

# United States Senate

WASHINGTON, DC 20510

October 6, 2010

## Via Electronic Transmission

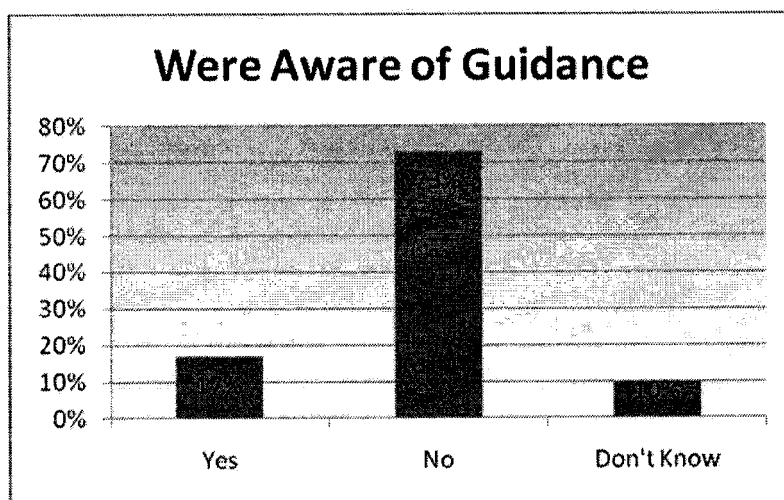
The Honorable Lisa Perez Jackson  
Administrator  
U.S. Environmental Protection Agency  
Ariel Rios Federal Building  
1200 Pennsylvania Ave. NW  
Washington, DC 20460

Dear Administrator Jackson:

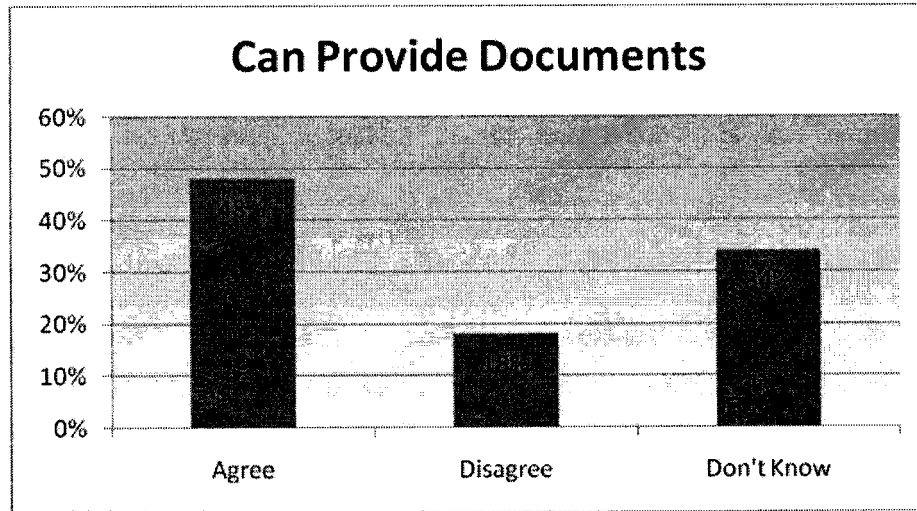
As Ranking Members of the Senate Committee on Finance, and the Senate Committee on Homeland Security and Governmental Affairs, Permanent Subcommittee on Investigations, we sent a letter on April 8, 2010, to 69 Inspectors General, asking among other things, about any agency interference or resistance to the OIG's oversight work.

The OIGs replied, indicating varying degrees of cooperation with their agencies. We were disappointed to learn that the EPA is among those that have not fully cooperated with the OIG. A copy of the Inspector General's letter is attached for your reference. Specifically, the Inspector General reported problems related to access to EPA employees and employee perceptions about the OIG. The Inspector General reported that EPA management is not requiring its employees to cooperate with the OIG. For example, employees either fail to respond to the OIG's requests or they incorrectly assume they need supervisory approval before they can meet with or provide information to the OIG. In a review reported on August 25, 2009, the OIG found:

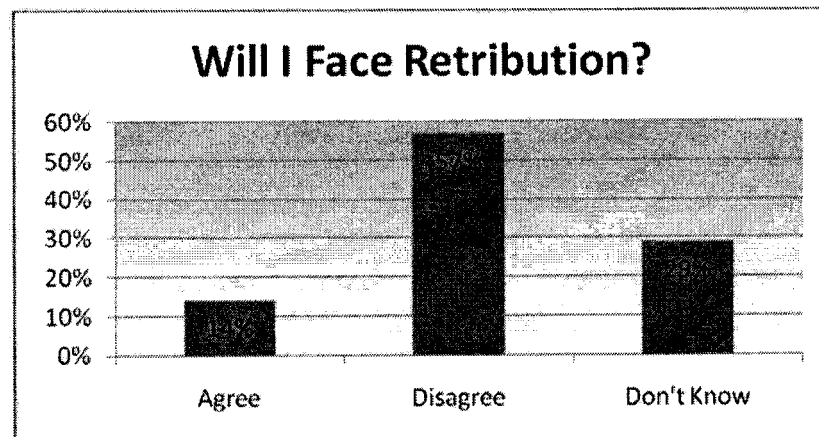
- 83% of respondents either were not aware or did not know of any guidance or procedures governing interaction with the OIG.



- 18% of respondents did not believe they could provide documentation or written responses to the OIG without permission from a supervisor. An additional 34% did not know if they could.



- 14% believed they may face retribution if they talk to the OIG without permission from a supervisor. An additional 29% did not know whether they will face retribution if they talk to the OIG without permission.



- Astoundingly 50% of OIG survey respondents stated that after they spoke to the OIG their supervisor or program manager required them to divulge what was discussed with the OIG. Furthermore, 50% of respondents stated that supervisors or program managers asked to see the written answers to questions or surveys provided OIG.

In response to the draft version of this report, the EPA distributed a memorandum dated August 7, 2009, to all employees instructing them to fully cooperate with the OIG auditors, evaluators, and investigators, and to allow full and unrestricted access to personnel, facilities, records, or any other relevant information or material that is needed by the OIG to accomplish its mission. Additionally, the memo stated that all offices were

to certify to the Deputy Administrator that they would conform to this guidance. It has been close to a year since the distribution of this memo, yet, reportedly, the behavior of Agency employees toward OIG requests has not changed.

Further, a similar problem was raised concerning access to information. According to the Inspector General, on numerous occasions, the agency failed to provide information to the OIG in a timely manner or failed to provide complete information. This lack of cooperation impacts the work of the OIG by requiring them to seek alternative methods and jump through unnecessary hoops to obtain the information. Specifically, the Inspector General reported the following problems accessing information from EPA:

### **Cyber Security**

In 2009, the OIG learned that the EPA computer systems were compromised by an organized threat targeting computers government-wide. This is known as the Advanced Persistent Threat (APT). The OIG opened an investigation to determine the nature of the computer intrusions associated with the APT. Throughout the OIG investigation, EPA management was slow to respond to requests for information and meetings; and did little to assist the OIG with mitigating this threat.

As a result, the OIG had no alternative but to develop an investigative strategy and course of action without critical information from EPA, even though EPA reported the possible compromise of over 5,500 computer systems, 250 servers, 4,700 workstations and over 500 unknown computer types. The OIG reported that it repeatedly attempted to meet with EPA's Office of Environmental Information Management to obtain its support on this investigation, but have been largely unsuccessful.

### **Stolen or missing firearms**

The OIG opened an investigation regarding stolen, missing, or unaccounted for firearms within EPA's Office of Criminal Enforcement, Forensics and Training (OCEFT), Criminal Investigation Division. During the course of its investigation, senior OCEFT managers either refused to cooperate or were only marginally responsive to their many requests for documents and information. This lack of cooperation forced the OIG to rely on other investigative techniques.

### **OIG access to its own equipment**

The OIG has specific computer equipment and investigative information stored at EPA's National Computer Center (NCC) in Research Triangle Park (RTP), North Carolina. According to the Inspector General, the OIG Special Agent in RTP was denied unescorted access to the OIG's own equipment.

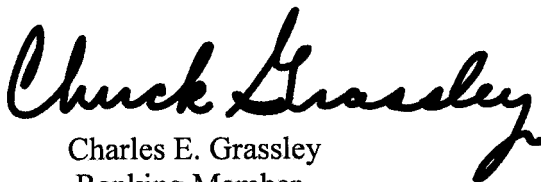
We are deeply troubled that the OIG continues to face such obstacles following the assurance the Agency gave last summer that these issues would be resolved. In light of these continuing problems, we have the following questions:

- 1) Prior to this letter, were you aware of these new examples of interference with the OIG's oversight function?
- 2) If so, when and how did you become aware of these issues and what steps have you taken to correct the problems?
- 3) If not, what steps do you intend to take to correct the problems?
- 4) Why do offices within the Agency continually fail to cooperate with the EPA OIG, despite certifying that they would?
- 5) What actions were taken against those individuals that certified their cooperation, but have not abided by the guidance?
- 6) What additional steps are being taken by the Agency to further educate its employees about the requirement to cooperate with the OIG?
- 7) What steps will be taken to resolve the three access issues listed above and to insure that the OIG in the future receives complete cooperation from the EPA?

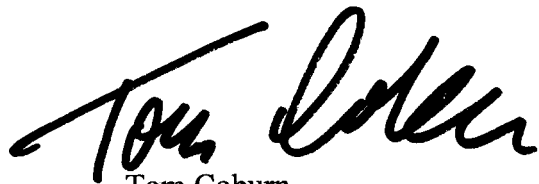
Additionally, with this letter we are requesting that the OIG advise us promptly of any delays, impediments, restrictions to documents or individuals at the EPA.

Thank you for your cooperation and attention to this important matter. Please provide the request set forth in this letter no later than October 20, 2010. Should there be any questions, please contact Jason Foster on Senator Grassley's staff at (202) 224-4515, or Keith Ashdown on Senator Coburn's staff at (202) 224-3721. All formal correspondence should be sent electronically in PDF format to [Brian\\_Downey@finance-rep.senate.gov](mailto:Brian_Downey@finance-rep.senate.gov) or via facsimile to (202) 228-2131.

Sincerely,



Charles E. Grassley  
Ranking Member  
Committee on Finance



Tom Coburn  
Ranking Member  
Permanent Subcommittee on Investigations  
Homeland Security and Governmental Affairs Committee

Attachment



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

MAY 11 2010

OFFICE OF  
INSPECTOR GENERAL

The Honorable Charles E. Grassley  
Ranking Member  
Committee on Finance  
United States Senate  
Washington, DC 20510

Dear Senator Grassley:

This is to update our response to your letter of April 8, 2010, cosigned by Senator Coburn requesting information related to the level of cooperation the Office of Inspector General (OIG) has received from officials and staff of the U.S. Environmental Protection Agency (EPA) in the course of our work; and reports on all closed investigations, evaluations, and audits conducted by my office that have not been disclosed to the public. We provided you an interim response dated April 15, 2010.

In our interim response, we discussed how we have been unable to get the EPA to agree to a Memorandum of Understanding (MOU) so we could establish an independent human resources office as allowed by the Inspector General Act of 1978 (IG Act). I am pleased to report that the OIG and EPA's Office of Administration and Resources Management have executed an MOU establishing operational responsibilities for the human resources and contracting functions. These actions will help us to meet our objectives with more control over the activities related to hiring and retaining the most qualified workforce, and engage in procurement activities in support of our mission. It is our intention to work closely with, but completely independent of, EPA's contracting and human resources offices.

Your letter asked for a list and description of any instances where the EPA resisted and/or objected to oversight activities and/or rejected our access to information; and instances where information was ultimately provided but only after a substantial delay. During our audit, evaluation, and investigative work, EPA has failed to provide information in a timely manner or failed to provide complete information upon request on numerous occasions. We make accommodations when necessary by granting extensions to EPA on our deadlines, but this causes delays in finalizing reports or concluding investigations. While there has been no outright denial of access to information, there have been specific instances that have impacted the work of the OIG that we would like to bring to your attention:





- The OIG opened an investigation regarding reportedly stolen, missing, or unaccounted for firearms within EPA's Office of Criminal Enforcement, Forensics and Training (OCEFT), Criminal Investigation Division. During the course of our investigation, senior OCEFT managers either refused to cooperate with us or were only marginally responsive to our numerous requests for documents and information. This has impeded our investigation and forced us to rely on other investigative techniques to obtain the necessary information. This investigation remains open.
- In 2008, the OIG became aware that EPA's Office of Enforcement and Compliance Assurance had formally instructed members of its staff via e-mail not to talk to the OIG without senior management approval. As you know, the IG Act authorizes federal inspectors general to access information and personnel relative to program operations of federal agencies. EPA's own policy also endorses OIG access to personnel and timely information.

We initiated an evaluation of EPA's policies and procedures governing OIG access to personnel, records, and other information. This work included a survey of EPA employees to assess their knowledge about interacting with the OIG. The survey found that EPA employees had a significant lack of knowledge about interacting with the OIG. We issued an interim report on the survey results in January 2009. Also, at the time of our review, we found that EPA did not have consistent overall guidance governing interaction with the OIG. Consequently, some EPA offices promulgated internal guidance that impeded OIG access to information and personnel. In our report issued in August 2009, we recommended that EPA issue guidance to all EPA programs and regional offices on interacting with the OIG to ensure unfettered access to information and personnel; and that all lower-level guidance be revoked. Prior to the release of our report, the EPA Administrator issued a memorandum to all employees on cooperating with the OIG to address these issues. Enclosure A contains the two reports that detail our findings and recommendations.

- In 2009, the OIG was notified that EPA computer systems were compromised by an organized threat targeting computers government-wide, known as the Advanced Persistent Threat (APT). The OIG subsequently opened an investigation into computer intrusions associated with APT. Throughout our investigation, EPA has been slow to respond to requests for information and meetings; and has done little to assist us with mitigating this threat.

As a result, we had to develop an investigative strategy and course of action without the added benefits EPA could provide on the identity of the most sensitive compromised systems; an understanding of the topology, operations, and security of the network; access to key individuals and locations; and additional manpower support to assist in acquiring images and information from the compromised systems. Repeated attempts to meet with EPA Office of Environmental Information management to obtain their support on this investigation have met with little success. To date, EPA has reported to us the





potential compromise of over 5500 computer systems comprised of over 250 servers, 4700 workstations, and over 500 unknown computer types. This investigation remains open.

- The OIG has specific computer equipment and investigative information stored at EPA's National Computer Center (NCC) in Research Triangle Park (RTP), North Carolina. NCC will also soon house stand-alone servers for the OIG. However, our Special Agent in RTP has been denied a badge that would allow unescorted access to the NCC. We have been told that this level of access is granted only to people who work in the NCC more than 50 percent of their time. Consequently, access to our own equipment and investigative information is by escort only; and only during the days and hours that the NCC is adequately staffed. We have requested unrestricted access privileges for our agent with the appropriate EPA manager, but have been denied. This situation remains unresolved.

Your letter also requested biannual reports on all closed OIG investigations, evaluations, and audits not disclosed to the public since January 2009. The OIG makes every attempt to publicly disclose its work within the parameters of the law and as is practical. Enclosure B is a list of audit reports issued during the time period that were not publicly released. The contract and assistance agreement reports were not disclosed because of concerns with confidential business information. Single Audit Act audit reports were not disclosed because the audits were conducted by other organizations. We also did not make available one performance audit memorandum because the assignment was terminated without issuing a report. Enclosure C summarizes 45 closed investigations not made public during the time period requested. Due to Privacy Act concerns, names and other identifying information have been redacted.

Finally, you asked for a copy of the information on outstanding recommendations that have not been fully implemented that we provided to Congressman Issa. Enclosure D contains a copy of our response.

Thank you for your continued support of the work we do as Inspectors General. If you would like additional information on any audit or investigation listed, or have any other questions, please contact me at (202) 566-0847. I am also sending an identical letter to Senator Coburn.

Sincerely,



Bill A. Roderick  
Acting Inspector General

Enclosures