

United States Senate

WASHINGTON, DC 20510

October 6, 2010

Via Electronic Transmission

The Honorable Arne Duncan
Secretary
United States Department of Education
400 Maryland Avenue, SW
Washington, DC 20202

Dear Secretary Duncan:

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 Education Department 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 the following:

- From September through November 2008, the former Deputy Director for Human Resources Services (HRS) and former Human Resources (HR) Director delayed audit progress by denying access to the Federal Personnel Payment System, requesting that the audit team instead sit with HR staff to view system data. The former HRS Deputy Director initially claimed that "read only" access was not available for the system. OIG staff provided copies of the *Inspector General Act of 1978*, as amended, and a Department directive requiring cooperation with the OIG, but access was not granted until the Acting Inspector General and Deputy Inspector General interceded with the former Assistant Secretary for Management in October 2008. After an additional meeting with the former HRS Deputy Director, the Assistant Inspector General for Audit, and the audit manager, access was finally granted in November 2008. It was later determined that only limited access was granted. Requests to extend the access had to be again elevated, this time to the former Acting Assistant Secretary for Management before the situation was resolved.
- In May 2009, OIG requested Statement on Auditing Standards No. 70 reports for FY 2008 and FY 2009 for Federal Student Aid's (FSA) Virtual Data Center (VDC) system to complete independent audit work required by the

Federal Information Security Management Act (FISMA). The FSA VDC Network and Security Manager and the FSA VDC System Security Officer told OIG staff that the reports were available only in hard copy and could be viewed only in the FSA office, as they were the property of an FSA contractor. The FSA VDC Network and Security Manager claimed that the contractor could bring a lawsuit against him for providing OIG with a copy of the reports, and that FSA would provide the reports only in hard copy to ensure that proprietary information would not be compromised. However, it was explained that the OIG could not conduct its work only with the temporary access to the reports while sitting in the FSA office, the OIG needed copies of the reports for audit work papers, and promised that they would safeguard the reports. The Assistant Inspector General for Information Technology Audits and Computer Crime Investigations (ITACCI) and OIG Counsel interceded directly with the contractor to obtain the reports, which the OIG received in September 2009, just weeks prior to the deadline for submitting their FISMA report. Because of the delay in receiving this information, the OIG did not have sufficient time to complete a review of the VDC system in the planned timeframe. FSA today claims that they have amended this contract to require that the contractor provide the SAS 70 information directly to the OIG. However, as the contract already included OIG access provisions and the Department possessed this information, FSA should have provided the information when it was requested. *The Inspector General Act of 1978* provides the OIG access to all information available to the Department that relates to Department programs and operations.

- In September 2009, the OIG obtained incomplete data on personnel security clearances for the VDC system from FSA/Security and Emergency Management Services staff. The OIG needed complete data to conduct a thorough independent audit. The OIG communicated multiple times with the FSA staff regarding their need for complete information. However, the OIG did not receive the requested information until April 2010, after elevating this problem to the FSA/Office of Chief Information Officer Audit Liaison.

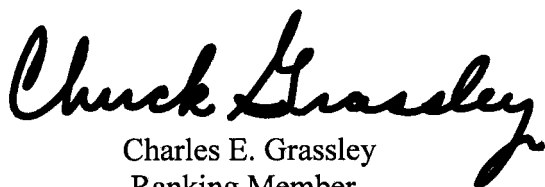
We are troubled that the OIG is continually obstructed from doing the job it is mandated to do. In light of these continuing problems, we have the following questions:

- 1) Prior to this letter, were you aware of these 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 does the OIG continually have to elevate concerns to more senior officials in order to resolve them?
- 5) What instructions have you provided to employees informing them of their obligations to cooperate with the OIG?
- 6) Please provide us a copy of any such instructions.

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 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 DEPARTMENT OF EDUCATION

OFFICE OF INSPECTOR GENERAL

THE INSPECTOR GENERAL

June 15, 2010

The Honorable Charles Grassley
Ranking Member, Committee on Finance
United States Senate
219 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Tom Coburn
Ranking Member, Subcommittee on
Permanent Investigations
United States Senate
340 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Senator Grassley and Senator Coburn:

Thank you for your April 8, 2010, letter asking for certain information related to the Office of Inspector General's (OIG) operation as an independent entity within the U.S. Department of Education and a report on closed OIG investigations, evaluations, and audits that were not disclosed to the public. Enclosed with this letter you will find the results of our review.

If you have any questions, or if you require any additional information, please contact me directly at (202) 245-6900, or our Congressional Liaison, Catherine Grant, at (202) 245-7023.

Sincerely,

A handwritten signature in black ink that reads "Kathleen S. Tighe". The signature is written in a cursive, flowing style.

Kathleen S. Tighe
Inspector General

cc: The Honorable Tom Harkin, Chairman, Senate Health, Education, Labor, and Pensions Committee
The Honorable Gabriella Gomez, Assistant Secretary, Office of Legislation and Congressional Affairs, U.S. Department of Education