that:

The Under Secretary for International Affairs should ensure that Treasury modifies this covenant, wherever it appears, to specifically include the Special Inspector General for Pandemic Recovery as follows:

Section 6.19. *Treasury Access.* Provide Treasury, the Treasury Inspector General, the Special Inspector General for Pandemic Recovery, and such other entities as authorized by Treasury timely and unrestricted access to all documents, papers, or other records, including electronic records, of the Borrower related to the Loans, to enable Treasury, Treasury Inspector General, and the Special Inspector General for Pandemic Recovery to make audits, examinations, and otherwise evaluate the Borrower's compliance with the terms of this Agreement. This right also includes timely and reasonable access to the Lender's and its Affiliates' personnel for the purpose of interview and discussion related to such documents.

Otherwise the Treasury should certify to Congress that Treasury determines no action is necessary. Please provide a response to this recommendation along with any proposed corrective action.

This review was conducted by the Special Inspector General for Pandemic Recovery in accordance with the Council of the Inspectors General on Integrity and Efficiency Quality Standards for Inspection and Evaluation (January 2012). To accomplish our review, we researched applicable laws and reviewed loan agreements established by Treasury.



UNDER SECRETARY

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C.

July 30, 2020

Theodore R. Steheny
Assistant Inspector General for Auditing
Special Inspector General
for Pandemic Recovery

Re: Information Access for Special Inspector General for Pandemic Recovery

Dear Mr. Steheny:

I write in response to your memorandum dated July 28, 2020, which sets forth a recommendation from the Special Inspector General for Pandemic Recovery (SIGPR) regarding SIGPR's authority to access information from businesses that receive loans from the Treasury Department under section 4003 of the Coronavirus Aid, Recovery, and Economic Security (CARES) Act. We share your desire to ensure that SIGPR has access to all documents and records necessary to perform its statutory duties, and as such we gladly accept SIGPR's recommendation.

As of the date of this letter, Treasury has entered into one loan agreement under section 4003. That agreement requires the borrower to provide Treasury, the Treasury Inspector General, and such other entities as authorized by Treasury with access to the borrower's documents, records, and personnel, to enable compliance audits. SIGPR's recommendation is that this type of covenant should be expanded to list SIGPR as well, which will help enable SIGPR to receive information directly from borrowers. Treasury is committed to transparency and effective oversight, and we will incorporate SIGPR's proposed revisions into our future loan agreements under section 4003.

Treasury is working diligently to implement the CARES Act to get much-needed relief to millions of Americans and businesses as quickly as possible. We appreciate SIGPR's efforts to ensure that these programs are efficient and effective.

Please feel free to contact Treasury's Office of General Counsel at (202) 622-0283 if you have any questions about this letter.

Sincerely,

Brent J. McIntosh

Under Secretary for International Affairs