



**U.S. SMALL BUSINESS ADMINISTRATION
OFFICE OF INSPECTOR GENERAL
WASHINGTON, D.C. 20416**

September 17, 2010

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

The Honorable Darrell Issa
Ranking Member
Committee on Oversight and Government Reform
United States House of Representatives
Washington, D.C., 20515

Re: Your Correspondence of August 23, 2010 Regarding Political Appointee
Involvement in Responses Under the Freedom of Information Act (FOIA)

Dear Senator Grassley and Representative Issa:

This letter responds to the above-referenced correspondence in which you requested that the Small Business Administration (SBA) Office of Inspector General (OIG) conduct an inquiry into SBA's "FOIA office to determine whether, and if so, the extent to which political appointees are made aware of information requests and have a role in the request reviews or decision-making." Your correspondence referenced an Associated Press (AP) article, dated July 21, 2010, which indicated that Department of Homeland Security political appointees required requests from certain identified groups to go to political appointees for review, and that political appointees delayed disclosures to certain FOIA requestors. Discussed below are the results of the SBA OIG's review of the SBA FOIA Office (the Office) to determine whether political appointees are made aware of FOIA requests and have a role in responding to FOIA requests. It should be noted that all of the staff of the Office, including the head of the Office, are career, not politically appointed, employees.

Our review has concluded that the Office does not notify political appointees when FOIA requests are received or when requests come in from specific groups or individuals. The Office does, however, notify certain agency officials of incoming requests from certain individuals. For example, the Office often notifies career attorneys in the Office of General Counsel if requests are received from certain individuals that have previously initiated litigation against SBA over the denial of FOIA requests. The Office also will notify a career employee in the Office of

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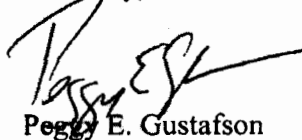
Congressional and Legislative Affairs if a request comes in from a Member of Congress (regardless of party affiliation). Also, the Office typically informs the head of an SBA program, which can include a political appointee, if a FOIA request is made regarding records maintained by his or her particular program.

In addition, our review of the Office has not identified involvement by political appointees in determining how SBA will respond to FOIA requests similar to that discussed in the AP article. The Office did advise, however, that there have been rare occasions when, during the course of deciding an appeal from a FOIA response by another office that redacted or withheld records, a disagreement has arisen within the Office or with another SBA office as to whether documents should be released. In these infrequent situations, the Office has forwarded the dispute to the SBA Administrator or his or her delegatee for a decision. The Office states that most recent example of this review occurred several years ago.

Finally, our review of the Office has found no evidence that any political appointee has provided written or verbal instructions regarding the handling of FOIA requests in general or instructions regarding the handling of any FOIA requests from specific groups or individuals.

If there are any questions or you need additional information, please do not hesitate to contact me or Deputy Inspector General Peter McClintock at (202) 205-6586.

Sincerely,



Peggy E. Gustafson
Inspector General