

U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON FOREIGN AFFAIRS
Subcommittee on Oversight and Accountability

**MONEY IS POLICY: ASSESSING SHORTCOMINGS
IN THE STATE DEPARTMENT'S FOREIGN ASSISTANCE GRANTS PROCESS**

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Chairman Mast, Ranking Member Crow, and Members of the Subcommittee. Thank you for scheduling this hearing, and for inviting my former colleague, Jim Richardson, who ably served at the Director of the Office of Foreign Assistance during my time at the Department of State, and my predecessor as Assistant Secretary for DRL, the Honorable Tom Malinowski. I am honored to be with them today. I look forward to hearing what they have to say.

My written remarks make six (6) points about the need for Congress to enact legislation requiring transparency and accountability in all unclassified foreign assistance programs. My oral testimony will provide concrete examples supporting this recommendation and such documentation as I have been able to gather to date.

1. Money is one of the most important tools used by the United States Government (USG) to project power and influence.

Money is an instrument of “hard” power when governments use it to punish behavior deemed “unacceptable.” Punitive economic sanctions and asset seizures are the most obvious examples, but a declaration that State or USAID will withhold current or future foreign assistance can have a similar effect. Money, in the form of grants, is also an instrument of “soft” power, in that its very purpose is to “support or stimulate” individual, group, and institutional behavior thought to be consistent with USG policy goals.

[31 U.S.C. §6304](#) mandates the use of grant agreements when:

(1) the principal purpose of the relationship is to transfer a thing of value to the State or local government or other recipient *to carry out a public purpose of support or stimulation authorized by a law of the United States* instead of acquiring (by purchase, lease, or barter) property or services for the direct benefit or use of the United States Government; and

(2) *substantial involvement is not expected between the executive agency and the State, local government, or other recipient when carrying out the activity contemplated in the agreement.*” (emphasis added)

The text of the statute raises two (2) “accountability” questions:

- a. To what extent must grant-makers identify “a law of the United States” that authorizes the *specific* “support or stimulation” funded by the grant? 31 U.S.C. §6304(1) explicitly requires that *every* grant be for an *identifiable* “public purpose or stimulation *authorized by a law of the United States.*”
- b. Section 6304(2) presupposes that the agency will *not* be “substantially involved ... when [the grantee] is carrying out the activity in the agreement.” How, then, is either the granting agency, OMB, or Congress to ensure that the activity funded is advancing “the public purpose or stimulation authorized by a law of the United States,” *and* that the activity advances, rather than undermines, the foreign policy objectives of the President?

2. Most Americans have no idea a) how much “foreign assistance” the USG provides; b) for what purposes; or c) for what ends.

The phrase “foreign assistance” includes not only funding and tangible things provided by State and USAID, but also health programs provided by HHS and NIH; non-military assistance provided by the Department of Defense; and international assistance provided by myriad other federal agencies, including Agriculture, Commerce, Education, EPA, Justice, and Labor. It also includes large sums of money provided to international organizations like the United Nations, the WHO, the International Labor Organization, and the World Food Programme. *See* Report to Congress on U.S. Contributions to International Organizations, Fiscal Year 2021 Section 4(b) of the United Nations Participation Act, 22 USC 287b(b) at <https://www.state.gov/u-s-contributions-to-international-organizations/> (accessed May 31, 2024) (\$16.014 billion in FY2021).

3. Congress has not imposed any enforceable transparency and accountability standards.

There are no uniform transparency, accountability, or professional standards governing the process by which agency personnel develop and recommend grant programs to advance our foreign policy goals. There are no professional standards, uniform criteria, or transparency rules that govern the process by which reviewers are qualified and selected to evaluate grant proposals. Nor has Congress required either the awarding agency or grantees to make their data public so that others can validate claims that the grants awarded and completed achieved their expected or promised outcomes.

As a result, the identities of mid- and ground-level sub-grantees are generally unavailable to the public, to journalists who would report on their activities, or to organizations that would compete for these grants. Even a cursory review of Grants.gov, ForeignAssistance.gov, USASpending.gov or the Report on U.S. Contributions to International Organizations demonstrates that the information provided (often in the form of massive spreadsheets or very generalized program descriptions) raises more questions than it answers.

The effect should be obvious. Without transparency, *every* non- “earmarked” appropriation, including those made for foreign assistance, serves as a “functional” blank check.

4. There is no meaningful transparency or oversight *within or among* the agencies administering foreign assistance programs.

Non-public information about the specifics of both foreign assistance and domestic grant programs is difficult to obtain *within* the State Department, much less from other Departments like HHS, Justice, or Labor. Even Ambassadors, who serve as the President’s personal representative to the countries in which they are posted and who are accountable to the host government for USG-funded actions, have reported that they find it difficult to obtain detailed “all spigots” information about the nature, purpose, and operations of USG funding programs operating in their host countries.

5. When Congress writes what are, in effect, blank checks to grant-making bureaucracies, the phrase “personnel is policy” takes on a whole new meaning.

Because there is no transparency, there is little, if any, accountability for the use of foreign (or domestic) assistance funds. Based on my experience at State and in my ongoing work with human rights advocates in Africa and the Caribbean, neither Congress nor the President have any real insight or practical control over the allocation and use of these funds. I respectfully submit that Ambassadors, Cabinet Secretaries, and agency heads are equally in the dark.

The result? Each bureaucracy that administers foreign assistance funds has its own foreign policy.

6. Lack of transparency in Washington has real-world consequences overseas.

All governments, including our own, are suspicious of individuals and organizations who operate within their respective territories and serve the interests of a “foreign principal.” See Foreign Agent Registration Act [FARA], 22 U.S.C. §611(c)(d) (requiring registration by any person, entity, or organization serving as an “agent of a foreign principal”); <https://www.justice.gov/nsd-fara/frequently-asked-questions> (accessed May 30, 2024).¹

Such laws are controversial – and rightly so, but this hearing is not the proper forum in which to discuss the human rights concerns they raise. I mention them here, not to defend either the laws or the motives of the countries enacting them, but because diplomats who are politically accountable understand that *every* country views the existence and operations of *anyone* who serves as an “agent of a foreign principal” within their borders is a threat to the host nation’s sovereignty.

Maintaining such operations openly, even with the knowledge and consent of the host country, is a matter of great diplomatic sensitivity. Funding such programs *covertly* through sub-grantees who operate as NGOs, businesses, or educational institutions in any country is completely unacceptable unless those who propose the funding can make a compelling case that such funding will advance the national security and foreign policy goals of the United States *without* antagonizing the host country. Running foreign assistance programs without the knowledge of the U.S. Ambassador or hiding the existence and substance of unclassified foreign assistance programs from political appointees or from Congress, should be a firing offense.

CONCLUSION & RECOMMENDATION

Congress holds the power of the purse. U.S. Const. art. I §7 (“No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law; and a regular Statement and Account of the Receipts and Expenditures of all public Money shall be published from time to time.”) Because Congress is in no position to provide detailed oversight over the expenditure of billions of dollars in either domestic or foreign grant programs, it is imperative that you set policy that requires both transparency and accountability.

The President certainly has the authority not only to make and implement foreign policy, but also to demand transparency and accountability from appointees and employees of the State Department, USAID, and other agencies administering foreign assistance funds. Only Congress can force the issue.

My recommendation: Please: Let us follow the money! Detailed information about all grants, including successful and unsuccessful grant proposals, statements of work, grant and subgrant documents must be publicly available *as soon as a grant is awarded*. At a minimum, grant-making agencies should be required to provide unredacted internal information within the USG.

Thank you for giving me the opportunity to share this information, and for the opportunity to testify in person.

¹ Georgia has become the most recent country to adopt a law requiring all “organizations pursuing the interests of a foreign power” to register with its government. India’s Foreign Contribution Regulation Act (FCRA) speaks to the same issue. **Georgia:** See JAM News, “Venice Commission urges Georgia to repeal ‘foreign agents’ bill”, *JAM News*, 25.05.2024 at <https://jam-news.net/venice-commission-to-georgian-dream/> (accessed May 30, 2024). Links an English translation of Georgia’s new law can be found in the Venice Commission Report. See European Commission for Democracy Through Law (Venice Commission: Georgia: Urgent Opinion on the Transparency of Foreign Influence issued on 21 May 2024 at [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-PI\(2024\)013-e#page23](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-PI(2024)013-e#page23) (accessed May 30, 2024). **India:** Ministry of Home Affairs, at <https://fcraonline.nic.in/home/index.aspx> (accessed May 30, 2024)